

Council Meeting Minutes

5 March 2018

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
175 The Parade, Norwood SA 5067

Telephone 8366 4555
Facsimile 8332 6338
Email townhall@npsp.sa.gov.au
Website www.npsp.sa.gov.au



City of
Norwood
Payneham
& St Peters

1.	KAURNA ACKNOWLEDGEMENT	1
2.	OPENING PRAYER	1
3.	CONFIRMATION OF THE MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON 12 FEBRUARY 2018 ..	1
4.	MAYOR'S COMMUNICATION.....	1
5.	DELEGATES COMMUNICATION	3
6.	QUESTIONS WITHOUT NOTICE.....	3
7.	QUESTIONS WITH NOTICE	3
	7.1 QUESTIONS WITH NOTICE – UNDERGROUNDING OF POWER LINES - SUBMITTED BY CR EVONNE MOORE	4
8.	DEPUTATIONS	5
9.	PETITIONS.....	5
10.	WRITTEN NOTICES OF MOTION	5
11.	STAFF REPORTS	5
	Section 1 – Strategy & Policy.....	6
	11.1 CHIEF EXECUTIVE OFFICER REPORT – AMENDMENT OF COUNCIL DECISION – SMOKE-FREE AREAS & EVENTS	7
	11.2 SMOKE-FREE AREAS AND EVENTS – DRAFT SMOKE-FREE POLICY	9
	11.3 OUTDOOR DINING POLICY REVIEW.....	17
	Section 2 – Corporate & Finance.....	24
	11.4 MONTHLY FINANCIAL REPORT – JANUARY 2018	25
	11.5 2018-2019 REVISED FEES AND CHARGES	27
	Section 3 – Governance & General.....	32
	11.6 REPORTS OUTSTANDING	33
	11.7 2018 AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION NATIONAL GENERAL ASSEMBLY – NOTICES OF MOTION	34
	11.8 LEASE – PROGRESSIVE MUSIC BROADCASTING ASSOCIATION INC (THREE D RADIO STATION) 37	
	11.9 COMMERCIAL LEASE VACATED – 68 NELSON STREET, STEPNEY.....	41
12.	ADOPTION OF COMMITTEE MINUTES.....	46
13.	OTHER BUSINESS	47
	13.1 UNDERGROUNDING OF POWER LINES.....	47
14.	CONFIDENTIAL REPORTS	47
	14.1 COUNCIL RELATED MATTER	48
	14.2 COUNCIL RELATED MATTER	49
15.	CLOSURE.....	50

VENUE Council Chambers, Norwood Town Hall

HOUR 7.00pm

PRESENT

Council Members Mayor Robert Bria
Cr Lucy Marcuccitti
Cr Christel Mex
Cr Connie Granozio
Cr Kevin Shepherdson
Cr Mike Stock
Cr Carlo Dottore
Cr Kevin Duke
Cr Evonne Moore
Cr John Frogley
Cr Garry Knoblauch
Cr John Minney
Cr Sue Whittington
Cr Paul Wormald (entered the meeting at 7.08pm)

Staff Mario Barone (Chief Executive Officer)
Peter Perilli (General Manager, Urban Services)
Carlos Buzzetti (General Manager, Urban Planning & Environment)
Lisa Mara (General Manager, Governance & Community Affairs)
Sharon Perkins (General Manager, Corporate Services)
Andrew Alderson (Financial Services Manager)
Keke Michalos (Manager, Economic Development & Strategic Projects)
Olivia Franco (Strategic Projects Co-ordinator)
Jared Barnes (Project Manager, Urban Design & Special Projects)
Tina Zullo (Administration Officer, Governance & Community Affairs)

APOLOGIES Nil

ABSENT Nil

1. KAURNA ACKNOWLEDGEMENT

2. OPENING PRAYER

The Opening Prayer was read by Cr Kevin Duke.

3. CONFIRMATION OF THE MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON 12 FEBRUARY 2018

Cr Knoblauch moved that the minutes of the Special Council meeting held on 12 February 2018 be taken as read and confirmed. Seconded by Cr Moore and carried.

4. MAYOR'S COMMUNICATION

Monday, 5 February

- Presided over a Council Meeting, Council Chamber, Norwood Town Hall.

Wednesday, 7 February

- Attended the official launch of the *Prima Fermata* (Information Guide for new arrivals from Italy), 'Rusco and Brusco', St Morris.
-

Thursday, 8 February	<ul style="list-style-type: none"> Attended the Mary MacKillop College 'Beginning of Year Mass', St Ignatius Church, Norwood.
Friday, 9 February	<ul style="list-style-type: none"> On-site meeting with Mr David Baker and Ms Rochelle Woodley-Baker (residents of Kent Town), Rundle Street, Kent Town.
Saturday, 10 February	<ul style="list-style-type: none"> Attended the Norwood Greek Festival, Prophet Elias Church for Norwood and the Eastern Suburbs, Norwood.
Monday, 12 February	<ul style="list-style-type: none"> Radio interview with David Pemberthy and Will Goodings, 5aa.
Monday, 12 February	<ul style="list-style-type: none"> Attended a meeting with the Chief Executive Officer and Mr Tony Franzon (Bath Hotel), Mayor's Office, Norwood Town Hall.
Monday, 12 February	<ul style="list-style-type: none"> Television interview with Channel 9.
Monday, 12 February	<ul style="list-style-type: none"> Presided over a Special Council Meeting, Council Chamber, Norwood Town Hall.
Tuesday, 13 February	<ul style="list-style-type: none"> Officiated at the Reception for the Adelaide Lithuanian Community to celebrate the 100th Anniversary of the Declaration of Lithuanian Independence, Norwood Concert Hall.
Thursday, 15 February	<ul style="list-style-type: none"> Meeting with Mr Jack Noonan (SA Best candidate for Dunstan), Mayor's Office, Norwood Town Hall.
Wednesday, 21 February	<ul style="list-style-type: none"> Attended a 'Welcome to NPSP – Reception for New Residents', Norwood Concert Hall.
Sunday, 25 February	<ul style="list-style-type: none"> Attended a media announcement with Hon Jay Weatherill MP, Premier of South Australia and Hon Stephen Mullighan MP, Minister for Transport, Norwood Oval.
Monday, 26 February	<ul style="list-style-type: none"> Radio interview with David Bevan, ABC 891.
Monday, 26 February	<ul style="list-style-type: none"> Attended a St Peters Child Care Centre & Pre-School Committee meeting, St Peters Child Care Centre & Pre-School, Stepney.
Monday, 26 February	<ul style="list-style-type: none"> Attended a meeting with the Chief Executive Officer, Manager, Economic Development & Strategic Projects, Councillor John Minney and Councillor Gary Knoblauch, Mayor's Office, Norwood Town Hall.
Monday, 26 February	<ul style="list-style-type: none"> Attended an Audit Committee meeting, Mayor's Parlour, Norwood Town Hall.
Wednesday, 28 February	<ul style="list-style-type: none"> Attended a meeting with Mr Michael Bradley, President of the Norwood Swimming Club, Mayor's Office, Norwood Town Hall.
Wednesday, 28 February	<ul style="list-style-type: none"> Attended a meeting with Councillor Evonne Moore, Councillor John Frogley and the General Manager, Urban Services, Mayor's Office, Norwood Town Hall.
Friday, 2 March	<ul style="list-style-type: none"> Attended the Campbelltown City Council Sesquicentenary Dinner, Paradise Hotel, Paradise
<ul style="list-style-type: none"> Mayor Bria welcomed Jared Barnes, Council's newly appointed Project Manager, Urban Design & Special Projects, to the meeting. 	

5. DELEGATES COMMUNICATION

- Cr Whittington advised that on Wednesday 21 February 2018, she attended and chaired the Eastern Health Authority Board meeting.

Cr Whittington also advised that on Friday 9 February 2018, she attended a workshop on the Public Health Plan, hosted by the Local Government Association of South Australia.

- Cr Knoblauch advised that on Monday 26 February 2018, he attended the first meeting of the year of the Marden Senior College Governing Council.

6. QUESTIONS WITHOUT NOTICE

Nil

Cr Wormald entered the meeting at 7.08pm.

7. QUESTIONS WITH NOTICE

**7.1 QUESTIONS WITH NOTICE – UNDERGROUNDING OF POWER LINES - SUBMITTED BY
CR EVONNE MOORE**

REPORT AUTHOR: General Manager, Urban Services
CONTACT NUMBER: 8366 4523
FILE REFERENCE: S/00474 S/00295
ATTACHMENTS: Nil

BACKGROUND

Cr Evonne Moore has submitted the following Questions with Notice:

1. What is the approximate estimated cost of undergrounding high voltage power lines in our Council's streets?
2. How many streets are involved?

