

Council Meeting Agenda & Reports

6 March 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.*

City of Norwood Payneham & St Peters
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City of
Norwood
Payneham
& St Peters

1 March 2023

To all Members of the Council

NOTICE OF MEETING

I wish to advise that pursuant to Sections 83 and 87 of the *Local Government Act 1999*, the next Ordinary Meeting of the Norwood Payneham & St Peters Council, will be held in the Council Chambers, Norwood Town Hall, 175 The Parade, Norwood, on:

Monday 6 March 2023, commencing at 7.00pm.

Please advise Tina Zullo on 8366 4545 or email tzullo@npsp.sa.gov.au, if you are unable to attend this meeting or will be late.

Yours faithfully



Mario Barone
CHIEF EXECUTIVE OFFICER

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City of
**Norwood
Payneham
& St Peters**

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VENUE Council Chambers, Norwood Town Hall

HOUR

PRESENT

Council Members

Staff

APOLOGIES

ABSENT

1. **KAURNA ACKNOWLEDGEMENT**
2. **OPENING PRAYER**
3. **CONFIRMATION OF THE MINUTES OF THE COUNCIL MEETING HELD ON 6 FEBRUARY 2023**
4. **MAYOR'S COMMUNICATION**
5. **DELEGATES COMMUNICATION**
6. **QUESTIONS WITHOUT NOTICE**
7. **QUESTIONS WITH NOTICE**

**7.1 QUESTIONS WITH NOTICE – SOFT PLASTICS RECYCLING PROGRAM - SUBMITTED BY
CR CHRISTEL MEX**

QUESTION WITH NOTICE: Soft Plastics Recycling Program
SUBMITTED BY: Cr Christel Mex
FILE REFERENCE: qA1040 qA1753
ATTACHMENTS: Nil

BACKGROUND

Cr Mex has submitted the following Question with Notice:

What would be involved in providing a Soft Plastics Recycling Program within our City?

REASONS IN SUPPORT OF QUESTION

It has come to my attention that the City of Adelaide is trialling a Soft Plastics Recycling Program. The program uses specially designed bags and existing yellow recycling bins to keep soft plastics out of the landfill. It appears to be a partnership with a service provider.

Since the supermarkets have been forced to cease the collection of soft plastic waste, it would be timely to offer this to our citizens to reduce this type of waste going to landfill

RESPONSE TO QUESTION

PREPARED BY GENERAL MANAGER, URBAN PLANNING & ENVIRONMENT

Three (3) South Australian metropolitan Councils, namely the City of Adelaide, the City of Charles Sturt and the City of Port Adelaide Enfield, are trialling soft plastic collection via the yellow kerbside recycling bin. It is an opt-in service to 1,000 households. It requires residents to book the collection with Curby, who run a soft plastics recycling program. As part of the trial, Curby send out special soft plastic collection bags for residents to place their soft plastics in before they are disposed for collection in the kerbside (yellow recycling) bin.

These trials are being conducted in partnership with the Central Adelaide Waste and Recycling Authority (CAWRA), the Council's new co-mingled recycling contractors since the expiry of the contract with NAWMA. The recycling facility processes the soft plastics from the collected recycling bins. CAWRA then send the soft plastics to a processing facility in Victoria, where it is melted into plastic balls which are then used in road base materials. The Victorian facility does not have capacity to accept any more soft plastic materials, nor does CAWRA have the capacity to expand the current trials. This is also the reason REDCycle had to pause its services due to insufficient back-end processing facilities, which lead to stock piling of soft plastics. The trial is already at capacity.

At a recent tour of the CAWRA depot, sustainability staff viewed the "back end" processing of the soft plastics and were given an overview of the trials. The trials are not yet completed and therefore no data or findings are available. East Waste and the City of Norwood Payneham & St Peters will review the results of the trial once available. Dependant on the success achieved, East Waste will review what this means regionally for its member Councils and Council staff will also consider any opportunities for this Council.

In the meantime, the Council continues to provide feedback, including through the *Review of the Plastic Shopping Bags (Waste Avoidance) Act 2008* (Single use plastic bans), to advocate for legislative control over the production and use of soft plastics that are entirely avoidable. Upon the closure of the REDcycle program, staff contacted Green Industries SA (GISA) to ask how recycling capacity in South Australia was being accelerated. It is understood that GISA has committed to supporting a South Australian soft plastic recycler to receive the materials and process it into other products. However, this outcome is still unlikely before the end of 2023, as the recycler is waiting on essential equipment before it can establish processing.

Staff will continue to advocate for sustainable and viable recycling options for our community as such opportunities arise.

7.2 QUESTIONS WITH NOTICE – BUNNINGS AND ALDI DEVELOPMENT ON GLYNBURN ROAD, GLYNDE - SUBMITTED BY CR HUGH HOLFELD

QUESTION WITH NOTICE: Bunnings and Aldi Development on Glynburn Road, Glynde
SUBMITTED BY: Cr Hugh Holfeld
FILE REFERENCE: qA1040 Development Application No. 22014444
ATTACHMENTS: Nil

BACKGROUND

Cr Holfeld has submitted the following Question with Notice:

What is the current status of the planning and development of Bunnings and ALDI on Glynburn Road in Glynde?

REASONS IN SUPPORT OF QUESTIONS

Nil

**RESPONSE TO QUESTION
PREPARED BY MANAGER, DEVELOPMENT ASSESSMENT**

Bunnings

In May 2022, Development Application 22014444 was lodged with the Council for the development of a new bulky goods outlet in the form of a “Bunnings” retail facility. The various components of the development are described in detail below. The proposed development is located at:

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

At its meeting held on Wednesday, 20 July 2022, the Council Assessment Panel determined to grant Planning Consent to the Application. The Consent was subject to one reserved matter and a number of conditions and notes. The reserved matter required the issue of site contamination to be investigated and assessed - including the extent of any remediation which would be required.

The applicant subsequently commissioned an updated Preliminary Site Investigations Report and following the findings of that report, commissioned a Detailed Site Investigations Report to examine the extent of any site contamination. While some contamination was identified, it was not beyond the reasonable scope of remediation. All relevant information regarding site contamination was referred back before the Council Assessment Panel at its meeting held on 18 January 2023. The Council Assessment Panel considered the matter and determined that the reserved matter had been satisfied but imposed an additional four (4) conditions, which essentially requires the site to be appropriately remediated as part of the construction process.

Building Rules Consent and Development Approval have not yet been obtained and construction cannot commence until this occurs.

While the site contamination matters were being investigated, at its meeting held on 1 August 2022, the Council was advised of the process required to be followed by the developer with respect to road access / widening – for context, the proposal included elements such as the creation of a signalised intersection at Glynburn Road / Penna Avenue, and the widening of Penna Avenue.

This process has been communicated to the developer and their consultant.

ALDI

On 12 January 2022, ALDI Foods Pty Ltd lodged Development Application 21042207, seeking Planning Consent for the development comprising the construction of a supermarket (shop) with associated car parking, light poles, site works, signage, acoustic wall, fencing, retaining walls, solar panels and landscaping. The proposed development is located at:

- 19-21 Glynburn Road, Glynde;
- 23 Glynburn Road, Glynde;
- 25 Glynburn Road, Glynde;
- 27 Glynburn Road, Glynde; and
- Unit 1-6, 29 Glynburn Road, Glynde.

Following the assessment process, the Application was granted Planning Consent on 6 April 2022, by the Council's Assessment Manager. Public notification was not required.

Two Variation Applications were subsequently lodged to vary aspects of the proposal.

Variation Application 22025795, sought approval for a number of changes including (but not limited to) amended setbacks, reduced floor area and building footprint and increased car parking spaces. The Application was granted Planning Consent on 30 August 2022.

Variation Application 22036070, sought approval for a number of changes including (but not limited to) relocation of the acoustic fencing, removal of one (1) advertising display, internal and external alterations and changes to the car park layout. The Application was granted Planning Consent on 18 November 2022.

Building Rules Consent and Development Approval have not yet been obtained and are required before construction can commence. The Planning Consent is subject to a number of conditions and notes that will need to be adhered to.

8. **DEPUTATIONS**
Nil

9. **PETITIONS**

9.1 PETITION – ST MORRIS RESERVE – DRAFT CONCEPT PLAN

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA109147
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to table a petition which has been received by the Council regarding the St Morris Reserve Draft Concept Plan.

BACKGROUND

The Petitioners are objecting to the construction of the detention basin within St Morris Reserve and the proposed removal of two (2) trees within the reserve.

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

The petition has been signed by a total of 39 people, including the convenor of the petition.

In accordance with the Council's *Privacy Policy*, the personal information of the petitioners, (ie the street addresses) have been redacted from the petition. The names of the signatories and the suburb which have been included on the petition have not been redacted from the petition.

Notwithstanding the above, a number of signatories did not include their suburb as part of their address when completing the petition. Of the 39 signatories, seven (7) signatories do not reside within the City of Norwood Payneham & St Peters however five (5) of those have indicated that they visit the park when they visit friends.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant Goals contained in *CityPlan 2030* are:

Outcome 1: Social Equity

Objective 1.2: A people friendly, integrated and sustainable transport network.

Strategy:

1.2.4 Provide appropriate traffic management to enhance residential amenity.

DISCUSSION

The Council's decision to construct an open detention basin at St Morris Reserve has created the opportunity for the Council to renew and upgrade all of the open space and recreational assets within St Morris Reserve.

At its meeting held on 22 August 2022, the Council considered a report on the progress of the *Trinity Valley Stormwater Upgrade Project* and the level of community consultation and engagement required for the different components of the Project, including the construction of the proposed detention basin and the open space and recreational assets at St Morris Reserve.

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

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

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

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

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

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

Taking into account the provisions of the Act and that community consultation in respect to this project is not a legislative requirement, the Council resolved to undertake an inform and educate approach to community consultation in respect to the open detention basin component of the Project.

However, the Council did resolve to undertake consultation with the community to seek their comments in terms of the proposed upgrade to the facilities at St Morris Reserve.

Whilst the petition relates to the construction of the open detention basin, which is not subject to community consultation, it is recommended that the petition be considered as part of the community consultation which is being undertaken in respect to the draft Concept Plan for St Morris Reserve.

RECOMMENDATION

That the Convenor of the petition be advised that the petition will be considered by the Council as part of the community consultation which has been undertaken regarding the St Morris Reserve Draft Concept Plan.

Attachments – Item 9.1

10. WRITTEN NOTICES OF MOTION
Nil

11. STAFF REPORTS

Section 1 – Strategy & Policy

Reports

11.1 POLICY OPTIONS FOR DEVELOPMENT IN HISTORIC AREA OVERLAY IN THE PLANNING AND DESIGN CODE

REPORT AUTHOR: Senior Urban Planner
GENERAL MANAGER: General Manager, Urban Planning & Environment
CONTACT NUMBER: 83664561
FILE REFERENCE: qA58633
ATTACHMENTS: A - B

PURPOSE OF REPORT

This report provides information and recommendations regarding options for amending the *Planning & Design Code* to include more nuanced and detailed policy for large scale two-storey residential additions in the Historic Area Overlay.

BACKGROUND

At its meeting held on 5 December 2022, the Council resolved as follows:

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.*

With introduction of the State-wide *Planning & Design Code* in March 2021, the Historic Area Overlay replaced Historic (Conservation) Zones and Policy Areas (in the former Development Plan) as the primary means of protecting areas and streetscapes of historic character value in the City. There is widespread application of the Historic Area Overlay, as shown on a map contained in **Attachment A**.

The Historic Area Overlay broadly retains the demolition control policies that applied in the former Historic (Conservation) Zones and Policy Areas. However, as previously reported, it contains less detailed policy, hence offers less guidance for upper-level additions compared to the zones and policy areas contained in the Development Plan that were rescinded in March 2021.

During the March 2022 State Election, the State Government committed to an independent review of the planning system. The Minister for Planning, the Hon Nick Champion MP, subsequently commissioned an independent panel (the Expert Panel) to conduct the review, including of the Planning and Design Code as it relates to character and heritage.

In January 2023, the Council made a detailed submission to the Expert Panel (available on Council's website under 'Planning and Development') which includes a detailed critique of policies applicable in the historic area and character area overlay policies and cited examples of where the policy has delivered poor outcomes on the ground:

"An area of policy that should also be reviewed and improved in both historic and character areas is the design guidance for two-storey development (both new dwellings and dwelling additions). In areas where two-storey development may be appropriate, there should be clearer policies with more detailed design guidance for upper-level development, particularly with respect to impact on neighbours. The Overlay policies focus on streetscape impact which is valuable, but appearance and siting of buildings when viewed from neighbouring properties should also be included in the Overlay policies given this is an important aspect of the character and amenity of these areas."

The Expert Panel is currently considering over 600 submissions and preparing a report with recommendations which will be presented to the Minister by April 2023. Staff have recently met with representatives of Planning and Land Use Services of the Attorney General's Department, to better understand how issues associated with loss of local nuanced policy, as raised in the Council's submission, will be dealt with by the Expert Panel and the Minister. Whilst the final outcome is unknown, early indications are that there will be recommendations relating to historic and character areas.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Outcome 1: Social Equity

An inclusive, connected, accessible and friendly community

Objective:

- 1.1 *Convenient and accessible services, information and facilities.*
- 1.2 *A people-friendly, integrated, sustainable and active transport network.*
- 1.3 *An engaged and participating community*

Outcome 2: Cultural Vitality

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

Objective:

- 2.3 *A City which values and promotes its rich cultural and built heritage*
- 2.4 *Pleasant, well designed, and sustainable urban environments*

Outcome 3: Economic Prosperity

A dynamic and thriving centre for business and services

Objective:

- 3.1 *A diverse range of businesses and services.*
- 3.2 *Cosmopolitan business precincts contributing to the prosperity of the City.*

Outcome 4: Environmental Sustainability

A leader in environmental sustainability

Objective:

- 4.1 *Sustainable and efficient management of resources.*
- 4.2 *Sustainable streets and open spaces.*
- 4.4 *Mitigating and adapting to the impacts of a changing climate.*

FINANCIAL AND BUDGET IMPLICATIONS

If a Council-led Code Amendment is an option, the financial implications are potentially substantial. Their extent will vary depending on the scope of the project, including the extent of work which is undertaken by external parties.