**RESPONSE TO THE QUESTIONS
PREPARED BY GENERAL MANAGER, URBAN SERVICES**

- 1. What is the approximate estimated cost of undergrounding high voltage power lines in our Council's streets?**

This issue was last considered by the Council in 2002.

In 1999, the cost to underground power lines was in the order of \$400 per metre. In 2002, when the Council last considered this issue, the cost was in the order of \$1,000 per metre.

Based upon a rate of \$1,000 per metre, the cost estimate to underground power in all streets throughout the City which contains overhead power lines, was in the order of \$184m. If only those streets containing significant avenues of street trees are taken into account, the cost was in the order of \$62m.

The other alternative to undergrounding of power lines is aerial bundling of cables and in 2002, the cost to bundle all cables along all streets throughout the City which contain overhead power lines was in the order of \$30m. Based upon only those streets which contain avenues of significant trees, this cost was in the order of \$11m.

Given that these costs are over 15 years ago, staff are currently obtaining further information and up-to-date costings will be provided as soon as they are available.

- 2. How many streets are involved?**

The City has a total road length of approximately 172kms. As part of the calculations for Question 1, the total number of streets and road lengths of streets with significant avenues of street trees and high voltage power lines, will be calculated.

8. **DEPUTATIONS**
Nil

9. **PETITIONS**
Nil

10. **WRITTEN NOTICES OF MOTION**
Nil

11. **STAFF REPORTS**

Section 1 – Strategy & Policy

Reports

11.1 CHIEF EXECUTIVE OFFICER REPORT – AMENDMENT OF COUNCIL DECISION – SMOKE-FREE AREAS & EVENTS

REPORT AUTHOR: Chief Executive Officer
GENERAL MANAGER: Not Applicable
CONTACT NUMBER: 8366 4520
FILE REFERENCE: S/02637
ATTACHMENTS: Nil

Regulation 21(1) of the *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations), provides for the Chief Executive Officer to submit a report to the Council recommending the revocation or amendment of a resolution passed since the last General Election of the Council. This is a procedural provision of an administrative nature which operates in the same manner as the Rescission Motion provisions of Regulation 12 of the Regulations, but without the requirement for a Notice of Motion 5 clear days' notice before the meeting at which it is to be considered. Accordingly, the Chief Executive Officer, by virtue of this report, may recommend to the Council a revocation or amendment of a previous Council decision.

As Elected Members are aware, there is a report proposing a draft Smoke-Free Policy contained in Agenda Item 11.2. Prior to considering that report, the issue relating to the rescission of two (2) previous Council resolutions associated with the requirement to lodge applications to declare all Council-run and supported events, and all parks and reserves including Norwood Oval, as permanently smoke-free under the *Tobacco Products Regulation Act 1997*, needs to be resolved.

At the Council Meeting held on 2 February 2015, the Council resolved the following in respect to implementing smoke-free initiatives at all of its events, parks and reserves, including Norwood Oval:

2. *That the Council resolves to designate (within the defined boundaries of the event) all Council events as smoke-free and that an application for each event be submitted to the Minister for Mental Health and Substance Abuse, under Section 51 or Section 52 (for any outdoor events exceeding three (3) days) of the Tobacco Products Regulations Act 1997, as required.*
5. *That the Council make an application to the Minister for Mental Health and Substance Abuse, under Section 52 of the Tobacco Products Regulations Act 1997, to introduce a smoking ban at the Norwood Oval and on all of the Council's Parks and Reserve. In the event that the Council is unsuccessful under Section 52 of the Act, that the Council pursue the introduction of a By-Law under Section 238 of the Local Government Act 1999, to ban smoking at the Norwood Oval and all of its Parks and Reserves.*

In accordance with the two (2) resolutions outlined above, the Council resolved to lodge either a Section 51 or 52 application under the *Tobacco Products Regulation Act 1997*, for all Council events, reserves and parks, including Norwood Oval.

The Chief Executive Officer's Recommendation below seeks to rescind Resolutions 2 and 5 as set out above, and provide an alternative approach to restrict smoking in these locations, specifically through the implementation of a Council Policy, rather than through *the Tobacco Products Regulation Act 1997*.

Since making this resolution in February 2015, Council staff have held a number of discussions with the State Government's Tobacco Control Unit regarding these resolutions, and in particular, the proposed lodgement of Section 51 or 52 applications under the *Tobacco Products Regulation Act 1997* for all events, reserves and parks. The advice received from the Tobacco Control Unit, which administer these applications under the Act, is for the Council to develop a Policy, rather than lodge an application under Sections 51 or 52, as it would provide the Council with more flexibility and would deliver a faster result.

Specifically, in relation to the designation of events as smoke-free, under Section 51, a new application would be required to be lodged for each event annually, and could take up to six (6) weeks to receive approval from the Minister. If the Council resolved to lodge an application under Section 52, this would deliver a more permanent and enforceable ban, however it would mean that the event boundaries and details could not be changed without a new application being lodged. In the event of a change to the event, this would require an entirely new application to be lodged with the Minister, which could take up to six (6) months to receive approval.

In addition, Council staff understand that the intent of designating permanent smoke-free areas under the Act, is to enable enforcement procedures to occur, specifically through issuing expiation notices. As the Council has sought to adopt an educative and informational approach to its smoke-free initiatives, it is considered that a Policy would be the most appropriate method to support this approach. A Policy would also allow the Council to incorporate additional smoke-free areas in future, and to promote the smoking restrictions through supporting signage and through conditions of use at the Council-owned facilities and events.

RECOMMENDATION

That Resolutions 2 and 5 made at its meeting held on 2 February 2015 (Item 10.2 of the Council Meeting Minutes 2 February 2015), which reads as follows:

2. *That the Council resolves to designate (within the defined boundaries of the event) all Council events as smoke-free and that an application for each event be submitted to the Minister for Mental Health and Substance Abuse, under Section 51 or Section 52 (for any outdoor events exceeding three (3) days) of the Tobacco Products Regulations Act 1997, as required.*
5. *That the Council make an application to the Minister for Mental Health and Substance Abuse, under Section 52 of the Tobacco Products Regulations Act 1997, to introduce a smoking ban at the Norwood Oval and on all of the Council's Parks and Reserve. In the event that the Council is unsuccessful under Section 52 of the Act, that the Council pursue the introduction of a By-Law under Section 238 of the Local Government Act 1999, to ban smoking at the Norwood Oval and all of its Parks and Reserves.*

be rescinded and replaced with the following:

2. *That the Council resolves to designate (within the defined boundaries of the event) all Council events as smoke-free and that a Council Policy designating all Council-run and Council supported events as smoke-free be prepared by Council staff.*
5. *That the Council, through a Council Policy designates Norwood Oval and all of the Council's Parks and Reserves as smoke-free.*

Cr Dottore moved:

That Resolutions 2 and 5 made at its meeting held on 2 February 2015 (Item 10.2 of the Council Meeting Minutes 2 February 2015), which reads as follows:

2. *That the Council resolves to designate (within the defined boundaries of the event) all Council events as smoke-free and that an application for each event be submitted to the Minister for Mental Health and Substance Abuse, under Section 51 or Section 52 (for any outdoor events exceeding three (3) days) of the Tobacco Products Regulations Act 1997, as required.*
5. *That the Council make an application to the Minister for Mental Health and Substance Abuse, under Section 52 of the Tobacco Products Regulations Act 1997, to introduce a smoking ban at the Norwood Oval and on all of the Council's Parks and Reserve. In the event that the Council is unsuccessful under Section 52 of the Act, that the Council pursue the introduction of a By-Law under Section 238 of the Local Government Act 1999, to ban smoking at the Norwood Oval and all of its Parks and Reserves.*

be rescinded and replaced with the following:

2. *That the Council resolves to designate (within the defined boundaries of the event) all Council events as smoke-free and that a Council Policy designating all Council-run and Council supported events as smoke-free be prepared by Council staff.*
5. *That the Council, through a Council Policy designates Norwood Oval and all of the Council's Parks and Reserves as smoke-free.*

Seconded by Cr Shepherdson and carried unanimously.

11.2 SMOKE-FREE AREAS AND EVENTS – DRAFT SMOKE-FREE POLICY

REPORT AUTHOR: Strategic Projects Coordinator
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4524
FILE REFERENCE: S/02637
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to present to the Council a draft Policy regarding the implementation of smoke-free areas and events for its consideration and endorsement to undertake community consultation.