EXTERNAL ECONOMIC IMPLICATIONS

If a Council-led Code Amendment is pursued as an option, economic impacts will depend on the degree to which policy change reduces uncertainty for applicants and others with an economic interest, or has economic impacts due to affecting development potential.

SOCIAL ISSUES

There are mixed attitudes to historic area conservation. Historic areas and heritage places generate intrinsic and cultural value to individuals as well as communities. Conservation in some parts of the City is also balanced with the provision of significant growth opportunities in other parts of the City, to ensure the Council is playing its part in achieving state level infill targets, accommodating reasonable change in localities, and allowing reasonable flexibility for property owners.

CULTURAL ISSUES

The Council's role in supporting the retention of areas of historic character strongly aligns with one of the key objectives of the Council and the community, which is to protect and enhance the City's valued built form and character. This is also reflected in Council's *Built Heritage Strategy* adopted in 2022.

ENVIRONMENTAL ISSUES

Not Applicable.

RISK MANAGEMENT

The Council might be expected to be active in pursuing remedies, given its past involvement in setting planning and heritage policy. On the other hand, expectations of the Council's role based on past history, are at odds with constraints on Council-led Code amendments in the new planning system (see Table 1 below).

The risks of doing nothing include confusion about the intent of the *Planning & Design Code*, plus reputational risk associated with criticism that the Council is not doing enough to ensure good streetscape and neighbourhood outcomes for the City's historic and character areas. The risk of not doing anything to seek to influence policy change have been considered and are ranked as being substantial (possible likelihood of moderate reputational risk).

The only way to fully mitigate the above-mentioned risks is for the policy contained in the *Planning & Design Code* to be more nuanced and 'context specific' for developments proposed in the widespread areas where the Historic Area Overlay applies. If the policy changes set out in this report can be implemented, this would reduce the risk to low. However, there is no guarantee that this can be achieved as the Council is not the custodian or ultimate "gatekeeper" of changes to the *Planning & Design Code*.

How Council engages with bodies like the State Planning Commission, State Government, and other Local Governments, as well as communicates with local community and other stakeholders, is key to managing some of the risks.

CONSULTATION

- **Elected Members**
Not Applicable.
- **Community**
If the preparation of a Code Amendment is pursued, the community and affected land owners will be consulted in accordance with an Engagement Plan.
- **Staff**
General Manager Urban Planning & Environment
Manager Development Assessment
Manager Urban Planning & Sustainability
- **Other Agencies**
Planning and Land Uses Services, Attorney-General's Department

DISCUSSION

In relation to the first part of the above Council resolution, a letter has been sent to the Chair of the State Planning Commissioner seeking clarification on:

- how Councils can change aspects of the Planning and Design Code that have broader implications than one council area;
- the role and Terms of Reference of the State Government’s Code Control Group in receiving and prioritising requests to amend the policy of the Planning and Design Code.

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

The Council’s recent submission to the Expert Panel highlighted both inconsistencies and a lack of local (context-sensitive) specificity in the Planning and Design Code.

The Minister’s terms of reference for the Expert Panel defined heritage and character, infill, trees and carparking as focus areas for review. Staff have been advised by representatives of Planning and Land Use Services that recommended changes to Code policy relating to these focus areas, can be anticipated in the Expert Panel’s final report.

While the final report of the independent Expert Panel on Planning Reform Implementation, expected by April 2023, could be looked to for potential support of greater Council ability to add or restore local nuanced policy, the certainty of this outcome and the scope of this is totally unknown.

The State Planning Commission, more so than the temporary Expert Panel, has direct responsibility for reviewing and improving policy in the Code, but may do so at the direction of the Minister (via the Department).

Under the new *Planning Development and Infrastructure Act 2016*, amendments to the Planning and Design Code may be initiated by a number of parties. This includes certain amendments by a Council or Joint Planning Board (agreed to by a group of Councils) with the approval of the Minister, acting on the advice of the State Planning Commission.

As shown in the table below, the Council’s role in initiating Code Amendments in the new system is very limited – especially compared to the opportunities under the repealed *Development Act 1993*.

TABLE 1: WHO CAN PROPOSE WHAT TYPE OF CODE AMENDMENT?

WHO?	Spatial changes *3	Policy in Overlay, Zone or General provisions	Policy in Sub-zone	Technical & Numerical Value (TNV)
Minister *1				
Commission	Yes	Yes	Yes	Yes
CEO, DTI	Yes	Yes	Yes	Yes
Joint planning board *2				
Council	Yes	Request to Commission	Limited	Yes
Agency	Yes	Request to Commission	Limited	Yes
Persons with an interest in the land Providers of essential infrastructure	Yes	Request to Commission	Limited	Yes

*1 The (Planning) Minister can introduce certain ‘complying’ or ‘minor’ amendments

*2 No Joint Planning Board exists for the eastern region

*3 Spatial changes can be proposed to the extent / boundaries of an overlay, zone or sub-zone

It is important to note that under these arrangements, a Council **cannot** submit a Code Amendment to amend the actual content of Overlay or Zone policies and can only request the Commission to undertake this. The rationale for this is that the Code is supposed to optimise consistency across local government areas, and Overlay and Zone policy apply across multiple Council areas.

A Subzone sits beneath a Zone and enables policy in a Zone to be varied in limited circumstances. It is technically an option to introduce more nuanced local policy by creating a Sub-zone. Very few sub-zones have been included in the implementation of the state-wide Planning and Design Code, despite this widely being promoted as an opportunity for local nuanced policy expression in the lead up to the introduction of the Code.

For a number of reasons, a rationale inclusive of and responsive to the circumstances in other Local Government Areas would need to be developed as:

- it is assumed that the State Planning Commission (which must review any proposal for a Code amendment) and Minister would expect this;
- a Council's potential to shape Code policy is far more constrained in the new system than before and so it must rely on co-opting the help of others; and
- potentially a number of Councils working together or comparing notes may strengthen the case for Code Amendments to address cross-Council issues.

OPTIONS

Option 1: Council-led Code Amendment proposing a Subzone

The Council would not be able to amend policy content in the Historic Area Overlay itself or the Established Neighbourhood Zone, but could add supplementary or more detailed design policy through a sub zone which would have the effect of 'overriding' zone policies.

For example, if the Zone policies contemplate two-storey buildings, a Subzone can include an overriding policy or at least set out more detailed criteria limiting the built form impacts of second-storey building elements to protect heritage, character and the amenity of adjoining occupants.

This might be contemplated where the Historic Area Overlay co-exists with areas of the Established Neighbourhood Zone where the prevailing historic character is derived from single storey dwellings and where large dominant upper-level additions, could have a detrimental impact.

The Council can opt to undertake further investigations and lodge a Proposal to Initiate (with the consent of the Minister) for a Code Amendment to introduce a Subzone (for areas of historic character) to add to or potentially vary, policies of the Established Neighbourhood Zone.

This would be assessed by the State Planning Commission and must be approved by the Minister.

According to the Plan SA Guide to the *Planning & Design Code* (June 2022):

"Policy in a subzone may vary or build upon policy in the 'parent' zone. Policies (Assessment Provisions) in subzones apply to unique variations in the character of a particular part of a zone. Subzones cannot apply in more than one zone. Subzones do not contain classification tables or procedural matters tables, but classification tables in the parent zone specify the policies and rules that apply in the subzone."

However, there are significant constraints involved in the Council initiating a Subzone. For example, a Subzone unique to a Council area will require justification as to why an area or areas to be included in the Subzone should be treated differently to the parent zone in other Council areas. Further, there is no guarantee that policy changes, involving a Subzone, will align with State priorities, or be agreed to at State level (by the Minister / Department / State Planning Commission).

To justify change via a Subzone, the Council may need to align support for this with other Councils that may be seeking a similar outcome.

If changes (whether involving a Subzone or not) would be desirable across more than Council area, support for this could be canvassed – see Option 2.

Option 1 is not recommended at this time given current high uncertainty about this pathway, ahead of the recommendations of the Expert Panel.

Option 2: Council request an Amendment be prepared by Commission

The Council can opt to formally request the Commission to amend the Code. Essentially this replicates the request which has been put to the Expert Panel in the Council's submission.

Issues common to a suite of historic areas, not necessarily confined to one Local Government Area, may help establish a rationale for amendment.

This implies a need to investigate beyond this Council's boundaries and consult other Councils affected to identify if they would be inclined to support a request to the Commission to amend the Code.

The Commission may decline to initiate an Amendment, or at least all of the policy content supported by the Council. It may also expect substantial resourcing of an amendment by local government, and/or set other conditions for its support.

A risk is broader support from affected Councils may be harder to achieve if there are many affected, and/or they have differing awareness, perspectives, priorities and resources.

The sixteen (16) Local Government Areas with existing Historic Area Overlays that sit over the Established Neighbourhood Zone are set out below:

- Adelaide Hills Council
- Alexandrina Council
- The Barossa Council
- City of Burnside
- City of Charles Sturt
- Town of Gawler
- City of Holdfast Bay
- Light Regional Council
- City of Mitcham
- City of Norwood Payneham & St Peters
- City of Port Adelaide Enfield
- City of Prospect
- Town of Walkerville
- City of Unley
- City of Victor Harbor
- City of West Torrens.

(In some of the above and several other Local Government Areas, the Historic Area Overlay also sits across parts of other zones, including other 'Neighbourhood' zones, Township Zone etc, presenting other policy considerations.)

Assessing the prevailing development pattern and other elements of historic character where the Historic Area Overlay overlaps the Established Neighbourhood Zone, both within and outside this Council's area, will assist in identifying all contexts which may support the Commission's prioritisation of need to improve the relevant parts of the Code. This would be a large body of work and resource intensive.

Improving the effectiveness of policies contained in the Code across Local Government Areas and *within the structure of the Code*, would better address Code Drafting Principle 4 which seeks that "rules should aim to achieve consistency while providing for local variations that reflect special or unique character at the local level."

In assisting to inform any future Commission-led Code Amendment, it would be important to have assembled good evidence about the performance of the Code in the local area and have compared notes with other Councils as a basis for input to a review informing the Code Amendment.

A key advantage of a Commission-led Code Amendment is more scope to improve clarity and consistency than a Council amendment. The challenge is to ensure that changes are also sufficiently context-sensitive and nuanced to reflect the Council's expectations.

Option 2 is not recommended at this time given that these policy requests are effectively 'on hold' as they may be advanced by future announcements of the Expert Panel.

Option 3: Concurrent Coordinated Proposals by Councils to Initiate Code Amendments

It is understood Council-initiated amendments may only be undertaken by an individual Council (unless as part of a Joint Planning Board) and are unable to combine changes in several Council areas at once (which would necessitate Option 2: Commission-led amendment process).

A co-ordinated strategy involving diverse Local Government Areas and their Councils could be too difficult to pursue effectively or efficiently.

As such, Option 3 is not recommended as the preferred option at this time.

Option 4: Review Historic Area Statements

There are currently Historic Area Statements for each area where the Historic Area Overlay applies in the City of Norwood Payneham & St Peters.

These do not contain policy but contain factual descriptions of the existing character. Improving the level of detail in these statements may promote better policy interpretation, for example, to capture finer-scale variations requiring better definition.

The Historic Area Statements in the current Planning and Design Code tend to be fairly basic, but a few examples from other Council areas could set a precedent for a more fine-scale, detailed approach. Given previous public announcements, it is likely there may be opportunity for inclusion of additional policy detail in Historic Area Statements, following release of the Expert Panel's report later this year.

Option 5: Await the outcome of the Expert Panel's Planning Reform Implementation review

The Expert Panel on Planning Reform Implementation is expected to report to the Minister by April 2023 and once the State Government releases its response, greater clarity may be provided on the Commission's appetite for entertaining the type of nuanced policy the Council is seeking be included in the Planning & Design Code. As such, there is some value in the council awaiting the outcomes of the Expert Panel's reform recommendations before embarking on a Code Amendment for which we have little certainty of success. This approach will minimise the risk of wasting staff resources in the short term on policy reform that may not get authorised or even supported by other councils.

This option is recommended.

Option 6: – Do Nothing

The Council could do nothing and accept that it is unlikely to be able to amend policy in the Code to the extent it desires.

This option is not recommended as the Council has a role to play in responding to community expectations affecting planning policy changes, albeit not to the extent it did under previous planning system.

This option is not recommended.

CONCLUSION

The Expert Panel on Planning Reform Implementation will report to the Minister by April 2023, following which the Government will make its recommendations for change. There is a reasonable chance that it will support policy reforms reform led by the State Planning Commission relating to heritage and character areas that address weaknesses identified in the Council's submission. It is feasible in the meantime to propose to initiate a Code Amendment, and submit a proposal to the State Planning Commission.

However, as well as known constraints on what the Council can amend, there is some risk that a Council proposal may not be supported fully or at all if pursued in isolation of a more co-ordinated approach with time taken to assemble more evidence from different areas. This would also come at the expense of other committed planning policy priorities, which would need to be delayed.

Code Amendments, either Council-led or Commission-led will need to be considered also in the context of the review of the 30-Year-Plan for Greater Adelaide, for which a Discussion Paper will be released in May 2023. The unknown scope and process for the regional plan adds further uncertainty about how a Code Amendment might be received and progressed.

COMMENTS

Given the possible opportunities arising from this key policy focus area of the Expert Panel review and the timing and scope of the review of the 30 Year Plan for Greater Adelaide, there is merit in holding off on any commitments to undertake substantial work in proposing a Code Amendment.

However, Council staff will communicate with the staff of other affected Council areas, to keep a 'watching brief' on any alignment of policy priorities, should the Expert Panel recommendations not deliver changes for the Historic Area Overlay. A further report for the Council's re-consideration of options, could be presented at this time.

RECOMMENDATION

1. That the Council notes the expected timing of release of the recommendations of the Expert Panel on Planning Reform in April 2023, following which a further report will be prepared for Council's consideration, recommending the preferred pathway for policy change.
2. That Council notes that in the interim, prior to the release of the Expert Panel, staff will investigate with staff from other Councils affected by the Historic Area Overlay, to determine the scope of a coordinated approach to pursuing the policy outcomes discussed in this report.

Attachments – Item 11.1

11.2 PLANNING & DESIGN CODE POLICY OPTIONS FOR BUILDING HEIGHTS AND UPPER-LEVEL SETBACKS FOR DEVELOPMENTS ON THE PARADE, NORWOOD

REPORT AUTHOR: Senior Urban Planner
GENERAL MANAGER: General Manager, Urban Planning & Environment
CONTACT NUMBER: 83664561
FILE REFERENCE: qA58633
ATTACHMENTS: A - C

PURPOSE OF REPORT

This report provides information and recommendations regarding the Council's options to facilitate the inclusion of more nuanced and detailed policy regarding building heights and upper-level setbacks in the Urban Corridor (Mixed Use) Zone along The Parade, Norwood.

BACKGROUND

At its meeting held on 5 September 2022, the Council resolved:

1. *That staff prepare a report on the feasibility of the Council preparing a Planning & Design Code Amendment that would better protect the historic character of The Parade; and*
2. *That the report investigates the setting of lower building heights, larger setbacks and other policy instruments that would ensure that the human scale and High Street appearance of The Parade can be maintained, while at the same time allowing for appropriate commercial and residential development to occur.*

In March 2021, the State-wide *Planning & Design Code* was introduced. The Code replaced policies for The Parade 'main street' area in the former Development Plan for the City, with more generic, less context-sensitive policies.

The assessment of a recent Development Application for an eight (8)-storey building on a landmark site near the corner of The Parade and Osmond Terrace (120 The Parade), Norwood, highlighted that the new Code offers less protection of the main street environment, including heritage places. The overall mass of the approved built form of this development is considered excessive, visually too dominant and imposing with upper levels insufficiently setback from The Parade to reinforce the prominence and integrity of the shopfronts and canopies that are important elements of the human-scale streetscape of The Parade.

The Development Application was approved by the State Commission Assessment Panel (SCAP). Despite repeated concerns over this governance process, expressed by this and other affected Councils, SCAP determines applications for developments of over four (4) storeys located on sites located within the Urban Corridor Zone across the Council area. The Council made a representation to SCAP on the development proposed for 120 The Parade, Norwood, to oppose the application based on its excessive bulk and scale, poor streetscape 'fit' and poor relationship of the new building to existing historic building facades.

During the March 2022 State Election, the Government committed to an independent review of the planning system. The Minister for Planning, the Hon Nick Champion MP, subsequently commissioned an independent panel (the Expert Panel) to conduct the review, including of the Planning and Design Code as it relates to infill policy, character and heritage.

The Council recently submitted a comprehensive submission to the Expert Panel. It is available on Council's website under 'Planning and Development'.

At the time of writing, the Expert Panel is preparing a report to the Minister for Planning, the Hon. Nick Champion. It is unclear how the issues associated with loss of local nuanced policy, raised by Council's submission etc, will be dealt with by the Expert Panel or the Minister.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Outcome 1: Social Equity

An inclusive, connected, accessible and friendly community

Objective:

- 1.4 *Convenient and accessible services, information and facilities.*
- 1.5 *A people-friendly, integrated, sustainable and active transport network.*
- 1.6 *An engaged and participating community*

Outcome 2: Cultural Vitality

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

Objective:

- 2.3 *A City which values and promotes its rich cultural and built heritage*
- 2.4 *Pleasant, well designed, and sustainable urban environments*

Outcome 3: Economic Prosperity

A dynamic and thriving centre for business and services

Objective:

- 3.1 *A diverse range of businesses and services.*
- 3.2 *Cosmopolitan business precincts contributing to the prosperity of the City.*

Outcome 4: Environmental Sustainability

A leader in environmental sustainability

Objective:

- 4.1 *Sustainable and efficient management of resources.*
- 4.2 *Sustainable streets and open spaces.*
- 4.4 *Mitigating and adapting to the impacts of a changing climate.*

The Council's 2022 *Built Heritage Strategy* and *The Parade Masterplan* are also relevant to future building outcomes along The Parade.

The *Building Heritage Strategy* includes the following action:

"3.2 Advocate and influence good legislation and policy...Proactively identify opportunities for improvement in the planning framework, advocate and present information to the State Government."

The *Parade Masterplan*, endorsed by the Council in May 2019, supports the protection of the identity, appeal and sense of place of The Parade, as "Adelaide's premier main street" and its significant economic, social and cultural elements.

The Masterplan gives priority to pedestrian safety, movement and amenity. Human-scale development is a key factor in pedestrian amenity which implicates not only public realm works and improvements but the design, scale and quality of, and guidelines for, private development impinging on the streetscape.

FINANCIAL AND BUDGET IMPLICATIONS

The financial implications of the Council leading or contributing to work on a Code Amendment are very hypothetical at this stage and can be addressed in a further report when the scope of such work is clearer.

EXTERNAL ECONOMIC IMPLICATIONS

Economic impacts will depend on the degree to which policy change is simply a clarification of intent that reduces uncertainty or may have economic impacts due to affecting development potential. Policy that aims to protect and enhance main street character can also enhance the economic vitality of The Parade activity centre, due to reinforcing this main street feel as an attractive place to shop and visit.

SOCIAL ISSUES

Supporting a physical form that respects the existing main street setting, needs to be balanced with the provision of growth opportunities to ensure the Council is playing its part in achieving state level infill targets and accommodating reasonable change in the local areas.

CULTURAL ISSUES

The Council's role in supporting a respectful form-based character, strongly aligns with one of the key objectives of the Council and the community, which is to protect and enhance the City's valued built form and character. This is also reflected in Council's *Built Heritage Strategy* adopted in 2022.

ENVIRONMENTAL ISSUES

Loss of solar access can become an issue with higher building height. Other environmental impacts are not specifically a focus of the policy review investigation.

RISK MANAGEMENT

The Council might be expected by its citizens to be active in pursuing remedies given past involvement in setting planning and heritage policies. On the other hand, expectations of the Council's role based on past history, are at odds with the new constraints on Council-led Code amendments in the new planning system.

The risks of doing nothing include potential for erosion of the main street character of The Parade which previous Council-led policy amendments and other investments by the Council have sought to address. The risk of not doing anything to seek to influence policy change have been considered and are ranked as being substantial (possible likelihood of moderate reputational risk).

The only way to fully mitigate the above-mentioned risks is for the policy in the Planning & Design Code to be more nuanced and 'context specific' for developments proposed on The Parade. If the policy changes set out in this report can be implemented, this would reduce the risk to low. However, there is no guarantee that this can be achieved as the Council is not the custodian or ultimate "gatekeeper" of changes to the Planning and Design Code.

How Council engages with bodies like the State Planning Commission as well as the State Government and other local governments, as well as how it communicates with local community and other stakeholders, is also key to managing these risks.

CONSULTATION

- **Elected Members**
Not Applicable.
- **Community**
Not Applicable.
- **Staff**
General Manager, Urban Planning & Environment
Manager, Development Assessment
Manager, Urban Planning & Sustainability
- **Other Agencies**
Early discussions have commenced with the Code Control Group within Planning and Land Uses Services (State Government).

DISCUSSION

Urban Corridor (Main Street) Zone

Both sides of The Parade in Norwood between Osmond Terrace and Portrush Road, are zoned Urban Corridor (Main Street) Zone. A map of the Planning and Design Code zones is contained in **Attachment A**.

Other sections of The Parade corridor to the east and west are in the Suburban Main Street, Suburban Business or Business Neighbourhood Zones.

The Plan SA Guide to the Planning Design Code (June 2022), describes the Urban Corridor (Main Street) Zone as follows:

“This zone supports a mix of medium and high-density urban development along main road corridors which display main street qualities (typified by highly activated, fine-grain, narrow building frontages with frequent pedestrian entry points) and provide both daytime and night-time activation...(I)t applies (a)long established commercial and retail precincts the have a main street character (e.g. Unley, Prospect, Henley Beach and Magill roads).”

At present, the Zone applies in the following locations:

- Campbelltown City Council – Magill Road, Magill (north side of Magill Road only);
- City of Holdfast Bay – Jetty Road, Glenelg
- City of Norwood Payneham & St Peters – Magill Road and The Parade, Norwood
- City of Prospect – Prospect Road
- City of Unley – Unley Road
- City of West Torrens - Port Road and Henley Beach Road.

Key numerical provisions affecting the Urban Corridor (Main Street) Zone along The Parade include:

- Minimum building height varies by site - 2- 3 levels;
- Maximum building height varies by site - 3- 7 levels (11.5-25.5 metres);
- Interface Height - Development should be constructed within a building envelope provided by a 30-degree plane, measured 3m above natural ground at the boundary of an allotment; and
- Upper levels setback a minimum of 2 metres from the frontage.

With respect to building height, two “bonus” height provisions, for Significant Development Sites and another applying in the Affordable Housing Overlay, allow an additional 30% height if ‘bonus height’ criteria are met. For example, on a site such as the subject site at 120 The Parade, the “maximum” of six (6) levels, increase to eight (8) levels, by application of this bonus.

The criteria are basic and cannot be considered to be additional to expectations expressed by other relevant provisions of the Code. For example, on a Significant Development Site (with site area of 1500m² or more), a bonus may be awarded for the retention, conservation and re-use of a building which is a listed heritage place (a default requirement of other provisions of the Code, thus not indicative of special or exceptional merit).

The full wording of the Significant Development Sites and Affordable Housing Overlay bonus provisions, are included in **Attachments B** and **C** respectively.

The Council's resolution calls for a report on the potential for an amendment to policies on the Code amendment that better protect the heritage values of The Parade, and:

“...the setting of lower building heights, larger setbacks and other policy instruments that would ensure that the human scale and High Street appearance of The Parade can be maintained, while at the same time allowing for appropriate commercial and residential development to occur”.

There are 30 Local Heritage Places and 5 State Heritage Places in the Urban Corridor (Mixed Use) Zone, along The Parade, Norwood.

In 2012, an *Inner Metropolitan Rim Structure Plan* was issued by the (then) Department of Planning, Transport and Infrastructure (DPTI). The Council's *Kent Town and The Parade Strategic Growth Part 2 Development Plan Amendment* was progressed by the Council to implement rezoning outcomes including increasing housing density along The Parade, as well as promoting main street character, consistent with the Structure Plan.

The Structure Plan proposed the encouragement of retail, commercial and home office shopfronts with residential accommodation above (3-6 storeys, and up to 7 storeys on strategic sites) in the 'Activity Centre, The Parade (then zoned District Centre – now Urban Corridor (Main Street) Zone).

The 30-Year-Plan for Greater Adelaide places a significant focus on urban growth around transit corridors and in the walking catchment of strategic activity centres (which include The Parade).

It also includes the following policies relating to design quality and heritage:

Design quality

- P27 Provide for transitions between higher density and multi-storey, mixed use development in activity centres, corridors and existing detached housing precincts.
- P29 Encourage development that positively contributes to the public realm by ensuring compatibility with its surrounding context and provides active interfaces with streets and public open spaces.
- P30 Support the characteristics and identities of different neighbourhoods, suburbs and precincts by ensuring development considers context, location and place.
- P31 Recognise the unique character of areas by identifying their valued physical attributes.

Heritage

- P33 Recognise that the value that communities place on heritage and ensure that new development is implemented sensitively and respectfully.

Under the new planning system, new entities can make amendments to the *Planning & Design Code* (such as land owner proponents), however the Council's role in initiating amendments to the Code is reduced in comparison to the repealed *Development Act, 1993*.

It is important to note that under current arrangements, the Council **cannot** submit a Code Amendment to amend Overlay or Zone policies. The rationale for this is that the Code is supposed to optimise consistency across Local Government Areas and Overlay and Zone policy apply in a number of different Councils – except for zones in the City of Adelaide.

A Subzone enables policy in a Zone to be varied in limited circumstances. It is technically an option for the Council to seek to introduce more nuanced local policy by creating a Subzone.

(For example, in the City of Adelaide there are five Subzones in the City Main Street Zone.)

At present, the Urban Corridor (Main Street) Zone applies in eight (8) different locations in six (6) Council areas (including two locations in City of Norwood Payneham & St Peters).

It is noted that there are a range of other Planning and Design Code zones enabling higher-density infill development to support housing and population growth along arterial road corridors in inner suburban contexts like The Parade. The Code does not always apply the same zones and/or policies to address comparable issues in broadly similar contexts. Unley Road, O'Connell Street and The Parade, for example, are treated differently and there are Subzones used in the City of Adelaide to reflect local context, but not in 'corridor' zoning in adjoining Councils or at Glenelg.

The policy framework is complex, yet the policy detail is often lacking or insufficiently sensitive to local context to avoid some adverse impact on significant values of place. This is evident in key provisions guiding development in the Urban Corridor (Main Street) Zone along part of The Parade.

The following summarises some key policy issues and options:

1. Building Height

The building height of six levels plus 30% (2 levels) effectively, enables a maximum height of eight (8) level, higher than what may be regarded as human scale. The policies contained in the former Development Plan were more responsive to existing physical character and set a maximum of six (6) levels with levels above 2-3 storey podium height required to be substantially setback from The Parade. Amending the maximum building heights along The Parade portion of the Urban Corridor (Main Street) Zone would need to reduce height to four (4) or five (5) storeys to overcome the effect of the additional 30% height if the relevant 'bonus height' criteria are met. It should be noted that the Council has previously opposed 'bonus height' policies in multiple submissions to the Commission and Minister for Planning.

2. Subzone to ensure a Maximum Building Height befitting The Parade

The Parade's distinctive main street character could potentially be better addressed by introducing a Subzone which includes policies which 'override' the zone level Significant Development Site policy. The subzone provisions however would not over-ride the 'bonus height' provisions in the Affordable Housing Overlay (which Council is unable to amend directly).

According to the Plan SA *Guide to the Planning & Design Code* (June 2022):

"Policy in a subzone may vary or build upon policy in the 'parent' zone. Policies (Assessment Provisions) in subzones apply to unique variations in the character of a particular part of a zone. Subzones cannot apply in more than one zone. Subzones do not contain classification tables or procedural matters tables, but classification tables in the parent zone specify the policies and rules that apply in the subzone."

It is unclear if this would be supported by the State Planning Commission and the Minister, and the Council would need to provide full justification as to why an area included in the Subzone, should be different to other places where the zone applies including places in other Council areas – as advised by representatives of the Code Control Group within Planning and Land Uses Services in a recent meeting with staff.