BACKGROUND

At its meeting held on 2 February 2015, the Council considered a report titled 'Smoke-Free Areas and Events', which considered a number of initiatives to introduce smoke-free areas and events within the City of Norwood Payneham & St Peters. Following consideration of the matter, the Council resolved the following:

1. *That the Council resolves to support the designation of Outdoor Dining Areas as smoke-free through the introduction of the State Government's mandatory legislation to ban smoking in Outdoor Dining Areas by July 2016.*
2. *That the Council resolves to designate (within the defined boundaries of the event) all Council events as smoke-free and that an application for each event be submitted to the Minister for Mental Health and Substance Abuse, under Section 51 or Section 52 (for any outdoor events exceeding three (3) days) of the Tobacco Products Regulations Act 1997, as required.*
3. *That the Council make an application to the Minister for Mental Health and Substance Abuse, under Section 52 of the Tobacco Products Regulations Act 1997, to establish a ten (10) metre smoke-free perimeter around all Council's owned buildings and facilities, with the exception of the Norwood Library and the Norwood Town Hall which will be captured under an application to designate the whole of The Parade smoke-free.*
4. *That an application be made to the Minister for Mental Health and Substance Abuse for the designation of The Parade as a smoke-free zone, under Section 52 of the Tobacco Products Regulations Act 1997, to come into effect at the same time as the introduction of the State Government's mandatory legislation relating to Outdoor Dining Areas.*
5. *That the Council make an application to the Minister for Mental Health and Substance Abuse, under Section 52 of the Tobacco Products Regulations Act 1997, to introduce a smoking ban at the Norwood Oval and on all of the Council's Parks and Reserve. In the event that the Council is unsuccessful under Section 52 of the Act, that the Council pursue the introduction of a By-Law under Section 238 of the Local Government Act 1999, to ban smoking at the Norwood Oval and all of its Parks and Reserves.*
6. *That the Council apply to the Minister for Mental Health and Substance Abuse for the Council's Compliance Officers to be authorised under the Tobacco Products Regulation Act 1997, to undertake the enforcement of the new smoke-free provisions, if required.*
7. *That an education and awareness strategy be established to complement the smoking bans being proposed by the Council. That the education and awareness strategy include reference to the 2016 total ban for Outdoor Dining Areas, as currently proposed by the State Government.*
8. *That extensive community consultation is undertaken regarding each of the proposed smoke-free areas and events in accordance with the Council's Community Consultation Policy.*
9. *That the Discussion Paper be amended to reflect the decisions of the Council, and that once completed, it will be made available on the Council's website as the Council's Smoke-Free Areas and Events Position Paper.*

As outlined in the report presented to the Council at its meeting held on 7 November 2017, it was noted that Council staff had met with the Tobacco Control Unit on a number of occasions regarding the introduction of smoke-free areas and events within the City and the requirements under the *Tobacco Products Regulation Act 1997*. Based on the outcomes of these discussions, it was recommended that the Council not pursue an application to declare all Council-run events as 'smoke-free' under Section 51 of the Act, as this will require annual applications to be submitted for individual events. Additionally, it was noted in that report that any changes to the location or boundaries of the event areas would require a completely new application to be lodged with the Minister for Mental Health and Substance Abuse.

Accordingly, through the report presented to the Council at its meeting on 7 November 2017, it was considered that preparing applications for events under the Act would be an onerous process and an inefficient of Council resources. Additionally, as a result of the discussions with the Tobacco Control Unit, it has been suggested that the most effective way of designating Council-run events as smoke-free, would be through the introduction of a Council Policy. Through the proposed draft Smoke-Free Policy contained within **Attachment A**, which will be reinforced through a future update to the Events Policy, all Council events held on Council land could be declared as smoke-free, which is in accordance with the Council's previous resolution in respect to this issue. With the exception of enforcement procedures, the policy would deliver the same outcome for the Council and the community, without the added administrative burden.

A separate report in relation to the Council's decision to lodge applications under Sections 51 and 52 to designate all of the Council's parks, reserves and events as smoke-free has been presented to the Council as part of this Agenda (refer to Item 11.1).

This report focuses specifically on Resolutions 2 and 5 made by the Council at its 2 February 2015 meeting, and presents to the Council a draft Policy to introduce smoking restrictions within the Council area in the following locations:

1. All Council-owned reserves and parks (excluding Memorial Gardens, Norwood as this will be considered for designation as a smoke-free area through a separate process);
2. All Council-owned swimming centres, including:
 - a. Norwood Swimming Centre; and
 - b. Payneham Memorial Swimming Centre; and
3. All Council events, including those run by the Council and those supported by the Council through a partnership or similar arrangement, within the defined boundary of the event.

The draft Policy (contained in **Attachment A**) supports the Council's commitment to promoting healthy lifestyles, and aligns with the overarching strategic directions for the Council. It should also be noted that this draft Policy is also proposed to apply to all reserves where formal sports are played, such as Payneham Oval and Norwood Oval. As outlined above, Memorial Gardens have been excluded from this draft Policy as it will be addressed as part of the Council's smoke-free considerations regarding the remaining section of The Parade (between the western side of Osmond Terrace and eastern side of Fullarton Road).

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The Outcomes, Objectives and Strategies of the Council's *CityPlan2030: Shaping Our Future – Update 2017* that are relevant to this initiative are provided below:

Outcome 1: Social Equity – A connected, accessible and pedestrian-friendly community.

- **Objective 1: Convenient and accessible services, information and facilities**
 - *Strategy 1.3: Design and provide safe, high quality facilities and spaces for people of all backgrounds, ages and abilities.*
- **Objective 3: An engaged and participating community**
 - *Strategy 3.3: Provide opportunities for community input in decision-making and program development.*
- **Objective 4: A strong, healthy, resilient and inclusive community.**
 - *Strategy: Encourage increased physical activity and support mental health to achieve healthier lifestyles and well-being.*

Additionally, the introduction of further smoke-free areas and events would assist the Council in achieving the directions of the Eastern Health Authority Public Health Plan, which sets out the strategic directions for improving community health and well-being. Specifically the proposal will help the Council to achieve the following Priority Areas of the Plan:

- **Priority Area 2:** *Increasing opportunities for healthy living, healthy eating and being active; and*
- **Priority Area 4:** *Sustaining and improving public and environmental health protection.*

FINANCIAL AND BUDGET IMPLICATIONS

There is currently no budget for this initiative. The draft Policy has been prepared by Council staff. The costs associated with undertaking community consultation on the draft Policy will include signage, promotional material and public awareness initiatives, which are briefly discussed below.

The community engagement and consultation process will be facilitated by Council staff, and all consultation material will be prepared by Council staff. It is anticipated that the cost of community engagement and consultation will be approximately \$5,000, which will include advertising costs in the two (2) local Messenger Newspapers and printing of promotional material such as brochures and posters. During the consultation period, temporary posters and information sheets will be displayed in a number of locations, including all parks, reserves and swimming centres; informing the community of the proposed changes.

Should the Council adopt the draft Policy, it is recommended that permanent signage be installed at all Council-owned parks and reserves, and the Council's Swimming Centres to promote that these areas are smoke-free. A Budget Submission be prepared for consideration by the Council as part of the 2018-2019 Budget.

EXTERNAL ECONOMIC IMPLICATIONS

In general, the decision to implement the proposed Smoke-Free Policy is unlikely to have significant external economic implications, as it relates to Council-owned land which is used by the community generally for public use and not for activities that would generate a profit. Through the introduction of smoke-free events, specific areas will be assigned where people will be able to smoke.

At a broad scale, any attempt to reduce the prevalence of smoking and people's passive exposure to smoke will likely help to reduce the extent of smoking-related illnesses and premature deaths, and therefore smoking restrictions can help provide an indirect economic benefit by reducing the cost on the health system.

SOCIAL ISSUES

Community awareness of the harmful effects of passive tobacco smoke exposure has increased within the past few decades, this has also raised expectations that the community will be protected from smoke-polluted environments. By introducing additional smoking restrictions, the Council will be supporting the preferences of the majority of the population that do not smoke and will help to provide healthy public spaces and events for the community. However, it should be recognised that there may be some resistance and backlash towards the smoking restrictions at reserves where formal sports are played.

Despite this, the introduction of a Policy to implement smoking restrictions at all Council-owned parks, reserves, swimming centres and events will particularly benefit the vulnerable members of the community, including children and the elderly, who are likely to be frequent visitors to these locations and attendees to these events.

CULTURAL ISSUES

Nil.

ENVIRONMENTAL ISSUES

The latest KESAB Litter Strategy Monitoring Report undertaken in May 2017 found that cigarette butts were the most predominant form of litter in South Australia, contributing to 34% of all litter. As cigarette butts take up to five (5) years to break down, the introduction of smoking restrictions will likely contribute to reduction in the amount of litter in these public locations. The Council would also be contributing to a reduction in the amount of litter generated by cigarette butts, which would consequently result in a positive environmental benefit.

RESOURCE ISSUES

Council staff have prepared the draft Policy and will undertake consultation with the community on the draft Policy.

RISK MANAGEMENT

The introduction of any smoking restrictions needs to be carried out in a manner that complies with the appropriate legislation, and other Council policies.