3. Upper level setback

The Urban Corridor (Main Street) Zone DPF 2.1 anticipates a 2m front setback for building of three (3) levels or above:

Buildings:

- a) *include a clearly defined podium or street wall with a maximum building height of 2 building levels or 8m, or higher where it matches the existing street wall of adjoining buildings*
- b) *have levels above the defined podium or street wall setback a minimum of 2m from that wall*

This front setback is significantly less than the six (6) metre setback guideline of the District Centre (Norwood) Zone (PDC 10) in the Council's repealed Development Plan. An amendment could seek to address concerns about impact on the main street character and heritage values of The Parade, but a Zone policy content change cannot be initiated by a Council and would have to be led by the State Planning Commission.

Scope for Amending the Code

Progressing a Code Amendment (be that Council led or a request to the Commission) would require further investigations including understanding the position of other Councils with the same zones and potentially similar concerns. A number of Councils working together is likely to strengthen the case for Code Amendments to address cross-Council issues affecting multiple Local Government Areas, however, such investigations would be resource intensive and there is no certainty of a successful outcome.

Discussion at staff-level with the Code Control Group of Planning and Land Use Services, has yet to provide sufficient clarity over a preferred pathway. Initial discussions late in 2022, indicated the State Planning Commission, may not be supportive of reducing height limits along The Parade and that a policy change by the Council could instead be confined to reviewing the upper-level setbacks only (for example, from the current 2 metres to a possible return to 6 metres for upper levels, in accordance with the former Development Plan policy. More recent discussions have indicated a hesitancy about pre-empting the findings of the Independent Expert Panel's final report and a sense that to some extent, opportunities to add detail to the Code are in a state of flux.

OPTIONS

Option 1: Council to Initiate a Code Amendment

The Council can opt to initiate (with the consent of the Minister) a Code Amendment to vary the maximum building height in the Technical & Numeric Variation (TNV) layer and to introduce a Subzone to add or vary other policies to better achieve a desired 'human scale' character for buildings fronting The Parade.

A Proposal to Initiate would be assessed by the State Planning Commission and must be approved by the Minister. However, the Council would not be able to amend the Affordable Housing Overlay which contains the additional 30% 'height bonus'. Also, there is no guarantee any particular or all of the potential policy changes able to be proposed will be agreed.

To justify this change, there is a high likelihood that the Council will be expected to assess affected contexts in the same Zone in other Local Government Areas.

If there is a shared understanding that changes to the Zone (in full or part) would be desirable across more than one Local Government Area, it would be preferable to request that the State Planning Commission initiate a Code amendment (Option 2), rather than the Council seeking to initiate an amendment of more restricted scope in terms of policies able to be amended.

It would be premature to submit a proposal which is specific to The Parade without further exploration of the potential for more effective policy change also affecting other areas in other Local Government Areas.

Option 1 is not recommended at this time, given current high uncertainty about this pathway.

Option 2: Request Amendment prepared by the State Planning Commission

The Council can opt to request that the Commission amend building height, setback and other provisions in the Urban Corridor (Main Street) Zone as they affect The Parade (and possibly other areas if investigations and consultations supports this).

Before doing so, it would be prudent to undertake further analysis of the locations which are zoned Urban Corridor (Main Street) to gain the support of other affected Councils ahead of requesting the Commission to amend the Code.

If the outcome was that the Commission was supportive of change to the policies in the Code, it may expect Local Government to fund an amendment advocated by the affected Council/s, and/or set other conditions for its support.

The relatively small number of Councils and locations which are affected may auger well for a co-ordinated approach. While it may be harder to establish a rationale for amendments that encompass all of the locations that are zoned Urban Corridor (Main Street), if each location has distinctive features that lend themselves to differentiation, in respect to the type of policies, this may nonetheless potentially strengthen the rationale for a Subzone or other locally nuanced policy for The Parade.

Differing priorities, awareness and perceptions of the issues among Councils may be factors which could influence the success of a co-ordinated approach.

This option is considered to be a 'long shot', as the Commission's appetite for such a change is unknown and even if the Commission did lead the process, there is no guarantee of 'buy in' from other affected Councils.

Option 2 is not recommended at this time, given the high uncertainty of the scope of the Commission's priorities.

Option 3: Alternative P& D Code Zone

A different (close fit) zone from within the Code policy library could be pursued as a possible way around some of the policy dilemmas with the Urban Corridor (Main Street) Zone.

Any such replacement zone for The Parade's Urban Corridor (Main Street) Zone, would need to prescribe height maxima (via a Technical and Numeric Variation layer) to suit The Parade's context and desired character.

However, it must be assumed that the Affordable Housing Overlay would still apply, hence a height bonus of 30% would still apply over and above the Local Variation maximum height (meaning a proposed building of eight (8) storeys would meet the six (6) storey "maximum" if 15% of the dwellings were for affordable housing).

Also, an alternative zoning is very hypothetical and has not yet been subject to investigation. Key tests of suitability would be retaining the current range of envisaged types of development and support for urban infill in this arterial corridor location, as envisaged in the 30-Year-Plan for Greater Adelaide. Another would be to provide a better framework for context-sensitive design than the Urban Corridor (Main Street) Zone provides at present.

Option 3 would need to be assessed in further detail, before it could be considered as a viable option.

Option 4: – Await the outcome of the Expert Panel on Planning Reform Implementation

The Expert Panel on Planning Reform Implementation is expected to report to the Minister by April 2023 and once the State Government releases its response, greater clarity may be provided on the Commission's appetite for entertaining the type of nuanced policy the Council is seeking be included in the *Planning & Design Code*. As such, there is some value in the Council awaiting the outcomes of the Expert Panel's reform recommendations before embarking on a Code Amendment for which there is little certainty of success. This approach will minimise the risk of wasting significant staff resources in the short term on policy reform that may not get authorised or even supported by other councils.

With minimal investment of staff resources, preliminary investigations can be undertaken to ascertain the appetite for policy change by other councils affected by the Urban Corridor (Main Street) Zone. This would place the Council in a better position to make an informed decision on the extent to which it should pursue the policy changes to the Code, once the Expert Panel recommendations are known.

This option is recommended.

Option 5: – Do Nothing

The Council could do nothing and accept that it is unlikely to be able to amend policy in the Code to the extent it desires.

This option is not recommended as the Council has a role to play in affecting planning policy changes, albeit not to the extent it did under previous planning system.

This option would not respond to the issues that have been raised about maintaining the human scale and High Street appearance of The Parade, whilst encouraging appropriate commercial and residential development.

Option 5 is therefore not recommended.

CONCLUSION

The Expert Panel on Planning Reform Implementation will report to the Minister by April 2023 – all things being equal, following which the State Government will make its recommendations for change. Submissions to the Expert Panel have not yet been published, so it is difficult to determine if other Councils or stakeholders may have called for a review of the policy content within the Urban Corridor Zones. At this stage, it is also unknown what extent of support will be offered to Councils to work more collaboratively with the State Planning Commission to explore greater local policy nuance in the Planning and Design Code, better reflecting the Council's and community's expectations.

A Code Amendment proposal or request to the Commission by the Council, may require a review encompassing more than one Local Government Area to justify any departures from or changes to default policy settings. If there are such issues affecting multiple Local Government Areas, a request for the State Planning Commission to prepare a Code Amendment, in theory, offers greater potential for policy coherence. All options pre-suppose common ground on a proposal for Code amendment, with at least some onus on the Council to investigate and develop the justification for this.

More specific recommendations could follow the release of the Expert Panel's findings and recommendations which may potentially open up more opportunities for Council to initiate or advocate for Code amendments.

In the meantime, it will be prudent to learn more about any need for amendment beyond this Council's boundaries and avenues for cooperation involving other Councils potentially with similar issues.

COMMENTS

A range of pathways have been presented in this report, reflecting the current policy review process of the Expert Panel, which would be prudent to await before proceeding with significant commitment of resources. If the Council sought to immediately embark on a Code Amendment process, Option 1 would be the best pathway forward, however this is not the staff recommendation and it is very speculative.

RECOMMENDATION

That the Council notes the expected timing of release of the recommendations of the Expert Panel on Planning Reform in April 2023, following which a further report will be prepared for Council's consideration, recommending the preferred pathway for the Council's consideration.

Attachments – Item 11.2

Section 2 – Corporate & Finance
Reports

11.3 MONTHLY FINANCIAL REPORT – JANUARY 2023

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 January 2023.

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 Second Budget update being presented at this meeting proposes that the Operating Surplus is now at \$867,032 for the 2022-2023 Financial Year.

For the period ended January 2023, the Council's Operating Surplus is \$1,967,000 against a budgeted Operating Surplus of \$990,000, resulting in a favourable variance of \$977,000.

Further details of the January 2023 Operating Surplus are set out in the Discussion section of this report.

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 January 2023, the Council's Operating Surplus is \$1,967,000 against a budgeted Operating Surplus of \$990,000, resulting in a favourable variance of \$977,000.

Investment income continues to be favourable against budget due to the current interest rate which is being received from the Local Government Finance Authority for cash at bank, being higher than budgeted as well as the quantum of funds being held being higher than expected due to the timing of expenditure on projects (as advised at the last Council meeting).

User Charges are \$90,000 unfavourable to the Adopted Budget. The St Peters Child Care Centre and Preschool is currently showing a \$104,067 deficit in revenue compared to the Adopted Budget. This reduction is however being offset by a reduction in staff and other costs of \$73,000.

Reimbursements are \$115,000 favourable to the Adopted Budget due to Federal funding being received by the Council for Boost Apprenticeship Commencement Wage Subsidies (\$120,105).

Employee expenses are \$570,000 (6%) favourable to the Revised Budget. The driving factors behind this variance are a result of 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, consultants or contractors.

Contracted Services are \$112,000 (2%) unfavourable to the Revised Budget. These variances are spread across many services used by the Council and are a mix of timing differences and under and over spending.

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

OPTIONS

Not Applicable.

CONCLUSION

Not Applicable.

COMMENTS

Not Applicable.

RECOMMENDATION

That the January 2023 Monthly Financial Report be received and noted.

Attachments – Item 11.3

11.4 2022-2023 MID YEAR BUDGET REVIEW

REPORT AUTHOR: Accountant
GENERAL MANAGER: General Manager, Governance & Civic Affairs
CONTACT NUMBER: 8366 4585
FILE REFERENCE: fA21388/A577353
ATTACHMENTS: A - C

PURPOSE OF REPORT

The purpose of this report is to provide the Council with a summary of the forecast Budget position for the year ended 30 June 2023, following the Mid-Year Budget Review. The forecast is based on the year-to-date December 2022 results.

BACKGROUND

Pursuant to Section 123 (13) of the *Local Government Act 1999*, the Council must, as required by the Regulations reconsider its Annual Business Plan or its Budget during the course of a financial year and, if necessary or appropriate, make any revisions.

The Budget Reporting Framework set out in Regulation 9 of the *Local Government (Financial Management) Regulations 2011* (“the Regulations”) comprises two (2) types of reports, namely:

1. Budget Update; and
2. Mid-year Budget Review.

1. Budget Update

The Budget Update Report sets out a revised forecast of the Council’s Operating and Capital investment activities compared with the estimates for those activities which are set out in the Adopted Budget. The Budget Update is required to be presented in a manner which is consistent with the note in the Model Financial Statements entitled *Uniform Presentation of Finances*.

The Budget Update Report must be considered by the Council at least twice per year between 30 September and 31 May (both dates inclusive) in the relevant financial year, with at least one (1) Budget Update Report being considered by the Council prior to consideration of the Mid-Year Budget Review Report.

The Regulations requires a Budget Update Report must include a revised forecast of the Council’s Operating and Capital investment activities compared with estimates set out in the Adopted Budget, however the Local Government Association of SA has recommended that the Budget Update Report should also include, at a summary level:

- the year-to-date result;
- any variances sought to the Adopted Budget or the most recent Revised Budget for the financial year; and
- a revised end of year forecast for the financial year.

2. Mid-Year Review

The Mid-Year Budget Review must be considered by the Council between 30 November and 15 March (both dates inclusive) in the relevant financial year. The Mid-Year Budget Review Report sets out a revised forecast of each item shown in its Budgeted Financial Statements compared with estimates set out in the Adopted Budget presented in a manner consistent with the Model Financial Statements. The Mid-Year Budget Review Report must also include revised forecasts for the relevant financial year of the Council’s Operating Surplus Ratio, Net Financial Liabilities Ratio and Asset Sustainability Ratio compared with estimates set out in the budget presented in a manner consistent with the note in the Model Financial Statements entitled *Financial Indicators*.

The Mid-year Budget Review is a comprehensive review of the Council's Budget and includes the four principal financial statements, as required by the Model Financial Statement, detailing:

- the year-to-date result;
- any variances sought to the Adopted Budget; and
- a revised full year forecast of each item in the budgeted financial statements compared with estimates set out in the Adopted budget.

The Mid-year Budget Review Report should also include information detailing the revised forecasts of financial indicators compared with targets established in the Adopted Budget and a summary report of operating and capital activities consistent with the note in the Model Financial Statements entitled *Uniform Presentation of Finances*.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

The Mid-Year Budget Review, provides the opportunity to reflect any changes in projections based on the actual year-to-date results to December 2022 and forecast the 2022-2023 Operating result.

Details of material movements in the forecast from the Adopted Budget are contained in the Discussion section of this Report.

EXTERNAL ECONOMIC IMPLICATIONS

This report provides information on the planned financial performance of the Council for the year ended 30 June 2023 and has no direct external economic impacts.

SOCIAL ISSUES

Nil

CULTURAL ISSUES

Nil

ENVIRONMENTAL ISSUES

Nil

RESOURCE ISSUES

There are no resource implications arising from this issue.

RISK MANAGEMENT

There are no risk management issues arising from this issue. All documents have been prepared in accordance with the statutory requirements.

CONSULTATION

- **Elected Members**

The Council considered the First Budget Update at its meeting held on 5 December 2022.

- **Community**

Not Applicable.

- **Staff**

Responsible Officers and General Managers.

- **Other Agencies**

Not Applicable.

DISCUSSION

Budget Review

In determining the Adopted Operating Surplus, the Council considers the financial resources which are required to provide the ongoing services, programs and facilities (Recurrent Operating Budget), which encompass the basic responsibilities, which the Council is required to provide under the *Local Government Act 1999* and other relevant legislation, plus ongoing services and programs as a result of community needs and expectations.