CONSULTATION

- **Elected Members**

Elected Members have been informed of State Government initiatives, as well as the Council's progress towards implementing further smoke-free areas and events, since being first advised of the legislative changes which came into effect in 2012.

At its meeting held on 6 November 2017, the Council considered a report relating to a proposal to designate a section of The Parade as a permanent smoke-free area, and resolved to release the proposal (with amendments) for community consultation.

At its meeting held on 5 February 2018, the Council reviewed all of the submissions which were received in respect to the proposal and endorsed the final smoke-free area of The Parade precinct for the purpose of lodging a Section 52 application to the Minister for Mental Health and Substance Abuse to designate the identified location as a permanent smoke-free area.

- **Community**

In November 2012, the community was first consulted on the smoke-free initiative, on the Options for Introducing Smoke-Free Areas and Events Discussion Paper. Consultation was undertaken on the proposal to designate a section of The Parade as a permanent smoke-free area in late 2017, and a total of 103 written submissions were received during that round of consultation, of which approximately 73% of respondents were in favour of designating The Parade as a smoke-free area.

Of those who responded to the question whether additional areas within the Council should be designated as smoke-free, forty-six (46) respondents (58%) were in support. The additional areas that were suggested by respondents include:

- around schools, healthcare centres, childcare centres, libraries and Council offices;
- shopping centres and associated car parks;
- parks and reserves;
- Norwood Oval and Memorial Gardens;
- public footpaths and walkways;
- the Magill Road shopping precinct; and
- all public areas.

Accordingly, the draft Smoke-Free Policy responds to the suggestions which have been proposed by the community through the consultation, as well as the Council's strategic directions, to implement additional smoking restrictions for positive health and well-being outcomes for the community.

The community will once again be consulted on the draft Policy in accordance with the Council's Consultation Policy. This will include promotion on the Council's website, in the two (2) Messenger Newspapers, and at Council events, swimming centres and libraries, where appropriate. In addition, temporary signage promoting the consultation on the draft Policy will also be placed at all parks and reserves proposed to be designated as smoke-free.

Additionally, all lessees of the Council's parks and reserves will be notified in writing of the consultation on the draft Policy.

- **Staff**
General Manager, Governance & Community Affairs
Manager, Economic Development & Strategic Projects
Manager, Swimming Centres
Team Leader, Customer Service
Events Coordinators
Communications Officer.
- **Other Agencies**
Not Applicable.

DISCUSSION

The Council is committed to providing environments and events that are conducive to positive health outcomes for the community. The introduction of the Smoke-Free Policy, which restricts smoking in specific areas and at Council events brings with it the added benefit of reducing littering within the City.

In addition, the adoption of a Smoke-Free Policy will assist in reiterating the Council's commitment to providing healthy public spaces and environments, as well as providing a mechanism to restrict smoking within the remit of its jurisdiction.

Should the Council resolve to endorse the draft Policy, community consultation on the draft Policy will be undertaken in accordance with the Council's Consultation Policy, which will enable the community the opportunity to provide comments. The result of the community consultation on the draft Policy will then be presented to the Council, along with a final Smoke-Free Policy for endorsement.

Parks and Reserves

The introduction of smoking restrictions at Council-owned parks and reserves may be controversial due to the open-air nature of the environment and generally lower concentration of users, except during gatherings and events. Given that parks and reserves are largely utilised by children and the elderly, it is logical to prohibit smoking to support healthy lifestyles for users of these sites. There may, however, be resistance from sporting clubs which utilise the ovals and recreation grounds for formal sporting activities, as this would impact on their spectators' right to smoke at their games and events. However, many sporting clubs have adopted their own policies that discourage smoking from sporting fields as they recognise the need to protect the health of their players and broader sporting community.

Through discussions with the Norwood Football Club, it has been confirmed that Norwood Oval has operated as a smoke-free venue for several years, which is further supported through a Smoke-Free Position Statement that was endorsed by SANFL at a State-level. There are no designated smoking areas within Norwood Oval, however the Football Club establishes a temporary smoking area within Memorial Gardens during all football matches. The Football Club have noted that having a designated smoking area had worked well and that it had received few complaints from patrons. Notwithstanding this, Norwood Football Club has noted that smoking adjoining the residential properties in Woods Street is its main concern, and that should additional smoking restrictions be implemented by the Council, the Club has suggested that permanent signage be installed on Woods Street to discourage smokers from congregating in this location. Given that The Parade, between Osmond Terrace and Fullarton Road will be considered as a smoke-free area at a later stage, and given the close proximity of Memorial Gardens to that section of The Parade, it is proposed that it be excluded from the Policy at this stage.

Swimming Centres

The introduction of smoking restrictions at the Council's Swimming Centres is unlikely to cause significant opposition, as smoking restrictions have been in operation on an informal basis at the Swimming Centres for some time. The smoking restrictions are promoted through signage and information which is displayed at the Swimming Centres and anecdotally, is adhered to by patrons. In this instance, the Smoke-Free Policy will simply formalise what is already practiced.

Events

In relation to Council-run and supported events, it is considered appropriate and timely that these be designated as smoke-free, as events involve the gathering of a large number of people in small areas, and thus increases the risk of passive smoke exposure. This is particularly relevant as community expectations in relation to smoke-free events have changed in recent years as a greater number of high profile events, such as the Royal Adelaide Show, have been designated as smoke-free.

OPTIONS

The Council has three (3) options available in respect to introducing smoking restrictions at additional locations within the City through the draft Smoke-Free Policy. The Council can resolve not to endorse the draft Policy, or it could either resolve to endorse the draft Policy in its current form for community consultation, or endorse the draft Policy with amendments for community consultation.

Option 1 – Do Nothing

The Council can resolve not to endorse the draft Smoke-Free Policy and not to proceed with community consultation on the draft Policy.

As the Council has previously resolved to prepare a Policy to introduce additional smoke-free areas and events within the City, this option does not reinforce the Council's position.

Option 1 is not recommended.

Option 2 – Endorse the draft Smoke-Free Policy for Community Consultation in its current form

The Council can endorse the draft Smoke-Free Policy in its current format for release for community consultation.

The draft Policy (contained in **Attachment A**) that is presented to the Council has been prepared by Council staff, in consultation with staff across the organisation, in consideration of previous smoke-free initiatives by the Council, and through extensive research into best practice approaches. The wording used in the draft Policy is in a simple format to enable flexibility in its application, whilst allowing the opportunity to expand the Policy in future if desired. It is therefore considered that the draft Policy is in a suitable format to commence community consultation.

Option 2 is the recommended approach.

Option 3 – Endorse the draft Smoke-Free Policy for Community Consultation, with amendments

The Council can make amendments to the draft Smoke-Free Policy prior to undertaking community consultation on the draft Policy.

As noted above, the draft Policy has been prepared by Council staff in consideration of previous smoke-free initiatives and extensive research into best practice approaches.

Notwithstanding this, the draft Policy could be amended to remove the reference to the Council's Swimming Centres as these are currently operated informally as smoke-free environments, without a formal Policy in place. Additionally, the Council can determine to exclude the Norwood Oval from this Smoke-Free Policy, alternatively it could resolve to include Memorial Gardens. It should be noted that the Norwood Football Club operates Norwood Oval as a smoke-free venue, and has provided feedback to Council staff on the effectiveness of the smoking restrictions and issues that still need to be resolved. Given that a section of Memorial Gardens is used as a smoking area for Norwood Oval on match days, it is not recommended that Memorial Gardens be included in the Policy at this stage. Rather, it is recommended that Memorial Gardens be addressed as part of the Council's review of The Parade smoke-free area in twelve (12) months, which will include a clear strategy of where the designated smoking areas for Norwood Oval users will be located.

Notwithstanding these considerations, Option 3 is not recommended.

CONCLUSION

The draft Smoke-Free Policy contained in **Attachment A** seeks to introduce a framework to implement smoking restrictions at key public locations, being all Council-owned parks, reserves and Swimming Centres (excluding Memorial Gardens), and all Council events.

This Policy is part of a suite of initiatives which are being undertaken by the Council to introduce smoke-free areas and events across the City. The introduction of a Smoke-Free Policy would enable the implementation of smoking restrictions on Council-owned land in key public locations and at events, for the benefit of the community and visitors, particularly children and the elderly who are more vulnerable to the effects of passive smoke exposure.

COMMENTS

The recommended approach is simple and flexible, and would allow the Council to easily adopt further smoking restrictions in key public locations without the need to lodge a formal application with the Minister for Mental Health and Substance Abuse each time, which is both onerous and time-consuming. Additionally as the Council has opted to take an educative and informational approach to the smoke-free initiatives, there is little benefit in formalising the smoking restrictions through the application process, as the only additional benefit of a formal application is the ability to enforce the restrictions through issuing expiation notices.

The approach of adopting a Policy will provide the Council with greater flexibility to adapt change over time as community expectations change. Additionally the Council resolutions relating to the Section 51 and 51 applications for Council events, parks and reserves were considered in 11.1, and will support the approach proposed in this report.

RECOMMENDATION

1. That the draft Smoke-Free Policy as contained in Attachment A, be endorsed as being suitable for release for community consultation in accordance with the Council's Consultation Policy.
 2. That all existing Lessees of Council-owned parks and reserves, be advised of the draft Smoke-Free Policy, and their comments and views sought.
 3. That the Chief Executive Officer be authorised to make any minor amendments to the draft Smoke-Free Policy to finalise the document in a form suitable for release for community consultation.
-

Cr Frogley moved:

1. *That the draft Smoke-Free Policy as contained in Attachment A, be endorsed as being suitable for release for community consultation in accordance with the Council's Consultation Policy.*
2. *That all existing Lessees of Council-owned parks and reserves, be advised of the draft Smoke-Free Policy, and their comments and views sought.*
3. *That the Chief Executive Officer be authorised to make any minor amendments to the draft Smoke-Free Policy to finalise the document in a form suitable for release for community consultation.*

Seconded by Cr Duke and carried.

11.3 OUTDOOR DINING POLICY REVIEW

REPORT AUTHOR: General Manager, Urban Planning & Environment
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4501
FILE REFERENCE: S.410
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to seek the Council's approval to release the draft Outdoor Dining Policy for consultation.

BACKGROUND

A comprehensive review of the Council's Outdoor Dining Code was undertaken in 2012 and as part of the review, the Code was restructured to read as a Policy. When the draft Policy was endorsed and released for community consultation in December 2012, some amendments included new requirements with respect safety barrier standards and a revised policy statement requiring that in most (but not all) instances, outdoor dining areas be located adjacent to the kerb, rather than adjacent to the associated building, in order to maintain a clear, continuous footpath adjacent to the building alignment, for convenient pedestrian movement and access to shops, especially for persons who are vision or mobility impaired.

Following the community consultation process, during which twelve (12) representations were received, the Council determined that all Outdoor Dining Areas should be sited adjacent to the kerb and not adjacent to buildings. More specifically, at its meeting held on 1 July 2013, the Council resolved the following:

"That Section 1.2 of the draft Policy be amended to include a requirement that all outdoor dining areas be required to be located adjacent to the kerb, rather than adjacent to the associated building."

In addition, the draft Policy was amended to require that obstructions to pedestrian movement, such as items of furniture, signs, bicycles, plants and the like, not be located adjacent to the building.

The implementation of the Policy resulted in some traders having to remove existing outdoor dining areas, in situations where bollards have been required to be installed and there was insufficient width available on the footpath to cater for the bollards, a dining area and a clear path for pedestrians adjacent the building line. In the case of some outdoor dining areas on Kensington Road and Magill Road, it was identified that the footpath width was insufficient to enable outdoor dining to be located adjacent to the kerb, whilst maintaining a safe separation from the kerb and an adequate Pedestrian Zone.

A subsequent review of the Council's Outdoor Dining Policy was undertaken in March 2015, to address the issue of inflexibility for the location of outdoor dining areas, in areas where footpaths are relatively narrow and where pedestrian volumes are relatively low.

As a result, the Council endorsed various amendments to the Outdoor Dining Policy, to allow the Dining Zone to be located adjacent to the associated building line in all areas of the Council, other than on The Parade, Norwood, subject to design solutions recommended by a Disability Access Consultant being implemented.

In addition, the Council resolved that the cost of implementation of design solutions recommended by a Disability Access Consultant be met by the Council for any minor permanent infrastructure (such as tactile paving) and be met by the relevant trader for any moveable / temporary design solutions (such as screens).

At its meeting held on 2 November 2015, the Council endorsed an amendment to Section 1.3.2(b) of the Council's Outdoor Dining Policy, to delete the requirement for persons occupying an outdoor dining area associated with a Hotel, to be seated at all times. More specifically, the Council resolved:

1. *That Section 1.3.2 (b) of the Council's Outdoor Dining Policy be amended, to delete the requirement for persons occupying an outdoor dining area associated with a Hotel, to be seated at all times.*
2. *That the Council's Outdoor Dining Policy be amended to require a Permit Holder to provide and maintain sufficient outdoor dining furniture (chairs) within a licensed outdoor dining area associated with a Hotel at all times when the Hotel is trading, to cater for the approved patron capacity.*
3. *That the Council's Outdoor Dining Policy be amended to allow a total patron capacity increase of up to ten (10) percent (rounded up), beyond the number of approved chairs within a licensed outdoor dining area associated with a Hotel.*
4. *That the amendments to the Policy be reviewed in twelve (12) months' time.*

A review of the amendments to the Policy in accordance with the requirement set out part 4 of the above-stated resolution has not been undertaken to date, because the only Hotel affected by the change to the Policy and requiring a change to its Liquor Licence was the Bath Hotel and at the time that the review was due, the Hotel had not implemented the extension to their Outdoor Dining area.

An expansion of the Bath Hotel's outdoor dining area was undertaken in 2017 and a review of the Policy amendment can now be undertaken, as part of this overall periodic review of the Council's Outdoor Dining Policy.

A copy of the Outdoor Dining Policy is contained in **Attachment A**.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The following Goals contained in *City Plan 2030*, have been identified as relevant to outdoor dining in the Council area.

Outcome 1: Social Equity

Objectives:

1. *Convenient and accessible services, information and facilities.*
2. *A people-friendly, integrated, sustainable and active transport and pedestrian network.*

Outcome 2: Cultural Vitality

Objectives:

1. *An artistic, creative, cultural and visually interesting City.*
4. *Pleasant, well designed and sustainable urban environments.*
5. *Dynamic community life in public spaces and precincts*

Outcome 3: Economic Prosperity

Objectives:

1. *A diverse range of businesses and services.*
2. *Cosmopolitan business precincts contributing to the prosperity of the City.*
5. *A local economy supporting and supported by its community.*

Outcome 4: Environmental Sustainability

Objectives:

3. *Sustainable and attractive streetscapes and open spaces.*

Outdoor dining in the public realm adds to the cosmopolitan culture of the City by creating dynamic, vibrant street frontages and this City is fortunate in having this significant attraction.

Well planned and maintained outdoor dining areas add to the amenity of the City, contributing to urban life and providing a link between businesses, patrons and visitors, enabling all people to feel as though they are participating in the street activity. In addition, outdoor dining encourages activity beyond daytime commercial trading hours, providing increased levels of safety and passive surveillance within the area.

It is for these reasons that the Council has traditionally supported outdoor dining in appropriate locations throughout the City.

Notwithstanding the positive aspects of outdoor dining, successful footpath outdoor dining localities must provide a balance between the commercial benefits obtained by traders and consequently the “City” and the local community generally, safety to patrons and motorists and the preservation of the public access role of the footpath area (the public realm).

FINANCIAL AND BUDGET IMPLICATIONS

The annual outdoor dining permit fees are based on the number of seats which are provided within an outdoor dining area, as opposed to fees based on area (square metres). The schedule of fees applicable in the 2017-2018 financial year, are set out in Table 1 below:

TABLE 1: SCHEDULE OF OUTDOOR DINING FEES 2017-2018

LOCATION AND CIRCUMSTANCES	FEE PER CHAIR PER ANNUM
Application Fee	\$50.00 Per Application
The Parade Core Sydenham to Portrush – Enclosed/Licensed	\$109.50
The Parade Core Sydenham to Portrush - Open/Licensed	\$72.50
The Parade Core Sydenham to Portrush – Enclosed/Unlicensed	\$72.50
The Parade Core Sydenham to Portrush - Open/Unlicensed	\$36.50
Other Areas – Enclosed/Licensed	\$72.50
Other Areas - Open/Licensed	\$52.50
Other Areas – Enclosed/Unlicensed	\$52.50
Other Areas - Open/Unlicensed	\$23.00
Installation of New Outdoor Dining Bollards	10% of cost per annum for 10 years
Replacement of Existing Outdoor Dining Area Bollards	5% of cost per annum for 10 years

No changes are recommended to the fee methodology. The fees are reviewed annually in accordance with the Council’s budget parameters.

EXTERNAL ECONOMIC IMPLICATIONS

Outdoor dining is an important component of the mix of shops, facilities and services, which together create a “sense of place” and attract people to the various retail precincts in the Council area. In this way, as well as through a direct economic benefit to the traders who operate the outdoor dining areas by accommodating customers, they also benefit the economy of other businesses in the precinct.

SOCIAL ISSUES

The Outdoor Dining Policy addresses and aims to balance a number of social issues related to the use of outdoor dining areas. In particular, the Policy deals with:

- the appropriate management and use of outdoor dining;
- safety responsibilities with respect to diners, pedestrians and motorists;
- convenience and equity responsibilities, including for persons with a disability.