Such on-going services include regulatory services, such as animal management and parking management, street cleaning and rubbish collection, maintenance of basic infrastructure including roads, footpaths, parks, public open space, street lighting and storm-water drainage, development planning and control, library and learning services, community support programs, environmental programs, community events, community recreational facilities and home assistance service.

In addition, the Council considers the funding requirements associated with the introduction of new services or the enhancement to existing services (Operating Projects).

The 2022-2023 Adopted Operating Budget, projected an Operating Surplus of \$861,000. At the Council meeting held on 5 December 2022, the Council considered and endorsed the First Budget Update, which reported a forecast Operating Surplus of \$720,000.

Following the Mid-Year Budget Review, as presented in this report, the Council is forecasting an Operating Surplus of \$867,000.

The material movements in the components that make up the Operating Deficit following the Mid-Year Budget Review are detailed below.

A. Recurrent Operating Budget

For 2022-2023, the Recurrent Operating Budget forecast a Recurrent Operating Surplus of \$2.025 million, which was reduced to \$1.869 million following the First Budget Update.

As a result of the Mid-Year Budget Review, the Recurrent Operating Surplus is forecast to be \$2.012 million with an increase of \$142,568 on the Adopted First Budget Update. The major reasons for the movement in Operating Surplus are detailed in Table 1.

TABLE 1: MAJOR VARIANCES IN RECURRENT OPERATING BUDGET - MID-YEAR BUDGET REVIEW

	Favourable/ (Unfavourable) \$
General movements	
Based upon the tendering and the construction of the Payneham Memorial Swimming Centre Project, the budgeted loan debenture interest expenses is reduced to reflect the scheduling of the Council's borrowings for this project.	357,420
The Council has applied for and received the funding from National Australia Day Council for the Council's Australia Day event.	20,000
The electricity price for the second half of financial year has increased due to market fluctuations. The LGAP negotiated for the Council until June 2023 and the increase for the second half of the year is 200% for Origin and 260% on Iberdrola.	(196,086)
The legal fees for Elected Members are increased due to various Elected Members' conduct issues and extra \$5,000 is requested for Elected Members' mandatory training.	(35,000)
Funding is requested to prepare Visitor Parking Permit booklet.	(3,500)

B. Operating Projects

The Adopted Budget includes an estimate of operating project expenditure for the year under review and:

- previously approved and carried forward projects from the prior budget years; less
- an allowance for current year approved projects projected to be carried forward to subsequent budget years.

Carried Forward estimates (from prior financial years) are reviewed upon finalisation of the Annual Financial Statements. Additional expenditure required for non-completed Operating Projects at the end of the Financial Year, is incorporated in the Budget as part of First Budget Update.

Taking into account the carried forward Operating Project expenditure and new projects which have been endorsed by the Council, the 2022-2023 Adopted Operating Projects Budget forecast a cost to the Council of \$1.697 million.

Carried Forward Operating Project expenditure was estimated as part of the Adopted Budget to be \$185,000. Following the First Budget Update, the value of carried forward expenditure is \$271,041. The increase in the Carried Forward Budget, is due to projects not progressing as anticipated or the commencement of some projects being deferred.

The First Budget Update forecast the cost of Operating Projects to be \$1.701 million, the Mid-Year Budget Update is estimating a slight decrease in this figure to \$1.697 million. The Operating Projects changes are detailed in Table 2.

TABLE 2: SIGNIFICANT MOVEMENT IN OPERATING PROJECT BUDGET FROM THE ADOPTED BUDGET

Service Initiative	Increase/ (Decrease) \$
Funding is requested to install AutoIMAGE program and pay for the first year's license fees. AutoIMAGE is a web application program which allows the people who receive the expiation notice from the Council can log in and view fine details including photos of their vehicles.	9,500
Savings in Sustainable Gardens Awards due to many of activities being conducted by internal staff and no Awards ceremony and prizes being presented during this financial year.	(8,000)
The Youth Sports week scheduled for the 2022-2023 Financial Year is not proceeding as an Action Plan is currently being prepared to review the projects for young people.	(6,000)

A review of status of the Operating Projects will be undertaken as part of the Third Budget Update, which will be considered by the Council at the Council Meeting scheduled for 1 May 2023.

Details of Operating Projects is contained in **Attachment A**.

C. Capital Projects

The Council adopted a Capital Budget of \$49.641 million for 2022-2023, which comprised funding allocations for New Capital Projects involving new or the upgrading of existing assets (\$29.906 million), the renewal/replacement of existing assets (\$8.794 million) and Carried Forward Projects from 2021-2022 (\$13.941 million).

The First Budget Update forecast the cost of Capital Projects to be \$50.813 million. The increase is predominately due to a number of projects which were initially anticipated to be completed by 30 June 2022 being delayed or still being in progress as at 30 June 2022. Following the Mid-Year Budget Review, the Capital Project expenditure is forecast to decrease by \$26.375 million to \$24.438 million. The budget variations identified in the Mid-Year Review are detailed in Table 3 below:

TABLE 3: MAJOR VARIANCES IN CAPITAL PROJECT BUDGET - MID-YEAR BUDGET REVIEW

Capital Project	Increase/ (Decrease) \$
At the Council Meeting held on 5 December 2022, the funding of \$570,000 was approved to construct a new kiosk at the Norwood Oval and \$120,000 was approved to contribute towards to the construction of permanent coaches and media boxes at the Norwood Oval.	690,000
At the Council Meeting held on 5 December 2022, the contractor is appointed to undertake the construction of Dunstan Adventure Playground Upgrade. The additional funding is requested in accordance with the approved tender.	600,000
The funding for Trinity Valley Drainage Design is carried forward to 2022-2023 financial year to continue to carry on the detailed design.	258,000
Funding is requested to purchase and install LG Solutions. LG Solutions is a cloud-based year-end financial reporting system which is designed to meet the annual South Australia's Local Government's Finance Statement model requirements and is widely used by other councils.	10,000
The funding for the project of Electronic Document Management System is reduced as the design of the system will be undertaken by the Council's Information Services (IS) staff.	(83,000)
The cost of Capital Projects which are forecast not to be completed by 30 June 2023 and are required to be carried forward to 2023-2024. The full list of projects being carried forward are shown in Table 4.	(27,850,000)

At the Third Budget Review, the Capital Projects not expected to be completed in the 2022-2023 Financial Year is \$27.85 million.

TABLE 4: CAPITAL PROJECTS NOT EXPECTED TO BE COMPLETED IN 2022-2023

Capital Project	\$
Payneham Memorial Swimming Centre Upgrade - The tender and awarding of this contract being completed this financial year. Construction is planned to commence from July 2023. The 2022-2023 Budget allocation for construction is therefore required to be carried forward to the 2023-2024 Financial Year.	15,000,000
Stormwater Drainage Infrastructure Works: <ul style="list-style-type: none"> • Trinity Valley Drainage Stage 2 and 3 - \$6.85 million • Hatswell Street & Regent Street Drainage Upgrade - \$250,000 The design and the procurement will be completed during the 2022-2023 Financial Year. The construction work is scheduled to be undertaken in the 2023-2024 Financial Year following the wet season.	7,050,000
Burchell Reserve Upgrade – The tender assessment is in progress. A report to award the construction contract will be presented to the Council at its April 2023 meeting. Construction will commence from late April / May 2023 and is forecast to be completed in December 2023. There will only be two (2) months of construction work undertaken this financial year. The remaining budget for construction is required to be carried forward to the 2023-2024 Financial Year.	2,000,000
River Torrens Linear Park Path Upgrade Project -The project is carried forward due to complexities in the design associated with constructability, which has delayed the commencement of the construction phase.	1,500,000
The Parade Master Plan – Design development is in progress. The Project Working Group has been established with the Department for Transport and Infrastructure (DIT) to focus on coordination of the design and upgrade of The Parade with DIT’s scheduled road reseal between Fullarton Road and Osmond Terrace in the 2024-2025 Financial Year. The remaining budget for detail design and documentation is required to be carried forward to the 2023-2024 Financial Year.	1,000,000
George Street Upgrade Project – The detail design and documentation for the George Street Upgrade Project and associated stormwater works, is due to be completed this financial year. Coordination with third party service providers and stakeholders is ongoing. Tender and construction is planned to occur next financial year. The entire budget for construction is required to be carried forward to the 2023-2024 Financial Year.	800,000
Cruickshank Reserve Facility Upgrade Project – Assessment of tenders is in progress. A report to award the contract will be presented at the Council at its April 2023 meeting. Construction will commence on-site from late April / May 2023 and is forecast to be completed in November 2023. There will only be two (2) months of construction work undertaken this financial year. The remaining budget for construction is required to be carried forward to the 2023-2024 Financial Year.	500,000
TOTAL CAPITAL PROJECTS NOT EXPECTED TO BE INCURRED IN THE 2022-2023	27,850,000

It is not expected that the increase in capital expenditure for the 2022-2023 Financial Year will result in any additional borrowings being required. However, this will be monitored during the second half of the year.

A review of the status of the Capital Projects will be undertaken as part of the Third Budget Update, which will be considered by the Council at the Council Meeting to be held on 1 May 2023.

Details of the Capital Projects are contained in **Attachment B**.

Regulation 9 (1) (b) of the Regulations states the Council must consider:

“between 30 November and 15 March (both dates inclusive) in the relevant financial year—a report showing a revised forecast of each item shown in its budgeted financial statements for the relevant financial year compared with estimates set out in the budget presented in a manner consistent with the Model Financial Statements.”

Further Regulation 9 (2) of the Regulations states the Council must consider:

“revised forecasts for the relevant financial year of the council's operating surplus ratio, net financial liabilities ratio and asset sustainability ratio compared with estimates set out in the budget presented in a manner consistent with the note in the Model Financial Statements entitled Financial Indicators.”

The revised Budgeted Financial Statements and Financial Indicators as a result of the Mid-Year Budget Update are included in **Attachment C**.

OPTIONS

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

1. Adopt the Mid-Year Budget Review as recommended; or
2. Amend the Mid-Year Budget Review as it sees fit.

The Mid Year Budget Review is forecasting an Operating Surplus that is in line with the Adopted Budget. In addition, the proposed amendments to the Operating and Capital Projects budgets are consistent with decisions made by the Council since the adoption of the 2022-2023 Annual Budget and the First Budget Update.

Therefore Option 1 is recommended.

CONCLUSION

Nil

COMMENTS

Nil

RECOMMENDATION

1. That the Mid-Year Budget Update Report be received and noted.
2. That the project progress reports contained in **Attachments A** and **B**, be received and noted.
3. That Pursuant to Regulation 9 (1) and (2) of the *Local Government (Financial Management) Regulations 2011*, Budgeted Financial Statements and Financial Indicators as contained within **Attachment C**, be adopted.

Attachments – Item 11.4

11.5 2023-2024 FEES AND CHARGES

REPORT AUTHOR: Accountant
GENERAL MANAGER: General Manager, Governance & Civic Affairs
CONTACT NUMBER: 83664549
FILE REFERENCE: A591501
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to provide the Council with the *Draft 2023-2024 Fees and Charges Schedule*, which, following its adoption “in principle”, will be used as a basis for calculating the revenue components for the draft 2023-2024 Annual Budget.

BACKGROUND

Section 188 of the *Local Government Act 1999* (the Act), states the following in respect to fees and charges:

- (1) *A council may impose fees and charges—*
- (a) *for the use of any property or facility owned, controlled, managed or maintained by the council;*
 - (b) *for services supplied to a person at his or her request;*
 - (c) *for carrying out work at a person's request;*
 - (d) *for providing information or materials, or copies of, or extracts from, council records;*
 - (e) *in respect of any application to the council;*
 - (f) *in respect of any authorisation, licence or permit granted by the council;*
 - (g) *in respect of any matter for which another Act provides that a fee fixed under this Act is to be payable;*
 - (h) *in relation to any other prescribed matter.*

The majority of fees and charges which are administered by the Council, are levied under various pieces of legislation (ie statutory charges), such as the *Development Act 1993*, the *Dog and Cat Management Act 1995* and the *Local Government Act 1999*. Other fees and charges arise from various policies which have been adopted by the Council. For example, the *Outdoor Dining Policy* and *On-Street Parking Permit Policy*, are based on a user pays principle with respect to the provision of those particular services or on a commercial basis.

Pursuant to Section 188(6) of the Act, the Council must keep a list of the fees and charges on public display at the Principal Office of the Council. The Council publishes the schedule of fees and charges on the Council's website.

As part of the annual budget preparation process, a review is undertaken of the fees and charges which are levied by the Council for the use of facilities and the provision of services. Any increases (or decrease) in fees and charges which are set by legislation are determined by the State Government and will be incorporated upon gazetting.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

In line with the Council's *Fees & Charges Policy*, the Council adopts a *Fees and Charges Schedule* on an annual basis which are separated into Statutory and User Charges. Where the Council's Fees and Charges are not of a statutory nature (i.e. discretionary fees), the Council applies the principle of “user pays” where possible, in order to recover the full cost of operating or providing the service or goods to ensure that there is reasonable level of “user pays”, which in turn reduces the charge on ratepayers for the cost of providing these facilities and services. Where it can be demonstrated that citizens are unable to meet the full cost, concessions may apply.

The Outcomes and Objectives of *City Plan 2030: Shaping our Future* do not specifically address fees and charges; however, the general principles of Community Well-Being are taken into account in setting the discretionary fees and charges.

FINANCIAL IMPLICATIONS

Where the Council has the power to set the fees and charges (discretionary fees and charges), as endorsed by the Council at its meeting held on 16 January 2023, it is adopted that discretionary fees and charges are increased by 5% at a minimum, or at market value.

Generally, the recommended increases are in line with the Budget Parameters which have been set by the Council at its meeting held on 16 January 2023. In the cases where the minimum increase has not been met, the reasons for the lower increase are:

- rounding, for ease of cash handling;
- the fee in question is rarely charged but required to be set pursuant to the *Local Government Act 1999*;
- the proposed increase would result in a minor increase. In these instances, the fee is increased on a cyclical basis of every three (3) to five (5) years; and
- determination that the market could not sustain an increase.

EXTERNAL ECONOMIC IMPLICATIONS

This report provides information on the fees and charges of the Council for the year ended 30 June 2024 and are not expected to have any significant external economic impact.