The current policy framework is considered to strike an appropriate balance that addresses key social issues relating to outdoor dining areas.

CULTURAL ISSUES

Cafes, restaurants and associated outdoor dining has been a long standing component of the cultural identity of the Council area. It is considered important that the Outdoor Dining Policy supports rather than constrains this cultural identity, a notion which is supported by the Council's Strategic Management Plan, *CityPlan 2030*.

ENVIRONMENTAL ISSUES

Nil

RESOURCE ISSUES

Nil

RISK MANAGEMENT

Nil

CONSULTATION

- **Elected Members**

Nil

- **Community**

Community consultation is proposed to comprise:

- providing each trader with outdoor dining facilities or the potential to have outdoor dining facilities, with a copy of the current Policy and inviting feedback; and
- an advertisement within the Messenger newspaper inviting community feedback.

A one (1) month period for the receipt of written submissions is proposed.

- **Staff**

Nil

- **Other Agencies**

Nil

DISCUSSION

The last review of the Council's Outdoor Dining Policy was undertaken in 2015 and therefore the Policy is now due for a periodic review. Since 2015, the implementation of the Council's Outdoor Dining Policy has been relatively straightforward and no major issues have arisen.

The recent review and implementation of the Council's Policy on Outdoor Trading, including the Display of Goods on Footpaths, requiring traders to display merchandise and/or signs adjacent the kerb, has provided consistency between the two policies. As a result, traders have overwhelmingly conformed with requirements set out in the Outdoor Dining Policy, since 2015.

From time to time, minor enforcement issues have arisen, typically relating to maintaining a clear pedestrian clearance zone of two metres from the building line on The Parade, but they have generally been resolved amicably with traders. Concerns about patrons queuing informally on footpaths adjacent popular cafes are also raised from time to time by citizens, however, where the queuing is not formalised within delineated areas on the footpath, it is not something that can be controlled via enforcement of the Outdoor Dining Policy and in any event, this phenomenon changes over time as the popularity of eateries increases and decreases. All that said, the levels of inconvenience caused by informal queuing or standing adjacent cafes waiting to be served or to be seated, is considered relatively minor.

The Policy appears to be working well, albeit that some traders would still prefer outdoor dining areas to be located adjacent the building line rather than kerbside, citing the resultant exposure to weather that the outdoor dining will be subjected to as a concern and advising that their customers generally have a preference to be seated adjacent to the associated building, away from traffic. The latter issue has been tempered somewhat following the installation of bollards adjacent outdoor dining areas that were identified as being situated adjacent 'high risk' locations on The Parade. However, it is understandable that patrons would prefer to be seated away from the noise and odours associated with passing vehicular traffic.

Notwithstanding these concerns, is it considered that the kerbside location of outdoor dining areas along The Parade, which is a high volume pedestrian environment, has struck an appropriate balance of maintaining street vibrancy, economic returns for traders and vastly improved pedestrian accessibility, including for visually impaired persons.

In locations other than The Parade, where pedestrian volumes are lower and footpaths are generally narrower, the flexibility in the Policy which allows outdoor dining areas to be located adjacent the building line, subject to appropriate design measures being implemented, is also considered appropriate. That said, from time to time, traders who open small eateries across the City, commence operating unauthorised outdoor dining areas. In this respect, an audit will be undertaken by staff to determine the extent and location of unauthorised outdoor dining areas, with the overarching aim to work with the traders to ensure the design allows for safe and convenient passage for pedestrians, including people with a vision and or mobility impairment.

Licensed Areas associated with Hotels

Clause 1.3.2 of the Outdoor Dining Policy provides guidance for the establishment of outdoor dining areas associated with Hotels.

At its meeting held on 2 November 2015, the Council endorsed an amendment to Section 1.3.2(b) of the Council's Outdoor Dining Policy, to delete the requirement for persons occupying an outdoor dining area associated with a Hotel, to be seated at all times.

The amendment endorsed by the Council followed an announcement in May 2015, by the Attorney-General, the Hon. John Rau MP, in which the Attorney-General invited Hotel Licensees to apply to Consumer and Business Services SA, for the removal of conditions on Hotel Licences, which require patrons to be seated whilst consuming liquor in licensed outdoor areas within the public realm. The Attorney-General's decision followed a successful nine-month trial involving selected licensed premises in the Adelaide Central Business District (CBD), in which Licensees voluntarily offered stand-up drinking spaces in their outdoor areas to patrons. However, the decision did not override Council Outdoor Dining Permit requirements.

In November 2015, the Council's Outdoor Dining Policy was also amended to require a Permit Holder to provide and maintain sufficient outdoor dining furniture (chairs) within a licensed outdoor dining area associated with a Hotel at all times when the Hotel is trading, to cater for the approved patron capacity, thereby limiting the likelihood of the designated area becoming a 'de-facto' beer garden, where the majority of patrons will consume liquor whilst standing "cheek by jowl".

An amendment was also endorsed which allows a total patron capacity increase of up to ten (10) percent (rounded up), beyond the number of approved chairs within a licensed outdoor dining area associated with an Hotel. This amendment was introduced to allow for some passers-by to enter 'unenclosed' or 'unscreened' outdoor dining areas, even if all the available seats were taken whilst ensuring that the Hotel was not 'in breach' of its Outdoor Dining Permit or licensed capacity.

Since the amendment of the Council's Outdoor Dining Policy in 2015, to delete the requirement for persons occupying an outdoor dining area associated with an Hotel to be seated at all times, Council staff have not received any complaints about anti-social patron behaviour associated with Hotels that operate an outdoor dining area.

Those Hotels include:

- The Bath Hotel;
- The Norwood Hotel;
- The Colonist Tavern;
- The Kent Town Hotel; and
- The Britannia Hotel.

Given the above context, no major amendments to the existing Policy are recommended.

The only minor amendment which is recommended to the Policy, is the removal of the prescribed permit fees schedule. Given that the schedule of outdoor dining permit fees historically changes on an annual basis, inclusion of fees in the Policy document, means that the fees information contained in the Policy is 'out of date' after the first twelve months of its life cycle.

Information regarding outdoor dining permit fees is provided on the Council's website and is updated on an annual basis.

OPTIONS

The Council can determine to maintain the current policy and undertake consultation with traders, the community and relevant peak bodies, requesting comments on the content of the existing Policy. Alternatively, the Council can determine to amend some aspects of the existing Policy and consult on the changes.

Given that no major issues have arisen with the existing Outdoor Dining Policy since 2015, the first option is recommended.

CONCLUSION

Forming a fair and equitable policy position on the location of outdoor dining is difficult, due to the various competing objectives including creating and maintaining vibrancy, providing a framework that allows reasonable economic returns for traders and also maintaining accessibility. In this regard, the Council is committed to and is obligated to, ensure that it provides an accessible and inclusive City for all persons, including those with a disability.

Whilst achieving all of the above-stated objectives is difficult, the retention of the Council's current policy position for Outdoor Dining is considered to represent the most appropriate balance.

COMMENTS

Nil.

RECOMMENDATION

1. That the draft Outdoor Dining Policy contained in Attachment A, which has been amended to delete the inclusion of the schedule of prescribed outdoor dining fees, be endorsed for community consultation.
2. The Council notes that following community consultation, a report to Council will be prepared, outlining any submissions which are received through the community consultation process and any recommendations on the content of the Outdoor Dining Policy.

Cr Wormald moved:

That consideration of the draft Outdoor Dining Policy be deferred and that a workshop be held with Elected Members regarding the draft Policy and in particular, the relationship between the Kerbside Buffer Zone and the Dining Zone.

Seconded by Cr Whittington and lost.

Cr Duke moved:

That consideration of this matter be deferred to allow the staff to clarify the relationship between the Kerbside Buffer Zone and the Dining Zone and that this matter be re-presented to the Council for consideration at its April 2018 Council meeting.

Seconded by Cr Knoblauch and carried unanimously.

Section 2 – Corporate & Finance
Reports

11.4 MONTHLY FINANCIAL REPORT – JANUARY 2018

REPORT AUTHOR: Financial Services Manager
GENERAL MANAGER: General Manager, Corporate Services
CONTACT NUMBER: 8366 4585
FILE REFERENCE: S/00697
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to provide the Council with information regarding its financial performance for the period ended January 2018.

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

Nil.

FINANCIAL AND BUDGET IMPLICATIONS

Financial sustainability is an ongoing high priority for the Council. The Council adopted a Budget which forecasts an Operating Surplus of \$3.081 million for the 2017-2018 Financial Year.

Year-to-date to 31 January 2018, the Council's Operating Surplus is \$3.257 million against a budgeted Operating Surplus of \$2.799 million, resulting a favourable variance of \$0.457 million. The main driver for this variance is minor budget expenditure timings.

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

Year-to-date to 31 January 2018, the Council's Operating Surplus is \$3.257 million against a budgeted Operating Surplus of \$2.799 million, resulting a favourable variance of \$0.457 million. There are no individually significant variances to highlight. The favourable result is caused by timing variances in the following areas:

- Employee expenses (\$8.670 million year-to-date spend) are favourable to Budget by \$0.130 million or 1.5%. The single largest variance driving the positive result is the lower than anticipated hours of contractor labour utilised to cover vacancies in Depot Field staff (\$0.050 million). These vacant positions have recently been filled.
- Expenditure on contracted services (\$4.615 million year-to-date spend) is reporting a favourable variance of 2.2% or \$0.103 million. No single item is contributing to the variance.
- Total revenue is \$0.101 million or 0.5% favourable compared to Budget. This is due to by some unbudgeted Grant Funding being received for Age friendly signage and the continued positive Investment income resulting from a higher than anticipated investment balance held with the Local Government Financing Authority

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

OPTIONS

Not Applicable.

CONCLUSION

Nil.

COMMENTS

Nil.

RECOMMENDATION

That the Monthly Financial Report – January 2018, be received and noted

Cr Whittington left the meeting at 7.50pm.

Cr Minney moved:

That the Monthly Financial Report – January 2018, be received and noted.

Seconded by Cr Knoblauch and carried.

11.5 2018-2019 REVISED FEES AND CHARGES

REPORT AUTHOR: Financial Services Manager
GENERAL MANAGER: General Manager, Corporate Services
CONTACT NUMBER: 83664548
FILE REFERENCE: S/05042
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to provide the Council with the draft 2018-2019 Fees and Charges Schedule, which following its adoption “in principle”, will be used as a basis for calculating revenue components for the draft 2018-2019 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 are adopted by the Council. For example, the Outdoor Dining Policy and On-Street Parking Permit Policy, are based on a user pays system in providing those particular services.

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 levied by the Council for the use of facilities and the provision of services.

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 separated between Statutory and User Charges. Where the Council's Fees and Charges are not of a statutory nature (i.e. discretionary fees), the Council has applied the principle of “user pays” and where possible, 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 facilities and services to the wider community. 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* 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 15 January 2018, it is proposed that discretionary fees and charges are increased by 2.3% at a minimum or at market value.

The recommended increases are in line with the Budget Parameters which were endorsed at the Council Meeting held on 15 January 2018. A copy of the proposed 2018-2019 Fees and Charges including comparative data, is contained in **Attachment A**.

EXTERNAL ECONOMIC IMPLICATIONS

This report provides information on the fees and charges of the Council for the year ended 30 June 2019 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 15 January 2018
- **Community**
Not Applicable
- **Staff**
Responsible Officers and General Managers
- **Other Agencies**
Not Applicable

DISCUSSION

In general, user charges are reviewed with reference to the anticipated inflation rate of the cost incurred by the Council to provide the service and with reference to market rates for like services and “ease-of-cash” handling, through rounding of any proposed increases. At its meeting held on 15 January 2018, the Council adopted the general guideline that user and charges be increased by 2.3% at a minimum or at market value. The proposed general increase of 2.3% 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 2018-2019 Financial Year.

Fees and Charges contain statutory charges which are set by legislation or by Policies which are adopted by the Council and discretionary user charges which are based on user pay principles. As detailed in Figure 1 below, for the 2017-2018 Financial Year, discretionary user charges represent 11% of total revenue with the major portion of the revenue from the fees and charges which are set by the Council being derived from the St Peters Child Care Centre and Preschool.

FIGURE 1 – USER CHARGES AS A PERCENTAGE OF REVENUE

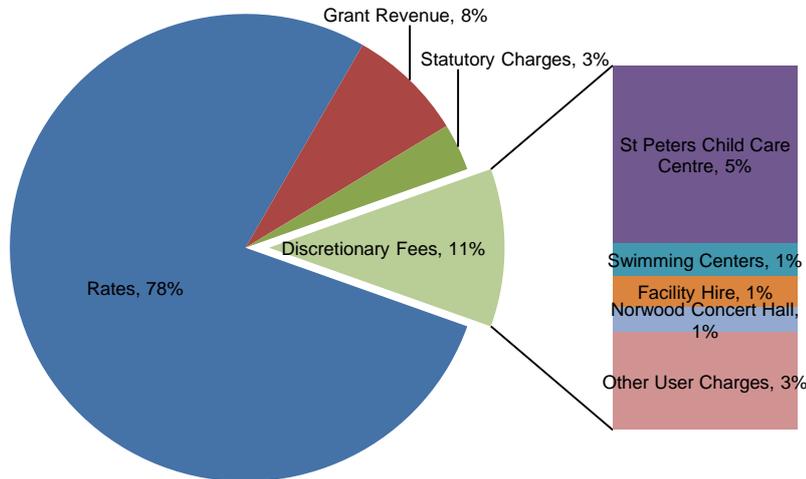


Table 2 below sets out a summary of fee increases greater than 5% and Table 3 sets out fee which have decreases.

TABLE 2: PROPOSED FEE INCREASES GREATER THAN 5%

Fees & Charges Description	Description	Unit	Proposed Fee	Increase in Fees		Reason for Change
				\$	%	
Swimming Centres	Adult	Per Person	7.50	0.50	7.14	Note 1
	Concession	Per Person	6.00	0.50	9.09	
	2-4 year olds	Per Person	3.00	0.50	20.00	
Additional Annual Bin Service Permit	Recycling Bin	Per Bin	80.00	5.00	6.67	Note 2
	Green Organics	Per Bin	80.00	5.00	6.67	
Home and Community Care	Lunch @ The Pub	Per Session	10.00	1.00	11.11	Note 3
	Personal Care	Per Hour	8.00	1.00	14.29	Note 4
	Community Transport Car	Per Person	7.00	1.00	16.67	
	Shopping List	Per Person	7.50	0.50	7.14	
	Escorted Shopping	Per Person	8.00	0.50	5.88	
Library Services & Lifelong Learning	Yoga	Per Session	10.00	1.00	11.11	Note 5

Note 1: Fee has not been increased since 2013-2014. The proposed increase aligns with pricing of with other similar venues.

Note 2: Price was kept at \$75.00 last year for ease of money handling. The increase to \$80.00 is in line with Fees and Charges increase in line with the cumulative effect of the budget parameters since last increase which occurred in the 2016-2017 Financial Year.

Note 3: Fee has been increased to assist in covering increasing cost of meals from establishments which are visited.

Note 4: Fee increased to assist in increasing costs from the service provider.

Note 5: Increase is in line with Fees and Charges is in line with the cumulative effect of the budget parameters since last increase which occurred in the 2014-2015 Financial Year.

TABLE 3: PROPOSED FEE DECREASES

Fees & Charges Description	Description	Unit	Proposed Fee	Decrease in Fees \$	%	Reason for Change
Don Pyatt Community Hall	Daily Hire	Per Day	65.00	5.00	7.14	Note 1
Norwood Concert Hall	Non-Profit Organisation Meetings – 9:00am to 2:00pm	Per Session	740.00	60.00	7.50	Note 2
	Community Organisation Meetings - 9:00am to 2:00pm	Per Session	740.00	10.00	1.33	

Note 1: Fee has been decreased to \$65.00 to align it to be an 80% discount on commercial rate in line with other owned and operated council facilities.

Note 2: Fee has been decreased to \$740.00 to encourage more bookings in the morning.

As part of the amendments to the *Dog and Cat Management Act 1995*, the dog registration fee structure has been simplified. The simplification has resulted in a Standard Dog Fee for desexed and microchipped dogs, with all other dogs being registered as a Non-Standard Dog. It should be noted that from 1 July 2018 the *Dog and Cat Management Act 1995*, requires all new dogs to be desexed and microchipped. The Pensioner concession of 50% will continue to apply to Standard and Non-Standard dog registrations.

Previously, the Council offered a 1% rebate for trained dogs. To be eligible for the rebate, dogs were required to undertake a Certificate 3 Training course certified by the Dog and Cat Management Board. Under the recent changes, the Dog and Cat Management Board no longer provides certification and as such, the training rebate is proposed to be removed from the Councils fee structure.

The majority of registered dog owners, fall within the Standard dog registration category and as such, the new fee structure will only impact a small number of the Councils dog owners, with the financial impact for the owners being a fee increase of \$10 per annum.

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 2018-2019 be 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.

In relation to Statutory Fees and Charges, the actual fee increases imposed under Acts will remain unknown until the State Government has set its 2018-2019 Budget which is expected to be in June 2018.

RECOMMENDATION

That the draft Schedule of Fees and Charges for the 2018-2019 Financial Year as contained in Attachment A, be adopted “in principle”.