SOCIAL ISSUES

Nil

CULTURAL ISSUES

Nil

ENVIRONMENTAL ISSUES

Nil

RESOURCE ISSUES

Nil

RISK MANAGEMENT

Nil

CONSULTATION

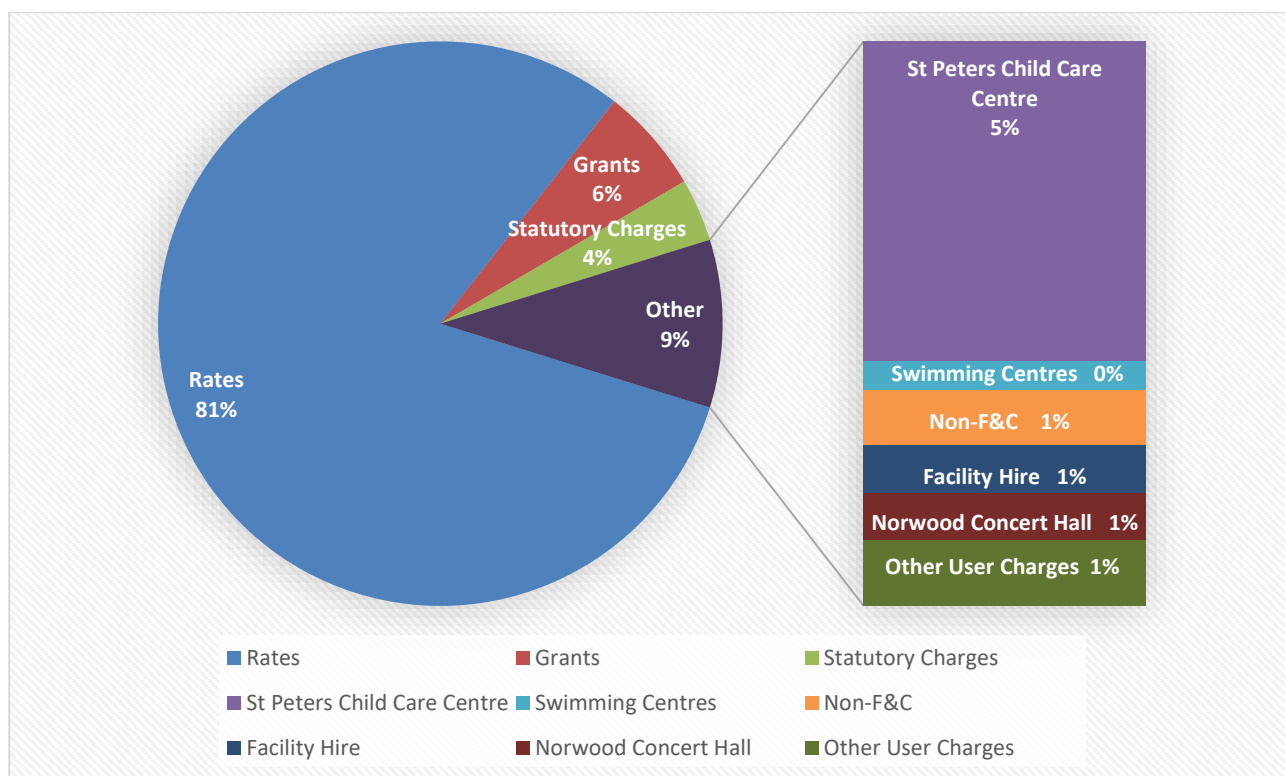
- **Elected Members**
The Council set the parameters for the Fees and Charges Schedule at its meeting held on 16 January 2023.
- **Community**
Not Applicable.
- **Staff**
Responsible Officers and General Managers.
- **Other Agencies**
Not Applicable.

DISCUSSION

In general, user fees and charges are reviewed taking into consideration the anticipated inflation rate and the cost which is incurred by the Council to provide the service or the facility, market rates for similar services and ease of cash handling, through rounding of any proposed increases or deferring increases. At its meeting held on 16 January 2023, the Council adopted the general guideline that user fees and charges be increased by 5% at a minimum, or at market value. The proposed general increase of 5% was determined with reference to the anticipated combined impact of the inflation rate associated with goods and services and salaries and wages increase for the 2023-2024 Financial Year.

Fees and Charges incorporate statutory charges which are set by legislation or by Policies which are adopted by the Council and discretionary user fees and charges which are based on user pay principles. As detailed in Figure 1 below, for the 2022-2023 financial year, discretionary user charges represent 9% of total revenue, with the major portion of this revenue from the fees and charges set by the Council. User Fee income is mostly derived from user fees which are charged by the St Peters Child Care Centre & Pre-school. Given that income from the Council's Business Service units (i.e. St Peters Child Care Centre & Pre-school, Norwood Concert Hall and the Swimming Centres) represents 6% of the total, any increase or decrease in User Charges from other services or programs, will not have a significant impact on the Council's income which are associated with user fees and charges.

FIGURE 1 – USER CHARGES AS A PERCENTAGE OF REVENUE



As set out above, for the most part, the recommended increases are in line with the Budget Parameters which were endorsed by the Council at its meeting held on 16 January 2023. The proposed changes which are not in line with the budget parameter of 5% (excluding rounding) and the reasons for not applying the budget parameter are detailed below.

Permits and Authorisations for Use of Council Land and Roads

To encourage more mobile food vendors and stallholders to participate in Council events, it is proposed not to increase Mobile Food Vendor Permit Fee for the 2023-2024 Financial Year and charge the Stallholders Permit Fee for both general and not-for-profit or community group the same price which is \$66 per day. Compared to the 2022-2023 Financial Year, the Stallholders Permit Fee for general participant is decreased by \$89 from \$166 per day and for not-for profit or community group is increased by \$11 from \$55 per day.

Heritage Items

The fees for purchasing Heritage Walk Guides, currently at \$3 per book, are proposed to be removed to encourage more visitors to get to know the City’s heritage buildings and promote the City’s rich stock of heritage listed buildings.

Community Facilities Hire

To ensure consistency across the Council’s Community Facilities, a new hire fee structure has been proposed for the 2023–2024 Financial Year for the Council’s Community Facilities (except Norwood Concert Hall).

Under the new structure, the hire fee for each community facility is based on \$40 per hour per 50 people capacities (rounded), except for the Payneham Community Centre which is not as resourced and in same condition as other community facilities. Also, the weekend and public holiday rate for hiring Payneham Community Centre’s facilities and the St Peters Youth Centre will be removed and there will be only one rate applying the entire week from the 2023-2024 Financial Year.

The major changes of hourly hire fees for the Council’s community facilities are detailed in the Table below.

Community Facilities	2022-2023 Current Fees per Hour (\$)	2023-2024 Proposed Fees per Hour (\$)	Capacity (Number of People)
Payneham Library Complex			
Payneham Hall	161	160	200
Torrens & Trinity Room	67	40	50
St Peters Library			
Banquet Hall	156	80	100
Meeting Room 1,2 &3	47	15	12
St Peters Youth Centre			
Week Day	57	65	80
Weekend & Public Holiday	106	65	80
Don Pyatt Hall			
	95	65	80
Payneham Community Centre			
Main Hall			
Week Day	31.5	40	70
Weekend & Public Holiday	57	40	70
Small Hall			
Week Day	26.5	30	30
Weekend & Public Holiday	48	30	30
Rooms			
Week Day	21.5	20	20
Weekend & Public Holiday	42	20	20
Meeting Room	16.5	10	10

As part of the new hire fee structure, it is proposed to apply a 20% discount for the City of Norwood Payneham & St Peters based commercial and business hirers, instead of charging them the full fee. It is also proposed to remove the separate fees which is scheduled for private functions. Non-local residents' private functions will be charged with full fee and a 20% discount will apply to functions which are held by local citizens.

St Peters Child Care Centre & Preschool

It is proposed to increase the daily charges from \$110 to \$114, in line with the rising industry fees.

Additional Green Organics Compostable Bags

The cost to the Council to purchase green organics compostable bags is \$9.86 per roll. It is proposed to increase the fee for the local residents to purchase additional green organics compostable bags from \$4.85 per roll to \$10 per roll to reflect the cost to the Council.

A copy of the proposed 2023-2024 Fees and Charges including comparative data are contained in **Attachment A**.

OPTIONS

The Council has the option of adopting "in principle" the proposed fees and charges as contained in Attachment A or make amendments to the proposed fees as the Council sees fit.

CONCLUSION

The recommended Fees and Charges for 2023-2024 have been set at an appropriate level for users and consumers and are not expected to 'price' the hire of facilities/cost of services out of the market and beyond the reach of citizens.

COMMENTS

This report does not cover statutory fees that are charged under legislation as the Council cannot vary these fees and charges.

In relation to Statutory Fees and Charges, the actual fee increases imposed under Acts will remain unknown until the State Government has set its 2023-2024 Budget which is expected to be in May 2023.

RECOMMENDATION

That the *Draft Schedule of Fees and Charges* for the 2023-2024 Financial Year set out in **Attachment A** be adopted "in principle".

Attachments – Item 11.5

11.6 LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM - PHASE 4

REPORT AUTHOR: Manager, Economic Development & Strategy
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 83664509
FILE REFERENCE: qA114995
ATTACHMENTS: Nil

PURPOSE OF REPORT

The purpose of this report is to present to the Council, the Briar Road and Turner Street – Road Reconstruction Project as the project which has been identified for the allocation of the grant funding, which will be provided to the Council under the Federal Government's *Local Roads and Community Infrastructure Program Phase 4*.

BACKGROUND

In May 2020, the Federal Government announced details of its *Local Roads & Community Infrastructure Program (LRCI)*, as part of the Federal Government's economic response to the COVID-19 Pandemic. The purpose of the *LRCI Program* is to support councils in the delivery of priority local road and community infrastructure projects across Australia by supporting and creating jobs and building the resilience of local economies to help communities bounce back from the COVID-19 Pandemic.

Through the 2020-2021 Federal Budget, the Federal Government announced an extension of the *LRCI Program*, now more commonly referred to as the LCR Program Phase 2.

On 11 May 2021, as part of the 2021-2022 Budget, the Federal Government announced an additional \$1 billion for Phase 3 of the LCR Program. Similar to the previous two (2) phases, the intent of Phase 3, was to assist a community led recovery from Covid-19 by supporting jobs, businesses and procurement.

In accordance with its 2023 election promise, the Federal Government has committed \$750 million to Phase 4 of the LRCI Program, which includes \$250 million, which will be directly allocated to road projects in rural, regional and outer urban areas. The remaining \$500 million will be distributed to all councils across Australia, based on the formula used to calculate the funding allocations under the Federal Government *Roads-to-Recovery Program*.

The guidelines and grant agreements associated with Phase 4 have yet to be released, however the Council has been advised that it will receive \$444,393. In its correspondence, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, has indicated that the guidelines and grant agreements will be finalised over the coming months. It is anticipated that the guidelines will be similar to the guidelines used for all three previous phases.

In total, the Federal Government has allocated \$3.25 billion to the *Local Roads and Community Infrastructure (LRCI) Program* over the four (4) phases to support councils.

As part of Phase 1, the Council was successful in securing \$444,000 under this Program to complete the reconstruction of the total length of Langman Grove, Felixstow from Pembury Grove through to Briar Road, Felixstow.

As part of Phase 2, the Council received \$1.27 million and this funding was allocated to the construction of the St Peters Streetscape Upgrade Project.

As part of Phase 3, the Council received \$888,876, which was allocated to the Cruikshank Reserve Multi-Purpose Building and Unisex Toilets Project. The tenders for the construction of this Project are currently being assessed by staff and will be presented to the Council in April.

The Council will be able to access its Phase 4 funding allocation of \$444,393 from July 2023, with the projects required to be physically completed by 30 June 2025.

As with the earlier three (3) Phases of the *LRCI Program*, eligible funding recipients (ie Local Government) can select a broad range of projects to fund so that communities can continue to be provided with the infrastructure they require. In line with the objectives of the Program, it is encouraged that where possible local businesses and workforces are engaged to deliver the work.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The project presented for consideration will deliver on the following strategies set out in the Council's Strategic Management Plan, *CityPlan 2030: Shaping the Future*

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

Strategy 1.1.3 Design and provide safe, high quality facilities and spaces for all people.

Strategy 1.2.1 Enable sustainable and active transport modes.

Strategy 1.2.2 Provide safe and accessible movement for all people.

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

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

Strategy 2.4.2: Encourage sustainable and quality urban design outcomes.

Environmental Sustainability: A leader in environmental sustainability.

Strategy 4.2.1 Improve the amenity and safety of streets for all users including reducing the impact of urban heat island effect.

FINANCIAL AND BUDGET IMPLICATIONS

To be eligible to receive the funding, the project/s which are submitted must be new projects, (ie in addition to projects which have already been committed to and funds allocated to by the Council). This means the Council cannot use the grant funding to offset the cost of projects, which have already been identified and funded by the Council.

In recommending the project for the Council's consideration, staff have reviewed the projects that have been identified in the Long-Term Financial Plan, projects that have been identified but are yet to be scheduled by the Council. including the condition of various assets which may or may not have been included in the Council's Asset Management Plans. Each project that fell into this category, was assessed against the eligibility criteria set out in the previous funding guidelines.

In addition, staff took into consideration the current schedule of projects, the Council's current financial commitment and the staff resources available to deliver the projects.

EXTERNAL ECONOMIC IMPLICATIONS

The purpose of the Federal Government's *Local Roads & Community Infrastructure Program* is to create jobs and stimulate the local economy by supporting councils to deliver local road and community infrastructure construction projects. The intent is for the Council to undertake construction projects, which include "local content" to ensure that the funding supports local businesses and creates short term employment opportunities within the local community, therefore supporting local communities in their recovery from the impact of the COVID-19 Pandemic.

SOCIAL ISSUES

The desired outcome of the Federal Government Program is to provide social benefits to the local communities such as improved road safety, accessibility and visual amenity. In evaluating the projects presented, these factors were taken into consideration.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

If the Council endorses the Briar Road and Turner Street – Road Reconstruction Project, this could be delivered within existing resources.

RISK MANAGEMENT

In respect to the *Local Roads & Community Infrastructure Program Phase 4*, if construction is not completed within the specified timeframes, the Council may not receive its full funding allocation. This risk will be managed by scheduling the works in the 2023-2024 financial year to ensure that works are completed comfortably within the specified timeframes. It is important for the Council to select a project that is within the Council's capability and can be easily delivered within the allocated timeframe and resources. It is also important for the Council to ensure that the Project which is selected does not place an additional unnecessary burden on the Council's financial position and human resource.

The programme for the delivery of Briar Road and Turner Street – Road Reconstruction Project and the extended grant program timeframe (ie 24 months), means that there is a very low risk of the Council not completing the Project within the required timeframe.

Also, given the current state of the construction industry and escalating costs, any delays to the delivery of this Project are likely to generate additional costs to the Project. Therefore, it has been identified that the key element to ensuring the successful delivery of this Project, is to ensure that it is scheduled early in the grant period to keep the costs down and to ensure that it is delivered within the allocated grant funding timeframe.

The risk ratings for the top three (3) risks associated with *Local Roads & Community Infrastructure Program Phase 4* are summarised in **Table 1** below.

TABLE 1: KEY RISKS ASSOCIATED WITH THE LOCAL ROADS & COMMUNITY INFRASTRUCTURE PROGRAM - PHASE 4

Risk ID	Risk Event	Impact Category	Risk Rating	Primary Mitigation	Impact Category	Residual Rating
1	Council not endorsing the Briar Road and Turner Street - Road Reconstruction Project as the nominated project.	Financial	Low 21	Provision of detailed Council report.	Financial	Low 21
		Services/ Programs	Medium 17		Services/ Programs	Medium 17
2	Total Cost exceeding the cost estimate.	Financial	Low 23	The road design has been completed and is ready for construction. Council staff have applied current contractor rates to determine estimated cost.	Financial	Low 21
		Reputation	Low 23		Reputation	Low 21
3	Not completing the Project within the grant programme timeframe.	Financial	Low 22	Program the work in 2023-2024 as part of the Council's road reconstruction – this will provide sufficient lead time and ensure the project is delivered within the required timeframe.	Financial	Low 22
		Services/ Programs	Low 22		Services/ Programs	Low 22
		Reputation	Low 22		Reputation	Low 22

CONSULTATION

- **Elected Members**
Elected Members have been previously consulted in respect to the Phase 1, Phase 2 and Phase 3 projects.
- **Community**
Not Applicable.
- **Staff**
Manager, City Assets
Manager, City Projects
- **Other Agencies**
Not Applicable.

DISCUSSION

The objective of the *LRCI Program Phase 4*, is to stimulate the economy through additional infrastructure construction activities in local communities across Australia, in order to assist communities in the management of the economic impacts of the COVID-19 Pandemic. Based on the objective that this is an economic stimulus measure, one of the conditions of the *LRCI Program* is that councils can only submit project/s which are in addition to those projects already identified and funded as part of the Council's budget. The funding is not intended to replace existing expenditure commitments by Councils but rather, enable additional expenditure as economic stimulus. However, in accordance with the Program Guidelines for the previous three (3) phases, the Council can nominate discrete later stages of projects that have already received grant funding under previous phases of the *LRCI Program*. The only requirement is that the Phase 4 nomination must be a new separate and previously unfunded project stage.

As the purpose of the *LRCI Program* is to stimulate local economies and employment opportunities, the delivery of the projects must be between 1 July 2023 and 30 June 2025. Whilst the Program Guidelines are yet to be released, it is anticipated that they will not differ significantly from the previous three (3) phases. In all three (3) previous phases of the *LRCI Program*, co-contributions were not required, but were allowed to be used for projects – provided that the combined funding for the project does not exceed the estimated cost of the project.

An eligible project must be either:

- a local road project, which involves the construction or maintenance of roads which are managed by the Council, with the focus on improved road safety outcomes. Road projects may include elements associated with a road such as:
 - traffic signs;
 - traffic control equipment;
 - street lighting equipment;
 - a bridge or tunnel;
 - a facility off the road used by heavy vehicles in connection with travel on the road (for example, a rest area or weigh station);
 - facilities off the road that support the visitor economy; and
 - road and sidewalk maintenance, where additional to normal capital works schedules; or
- a community infrastructure project that involves the construction, maintenance and/or improvements to council-owned assets (including natural assets) that are generally accessible to the public.

All projects whether carried out on Council owned land, or another type of public land. must deliver benefits to the community, such as improved accessibility, visual amenity and/or safety.

In determining the projects to which the funding could be allocated, consideration has been given to the extension (increasing the scope) of existing projects, as well as future projects, which have been identified in the Council's draft *Long Term Financial Plan* and *Civil Infrastructure and Asset Management Plan* (post 2022-2023).

Based upon an assessment which has been undertaken by Council staff, including the current priorities which has been assigned to projects by the Council, in the Council's *Long Term Financial Plan* and the Council's ability to deliver the project within the timeframe required by the grant program, staff have identified the following project for the grant funding:

1. Briar Road and Turner Street - Road Reconstruction

Briar Road and Turner Street, Felixstow, are critical public transport routes, forming part of one of the few cross-city bus routes in Norwood, Payneham & St Peters. As a result, the road surfaces on Briar Road and Turner Street have recently started exhibiting signs of pavement failure, which is associated with the higher loading imposed by the public transport bus services. The pavement failure was not evident during the last condition inspection in 2020 and as a result, the reconstruction of Briar Road and Turner Street is not included in the current *Civil Infrastructure Asset Management Plan*, however it has since been identified.

It is proposed that the Briar Road and Turner Street – Road Reconstruction Project comprise of the reconstruction of the full length of Turner Street from OG Road through to Briar Road and the section of Briar Road that is utilised for public transport, from Turner Street through to Langman Grove. Included as part of the Project will be an upgrade to the footpaths and additional tree planting. This reconstruction project would complete the reconstruction of the public transport network within the suburb of Felixstow in its entirety.

The proposed Briar Road and Turner Street – Road Reconstruction Project is estimated to cost in the vicinity of \$750,000. As such, in order to undertake the additional works during the 2023-2024 financial year and utilise the grant funding of \$444,393. The Council would need to approve a net increase of approximately \$310,000 as part of the 2023-2024 Capital Works Budget to enable the work to be delivered. Should the Council resolve to select this Project, the increase will be presented to the Council for its consideration as part of the draft 2023-2024 Budget.

Given that Briar Road and Turner Street are significant connector roads and a bus route, allocating the grant funding to this Project, will complete the reconstruction of the full length of the bus route within the suburb of Felixstow.

Whilst there are a number of projects which may be worthy of the grant funding, the Council needs to make a decision to allocate the grant funds towards a project which achieves the greatest outcome, taking into consideration the budget implications and the Council's capacity to deliver these projects. For these reasons it is proposed that the additional funds (ie \$444,393) available under the *LGCI Extension Program Phase 4* be allocated to the Briar Road and Turner Street, Felixstow.

OPTIONS

The Council has the following two (2) options available:

1. endorse the Briar Road and Turner Street, Felixstow upgrade as the recommended project;
2. endorse an alternative project as the project to be undertaken as part of the LRCI Program Phase 4.

Option 1 is the recommended option for the reasons set out in this report.

CONCLUSION

The grant funding provides the Council with an opportunity to bring forward capital expenditure which will deliver benefits to the community and offset the actual costs of the various projects.

The intent of the Federal Government's *LRCI Extension Program* is to stimulate local economies, provide short term employment opportunities and support local businesses. Participation in the Program provides the Council with an opportunity to further support the community during this difficult financial period.

COMMENTS

Nil.

RECOMMENDATION

That the Briar Road and Turner Street – Road Reconstruction Project in Felixstow, be submitted for funding under the Federal Government's Local Road and Community Infrastructure Program Phase 4.

Section 3 – Governance & General Reports

11.7 LOSS OF OFFICE – WARD COUNCILLOR FOR THE MAYLANDS/TRINITY WARD

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA115010
ATTACHMENTS: A - B

PURPOSE OF REPORT

The purpose of the report is to advise the Council of the loss of Office of Councillor in the Maylands/Trinity Ward.

BACKGROUND

The 2022 Local Government Elections (the Election) were held on Saturday, 12 November 2022.

The Electoral Commission of South Australia conducted the election which was conducted by postal voting.

An election was held for the position of Mayor and Elected Members for five (5) of the six (6) Wards within the City of Norwood Payneham & St Peters.

An election was not held for the West Norwood/Kent Town Ward as Sue Whittington and Grant Piggott were declared Elected (unopposed), by the Deputy Returning Officer at the close of nominations on 6 September 2022.

As part of the Election process, all Candidates, (including those Candidates who were elected and those Candidates who were not elected), must complete and lodge two (2) Campaign Donation Returns forms with the Electoral Commissioner of South Australia. Section 81 of the *Local Government (Elections) Act 1999* sets out the requirements as follows:

81—Campaign donations returns

- (1) *Subject to this section and section 81B, a campaign donations return for a candidate for election to an office of a council must set out –*
 - (a) *the total amount or value of all gifts received by the candidate during the disclosure period; and*
 - (b) *the number of persons who made those gifts; and*
 - (c) *the amount or value of each gift; and*
 - (d) *the date on which each gift was made; and*
 - (e) *in the case of each gift made on behalf of the members of an unincorporated association -*
 - (i) *the name of the association; and*
 - (ii) *the names and addresses of the members of the executive committee (however described) of the association; and*
 - (f) *in the case of each gift purportedly made out of a trust fund or out of the funds of a foundation-*
 - (i) *the names and addresses of the trustees of the fund or of the funds of the foundation; and*
 - (ii) *(ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and*
 - (g) *in the case of each other gift - the name and address of the person who made the gift.*
- (2) *A campaign donations return need not set out any details required by subsection (1) in respect of –*
 - (a) *a private gift made to the candidate; or*
 - (b) *a gift if the amount or value of the gift is less than \$500; or*
 - (c) *a gift disclosed in a large gifts return under section 81A.*
- (4) *If no details are required to be included in a return under this section for a candidate, the return must nevertheless be lodged and must include a statement to the effect that no gifts of a kind required to be disclosed were received.*

Section 54 of the *Local Government Act 1999*, sets out the following in respect to those candidates who were elected and fail to lodge their Campaign Donation Return within one (1) month of the required lodgement date:

- (1) *the office of a member of a council becomes vacant if the member –*
- (h) *fails to submit a return under Part 14 of the Local Government Elections Act 1999 before the expiration of one month from the end of the period allowed under that Act for the submission of the return.*

On 10 February 2023, the Electoral Commissioner of South Australia forwarded a letter to the Council's Chief Executive Officer, advising that Cr Scott Sims had failed to lodge his Campaign Donation Return by the due date, which in Cr Sims's case, as he was a returning Candidate elected in a contested election was by, at the very latest, 19 January 2023.

A copy of the letter dated 10 February 2023, from the Electoral Commissioner of South Australia is contained within **Attachment A**.

DISCUSSION

In accordance with the *Local Government Act 1999* (the Act), when the office of a member of the Council becomes vacant, the Chief Executive Officer must advise the Council and give notice of the vacancy in the Government Gazette.

This report therefore ensures compliance with Section 54(6)(1) of the Act in respect to the obligations to notify the Council at the next Council Meeting.

In accordance with Section 54(6)(2) of the Act, a notice was published in the Government Gazette on Thursday, 23 February 2023.

A copy of the Notice is contained within **Attachment B**.

Mr Sims has the opportunity to apply to the South Australian Civil & Administrative Tribunal (SACAT), for reinstatement to the position of Councillor. Any such application must be lodged by 20 February 2023.

The position previously held by Mr Sims will remain vacant whilst the application is being assessed (if Mr Sims lodges an application) and until resolved by SACAT. However, it will be necessary to hold a supplementary election if the time for making an application to the SACAT expires and an application is not made or, where an application is made, Mr Sims is not reinstated to the position.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

RECOMMENDATION

That the Council notes that the Chief Executive Officer has notified the Council in accordance with Section 54(6) of the *Local Government Act 1999*, that the office of Ward Councillor for the Maylands/Trinity Ward, formerly occupied by Cr Scott Sims, became vacant by operation of Section 54(1)(h) of the *Local Government Act 1999* on 20 January 2023.

Attachments – Item 11.7

**11.8 2023 AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION NATIONAL GENERAL ASSEMBLY
& NOTICES OF MOTION**

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA2190
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to advise the Council of the 2023 Australian Local Government Association (ALGA) National General Assembly.

BACKGROUND

The ALGA holds a National General Assembly (the NGA), each year. The NGA will be held in Canberra from 13-16 June 2023.

The purpose of the National General Assembly is to bring together delegates from Local Government to debate issues of national significance to Local Government. It provides an opportunity for Local Government to develop and express a united position on core issues affecting their communities, with access to influential decision makers (ie Federal Government), at both the political and staff level.

As well as providing planning sessions and workshops, the National General Assembly provides an opportunity for councils to put forward motions for debate.

As such, a significant component of the NGA, comprises of discussion, debate and voting on motions which are submitted by councils from across Australia.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

\$10,000.00 has been set aside for Elected Member training and attendance at conferences and seminars each financial year (\$5,000 for training and \$5,000 for conferences/seminars) as part of the Council's Operating Budget.

At the time of writing this report, a total of \$1,660 has been spent on Elected Member attendances at conferences and seminars.

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**
Elected Members were previously advised of the date of the ALGA National General Assembly and invitation to submit a Notice of Motion to the ALGA via a Memorandum from the General Manager, Governance & Civic Affairs, dated 12 January 2023.
- **Community**
Not Applicable.
- **Staff**
Not Applicable.
- **Other Agencies**
Not Applicable.

DISCUSSION

The theme of the 2023 NGA is *Our Communities Our Future*. At the time of writing this report, the program for the NGA was not finalised.

In accordance with the Council's *Elected Member Training & Development Policy*, Elected Members wishing to attend an Interstate or International conference and/or seminar are required to complete and submit an Expression of Interest to the General Manager, Governance & Civic Affairs.

No Expressions of Interest to attend the 2023 NGA have been received.

Notices of Motion

As stated above, the NGA also provides an opportunity for the NGA to consider matters of national significance via Notices of Motion which are submitted by councils across the country. The ALGA has advised that Notices of Motion must be submitted to the ALGA by 24 March 2023.

Once again, the ALGA has advised that all motions which are submitted for consideration at the NGA, will undergo strict assessment against the criteria of national significance. This is to ensure that councils do not submit motions which deal with specific local issues, have no relevance to other councils or are not of national importance. All motions that do not meet the criteria will be forwarded to the relevant State association for consideration.

A Discussion Paper which provides background information on the theme has been prepared by the ALGA to assist Councils.

A copy of the Discussion Paper is contained within **Attachment A**.

The issues presented in the Discussion Paper are designed to stimulate ideas that may form the basis of Notices of Motions to be considered at the NGA.

To be eligible for inclusion in the National General Assembly Business Papers, motions must:

1. fall under one of the themes of the NGA;
2. be relevant to the work of local government nationally;
3. propose a clear action and outcome; and
4. complement or build on the policy objectives of state or territory association.

Motions which are submitted will be reviewed against these principles by the General Assembly Review Committee and State/Territory associations, as to the eligibility of the Motions for inclusion in the General Assembly Business Papers.

A Memorandum dated 12 January 2023, was forwarded to all Elected Members inviting them to contact the General Manager, Governance & Civic Affairs, if they wished to submit a Notice of Motion to the Assembly to enable the matter to be investigated and, if required, a report to be prepared for the Council's consideration of the matter.

At the time of writing this report, the General Manager, Governance & Civic Affairs had not been contacted by any Elected Member wishing to submit a Notice of Motion.

OPTIONS

The Council can choose to submit a Notice of Motion to the Australian Local Government Association for consideration at the 2023 National General Assembly or decline the invitation to submit a Notice of Motion.

CONCLUSION

Notices of Motion must be submitted to the Australian Local Government Association by 24 March 2023, if the Motions are to be considered at the National General Assembly.

COMMENTS

Nil

RECOMMENDATION

That the report be received and noted.

Attachments – Item 11.8

11.9 SERIOUS INCIDENT RESPONSE SCHEME – AGED CARE SERVICES AND PROGRAMS

REPORT AUTHOR: Manager, Community Services
GENERAL MANAGER: General Manager Governance & Civic Affairs
CONTACT NUMBER: 8366 4600
FILE REFERENCE: qA108066
ATTACHMENTS: Nil

PURPOSE OF REPORT

The purpose of this report is to provide information to the Council regarding the *Serious Incident Response Scheme*.

BACKGROUND

The *Serious Incident Response Scheme* (SIRS) is an initiative that helps prevent and reduce incidents of abuse and neglect in older citizens who receive subsidised aged care services. The SIRS is now a legislative requirement under the *Commonwealth Aged Care Legislation Amendment (Serious Incident Response Scheme) Instrument (2021)* and the *Aged Care Legislation Amendment (Incident Management and Reporting) Instrument (2022)*, for providers of Residential Aged Care, Home Care Packages and Commonwealth Home Support Program.

Initially introduced in Residential Aged Care Services, from 1 April 2021, SIRS has been extended to services and programs which are delivered in the Home and Flexible Care environments which includes the Commonwealth Home Support Program from 1 December 2022.

The SIRS helps to:

- strengthen aged care systems to reduce the risk of abuse and neglect;
- build Aged Care service providers' skills so they can better respond to serious incidents;
- enable Aged Care Service providers to review incident information to drive improvements in quality and safety;
- reduce the likelihood of preventable incidents reoccurring; and
- ensure people receiving aged care have the support they need.

The SIRS sets out the arrangements for approved providers of Residential Care, Home Care and Flexible Care, to manage and take reasonable action to prevent incidents of abuse, harm and neglect in service delivery with a focus on the health, safety, wellbeing and quality of life for older citizens. The SIRS also introduces explicit obligations for aged care providers to report a range of serious incidents to the Aged Care Quality and Safety Commission (the Commission).

As a provider of the Commonwealth Home Support Program the responsibilities and actions required for the Serious Incident Response Scheme will also apply to the Council.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

Not Applicable.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable

ENVIRONMENTAL ISSUES

Not Applicable

RESOURCE ISSUES

Not Applicable

RISK MANAGEMENT

The Royal Commission into Aged Care identified that the level of neglect and abuse in aged care nationally was unacceptably high. The reporting system in place at the time for incidents of abuse and neglect was unsatisfactory, due to the limited scope regarding the incidents that needed to be responded to. In addition, the information reported by approved providers was not adequate nor used effectively.

Whilst an SIRS was in place for Residential Aged Care Services from April 2021, the Royal Commission identified that these arrangements needed to be broadened. The Royal Commission into aged care recommended that the SIRS be extended to cover allegations of certain serious incidents perpetrated by aged care employees against people receiving aged care in home settings.

The need for oversight, management and prevention of serious incidents in home settings becomes more important as more older citizens seek to remain in their home for as long as possible and are likely to receive aged care services in their homes for longer. Older citizens receiving aged care at home will also most likely have increased levels of frailty, cognitive impairment or both and therefore may be more vulnerable and at risk.

To address these matters, the SIRS sets out the arrangements that the Council is required to take to prevent incidents of abuse, harm and neglect to citizens who receive the Council's Home Support services or participate in Home Support programs.

A risk analysis has been undertaken regarding the requirements of the Serious Incidents Response Scheme. The Council's Incident Management System and Complaints process will ensure that all incidents are captured, investigated and actioned. Table.1 sets out an analysis of the three (3) main risks associated with ensuring that any Serious Incident is reported to the Aged Care Quality and Safety Commission.

TABLE 1: KEY RISKS ASSOCIATED WITH REPORTING SERIOUS INCIDENT TO THE AGED CARE QUALITY AND SAFETY COMMISSION

Risk ID	Risk Event	Impact Category	Risk Rating	Primary Mitigation	Impact Category	Residual Rating
1	Serious Incident not reported within prescribed time frames.	<i>Regulatory</i>	<i>Low 22</i>	Procedure has been developed with guidelines on reporting timeframes. Staff are aware of timeframes.	Regulatory	Low 22
2	Serious Incident not reported due to Council Staff and Volunteers not being aware of what to do.	<i>People</i>	<i>Low 22</i>	Procedure has been developed with clear guidelines on staff and Volunteers responsibilities.	People	Low 22
		<i>Reputation</i>	<i>Low 22</i>	The Council has a complaints process for citizens to use if they have concerns about their services	Reputation	Low 22
		<i>Regulatory</i>	<i>Low 22</i>		Regulatory	Low 22
3	Serious Incident is not reported due to contractors not being aware of their responsibilities	People	Low 22	Contractors have been advised and are aware of their responsibilities to report all incidents.	People	Low 22
		Reputation	Low 22	The Council has a complaints process for citizens to use if they have concerns about their services	Reputation	Low 22
		Regulatory	Low 22		Regulatory	Low 22

The main risk associated with implementing a SIRS, is that the incident may not reported due to staff or Volunteers not being aware of what to do should a serious incident occur during or in connection to the delivery of a service or program. Should this occur, the health and well-being of clients will be at risk and depending on the seriousness of the incident, the Council may face regulatory action from the Aged Care Quality and Safety Commission, such as an audit or sanctions issued against the service. This risk is proposed to be mitigated by a number of strategies which includes the following:

- availability of a complaints process for clients;
- procedure for reporting and managing serious incidents; and
- provision of training on the Serious Incidents Response Procedure for staff and Volunteers.

CONSULTATION

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

DISCUSSION

The Serious Incident Response Scheme requires all aged care providers to identify, record, manage, resolve and report all serious incidents that occur, or are alleged or suspected to have occurred, either during or in connection to a service that has been delivered. From the Council's perspective the SIRS will be applicable to all Commonwealth Home Support Services and Programs that are delivered by the Council and includes those service and programs which are delivered by Contractors and Volunteers.

The Aged Care Safety and Quality Commission (the Commission), is the regulatory body responsible for assessing and monitoring the quality of care and services against the Aged Care Quality Standards.

The Commission has defined the following types of incidents as serious incidents:

1. Unreasonable use of force - for example, hitting, pushing shoving or rough handling of a client.
2. Unlawful sexual contact or inappropriate sexual conduct - includes sexual threats against a client, stalking, or sexual activities without the client's consent.
3. Neglect of a client - withholding personal care, untreated wounds, or insufficient assistance during meals.
4. Psychological or emotional abuse – actions that may cause a client emotional distress.
5. Unexpected death – where reasonable steps were not taken by the provider to prevent the death, the death is a result of care or services provided by the provider or failure by the provider to provide care and services.
6. Stealing or financial coercion by a staff member – if a staff member coerces a client to change their will to their advantage, or steals valuables from the consumer.
7. Inappropriate use of restrictive practices - where restrictive practices is used without consent, in a non-emergency situation or the issuing of drugs to influence their behaviour.
8. Unexplained absence from care – where the client is absent from the service without explanation and there are reasonable grounds to report the absence to the police.

From a risk management perspective, the implementation of the SIRS has two (2) key components:

- incident management responsibilities; and
- reportable incident obligations.

With respect to incident management responsibilities, the Council is required to have in place an effective Incident Management System to manage incidents. In this regard, the Council has processes and protocols in place to ensure that all incidents (especially serious incidents) are responded to with appropriate actions, managed and reviewed to ensure that such incidents are prevented in the future. All Contractors, Volunteers and staff are aware of their responsibilities regarding reporting of serious incidents.

The Council is legally required to report all serious incident that have been alleged or suspected to have occurred to the Commission. The time for reporting incidents is dependent on whether they are classified as a Priority 1 or Priority 2 type incident type.

Priority 1 type incidents include the following:

- where the care has caused or could reasonable have expected to have caused a care recipient physical or psychological injury requiring medical or psychological treatment;
- where there are reasonable grounds to report the incident to the police;
- unlawful sexual contact;
- instances of unexplained absences from care; and
- any unexpected death of a client during care.

All Priority 1 Incidents must be reported to the Commission within 24 hours of becoming aware of the incident. Priority 2 incidents are those that are not covered by the Priority 1 definition and must be reported the Commission within 30 days.

As mentioned previously, the SIRS reporting responsibilities are a legislative requirement. The SIRS also complements other legislative requirements which are applicable to Aged Care Providers which includes complying with the Aged Care Quality Standards which set out standard of cares that an older citizen can expect for the services they receive. For example, under Standard 8 Organisational Governance, Aged Care Providers are required to have in place effective risk management systems and practices that enable the organisation (among other things) to manage high-impact risks associated with the care of older citizens, and to identify and respond to abuse and neglect of older citizens.

Where appropriate, the Commission has the power to take regulatory action in dealing with non-compliance by Aged Care providers' responsibilities. Where the Commission identifies evidence of non-compliance or information that may suggest non-compliance with regard to the delivery of services against the standards or SIRS, the Commission may undertake compliance and enforcement action, which may involve issuing directions on actions that the service provider needs to undertake, fines or injunctions.

The Serious Incident Response Scheme requires the Council's Elected Members to be informed of the Council's performance with respect to serious incidents that occur. In this regard information will be provided on the number of serious incidents and type of serious incidents as either part of the quarterly Community Services update or through the Corporate Reporting system.

CONCLUSION

The Council has a legislative and moral responsibility to ensure that the service and programs that it offers to vulnerable citizens are safe. The Serious Incident Response Scheme ensures that serious incidents are prevented and appropriate actions taken and reported.

COMMENTS

Nil

RECOMMENDATION

That the report be received and noted.

11.10 NOMINATION TO EXTERNAL BODIES – DOG AND CAT MANAGEMENT BOARD

REPORT AUTHOR: Executive Assistant, Governance & Civic Affairs
GENERAL MANAGER: General Manager, Governance & Civic Affairs
CONTACT NUMBER: 8366 4533
FILE REFERENCE: qA2136
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of the report is to advise the Council of the call for nominations by the Local Government Association (LGA), for appointment to the Dog and Cat Management Board. The previous two (2) members nominated by the LGA are not eligible for reappointment.

BACKGROUND

The Dog and Cat Management Board (the Board) is a statutory authority which is governed by the *Dog and Cat Management Act 1995* (the Act). The Board works closely with key organisations and the State Government, to improve dog and cat management in South Australia.

Under Section 12 of the Act, the Dog and Cat Management Board comprises of nine (9) members, of whom:

- four (4) are nominated by the LGA;
- four (4) are nominated by the Minister; and
- one (1), to chair the Board, is jointly nominated by the LGA and the Minister.

Appointments to the Dog and Cat Management Board are for a period of up to 3 years.

Meetings are held eleven (11) times a year (generally on the fourth Tuesday of each month, except for January). The sitting fee for Board Members is \$206 per meeting.

Members of the Board must have the following attributes:

- practical knowledge of and experience in Local Government, including Local Government processes, community consultation and the law as it applies to Local Government;
- experience in the administration of legislation;
- experience in financial management; and
- experience in education and training.

A copy of the Dog and Cat Management Board Selection Criteria and Nomination form is contained within **Attachment A**.

All nominees must provide an up-to-date Resume and respond to the selection criteria. Applications are required to be forwarded to the LGA by 31 March 2023.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

RECOMMENDATION

1. The Council notes the report and declines the invitation to submit a nomination to the Local Government Association of South Australia for the Dog and Cat Management Board.

or

2. The Council nominates _____ to the Local Government Association of South Australia for the Dog and Cat Management Board.

Attachments – Item 11.10

12. ADOPTION OF COMMITTEE MINUTES

REPORT AUTHOR: General Manager, Governance & Community Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: Not Applicable
ATTACHMENTS: A - B

PURPOSE OF REPORT

The purpose of the report is to present to the Council the Minutes of the following Committee Meetings for the Council's consideration and adoption of the recommendations contained within the Minutes:

- **Traffic Management & Road Safety Committee – (21 February 2023)**
(A copy of the Minutes of the Traffic Management & Road Safety Committee meeting is contained within **Attachment A**)
- **Norwood Parade Precinct Committee – (21 February 2023)**
(A copy of the Minutes of the Norwood Parade Precinct Committee meeting is contained within **Attachment B**)

ADOPTION OF COMMITTEE MINUTES

- **Traffic Management & Road Safety Committee**

That the minutes of the meeting of the Traffic Management & Road Safety Committee held on 21 February 2023, be received and noted.

- **Norwood Parade Precinct Committee**

That the minutes of the meeting of the Norwood Parade Precinct Committee held on 21 February 2023, be received and that the resolutions set out therein as recommendations to the Council are adopted as decisions of the Council.

13. OTHER BUSINESS
(Of an urgent nature only)

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 Council enters into a new Lease Agreement at the premises.

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:

- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which –
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on the 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 notice is published in The Advertiser.

15. CLOSURE