Cr Whittington returned to the meeting at 7.51pm.

Cr Wormald moved:

That the draft Schedule of Fees and Charges for the 2018-2019 Financial Year, as contained in Attachment A and as amended by retaining the Concession fee for entry into the Swimming Centres at \$5.50, be adopted ‘in principle’.

Seconded by Cr Whittington.

Amendment

Cr Frogley moved:

That the draft Schedule of Fees and Charges for the 2018-2019 Financial Year, as contained in Attachment A and as amended by inclusion of the following:

- *the Concession fee for entry into the Swimming Centres remain at \$5.50; and*
- *the fee for entry into the Swimming Centres for 2-4 year olds remain at \$2.50;*

be adopted ‘in principle’.

Seconded by Cr Dottore.

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

Section 3 – Governance & General Reports

11.6 REPORTS OUTSTANDING

REPORT AUTHOR: Chief Executive Officer
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 83664520
FILE REFERENCE: Nil
ATTACHMENTS: A

PURPOSE OF REPORT

As part of the Organisation's management system, a Reports Outstanding List will be prepared on a monthly basis. The purpose of the List is to keep track of any reports that have been requested and the status of those reports.

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

BACKGROUND

Nil

DISCUSSION

Nil

RECOMMENDATION

That the report be received and noted.

Cr Minney moved:

That the report be received and noted.

Seconded by Cr Stock and carried.

**11.7 2018 AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION NATIONAL GENERAL ASSEMBLY
– NOTICES OF MOTION**

REPORT AUTHOR: General Manager, Governance & Community Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 83664549
FILE REFERENCE: S/00374
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to advise the Council of the 2018 Australian Local Government Association (ALGA) National General Assembly.

BACKGROUND

The ALGA holds a National General Assembly each year. The Assembly will be held in Canberra from 17-20 June 2018.

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 Assembly, 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 \$1835 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 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 & Community Affairs, dated 8 January 2018.

- **Community**

Not Applicable.

- **Staff**

Not Applicable.

- **Other Agencies**

Not Applicable.

DISCUSSION

The theme of the 2018 NGA is *Australia's Future: Make it Local*. At the time of writing this report, the ALGA has not released the Program for the Assembly, however the ALGA has advised that Notices of Motion must be submitted to the ALGA by Friday 30 March 2018.

Once again, the ALGA has advised that all motions which are submitted for consideration at the Assembly, 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 themes 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;
2. be relevant to the work of local government nationally; and
3. complement or build on the policy objectives of state or territory association.

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

A Memorandum was forwarded to all Elected Members inviting them to contact the General Manager, Governance & Community 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 & Community 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 2018 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 30 March 2018, if the Motions are to be considered at the National General Assembly.

COMMENTS

Nil.

RECOMMENDATION

That the report be received and noted.

Cr Minney left the meeting at 8.09pm.
Cr Minney returned to the meeting at 8.10pm.

Cr Moore moved:

That ALGA investigate options for a more sustainable management of street tree canopies which are located under high voltage power lines in urban areas, in order to assist councils to negotiate with State and Territory Governments and electricity suppliers, to minimise the damaging impact on street trees which is being caused by the excessive clearance of tree foliage away from high voltage wires, which takes no account of the health, aesthetic appearance, wildlife habitat and shade-giving values of street trees.

Seconded by Cr Mex and carried.

11.8 LEASE – PROGRESSIVE MUSIC BROADCASTING ASSOCIATION INC (THREE D RADIO STATION)

REPORT AUTHOR: Manager, Governance, Legal & Property
GENERAL MANAGER: General Manager, Governance & Community Affairs
CONTACT NUMBER: 8366 4507
FILE REFERENCE: S/01493
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to advise the Council that the Lease between the Council and Progressive Music Broadcasting Association Inc (Three D Radio Station) (the Lessee) has expired and to present the Deed of Extension and Variation which provides for the renewal of the Lease for a further five (5) year period to the Council for consideration and approval.

BACKGROUND

In November 2013, the Council entered into a Lease with the Lessee for Unit 4 of the St Peters Town Hall complex at 101 Payneham Road, St Peters. Prior to this, the Lessee was located at 48 Nelson Street, Stepney. The current Lease had an original term of five (5) years commencing on 7 December 2012 and expiring on 6 December 2017.

In accordance with Clause 7.5 of the Lease, the Lessee is currently in a “holding over” arrangement on a monthly basis pending the Council’s decision.

The Lease provides for two (2) options for renewal, each for a term of five (5) years, commencing on 7 December 2017 and 7 December 2022 respectively.

The Lessee has requested an extension of the Lease for the first renewal term of five (5) years, commencing on 7 December 2017 and expiring on 6 December 2022.

A copy of the Deed of Extension and Variation of Lease is contained within **Attachment A**.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant Goals contained in *CityPlan 2030: Shaping Our Future* are:

Outcome 1: Social Equity

A connected, accessible and pedestrian friendly community.

Objectives

Convenient and accessible services, information and facilities.

A strong, healthy, resilient and inclusive community.

FINANCIAL AND BUDGET IMPLICATIONS

The Deed provides that the existing terms of the Lease are to continue in the renewed term, therefore, there are to be no additional financial implications for the Council.

The current rent charged under the Lease (ie for the final year of the Lease term, being 7 December 2016 – 6 December 2017) is \$17,609.16 (GST incl) per annum. The Lessee is up to date with their rental payments.

The current rent will be reviewed upon renewal of the Lease by obtaining a valuation of the market rent of the premises (without the fit-out and improvements of the Lessee being included) and the rent payable will be set at twenty per cent (20%) of the rental valuation, pursuant to Clause 3.1.3 of the Lease and in accordance with the Council's decision at its Special Meeting held on 14 June 2011, regarding the future lease arrangements for the Council properties located at Dunstone Grove – Linde Reserve and the St Peters Town Hall. Rent will continue to be reviewed thereafter in accordance with Clause 3.1 and the Lease fee schedule in Annexure G of the Lease (ie CPI review annually).

A Loan Agreement remains in place between the Council and the Lessee (dated 16 July 2012), pursuant to which the Council agreed to lend a portion of the cost of the original fit-out of the premises to the Lessee (ie \$80,000.00). The Lessee is required to re-pay this loan in bi-annual instalments and it is due to be repaid in full by October 2022. The Lessee is up to date with their loan repayments.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

The Lessee provides a volunteer-run community radio station from the leased premises which contributes significantly to both the local and broader South Australian community. The Lessee has been in the Council area for almost 40 years now and provides a home for community volunteer activity, training, support of local musicians and youth programs.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

Written legal agreements must be in place for Council premises that are used by third parties, to ensure legislative compliance and reduce exposure to claims from third parties that suffer injury or loss, whilst using Council facilities.

The existing Lease has expired and is currently in a holding over arrangement. It is preferable to formally renew the Lease to ensure it remains up to date and reflects the agreement reached by the parties in relation to the premises.

CONSULTATION

- **Elected Members**
Nil

- **Community**
Community consultation is not required to be undertaken in respect of the renewal of this Lease.

Public consultation was undertaken at the commencement of the Lease in accordance with the provisions of the *Local Government Act 1999* as it was for a combined term of greater than five (5) years.

- **Staff**
General Manager, Governance & Community Affairs

- **Other Agencies**
Not Applicable.

DISCUSSION

In accordance with Clause 7.4 of the Lease, the Lessee is entitled to an extension of the Lease for the periods set out in Item 3 of the Schedule (ie an additional two (2) terms of five (5) years each). The Lessee has notified the Council of its desire to be granted the first renewal term of five (5) years commencing on 7 December 2017.

A site inspection of the premises was conducted by the Council's Urban Services staff in January 2018. Some minor maintenance work was identified as part of the inspection which will be undertaken in accordance with the maintenance arrangements as set out in Schedule Item 10 to the Lease.

The Deed provides for the renewed Lease to be on the same terms and conditions as the existing Lease, less one right of renewal and with a proposed variation to the inspection of the premises regime.

The Maintenance Table in Annexure B Schedule Item 10 to the Lease provides for various inspections of the premises to be conducted by the Council on a quarterly basis. Based on the condition of the building and for practical reasons, Council staff have suggested that such inspections of the premises should be conducted on an annual basis rather than quarterly.

The Deed, therefore, provides for amendment of the Maintenance Table to provide for annual inspections where relevant.

OPTIONS

The Council has made provision within the current Lease for the renewal of the Lease for a further five (5) year term. In addition, the premises have been maintained by the Lessee in accordance with the Lease and the Lessee has and continues to meet all relevant payments associated with the Lease and Loan Agreement.

It is therefore recommended that the Council agrees to extend the Lease for the renewal term in accordance with the terms of the Lease.

CONCLUSION

The Lessee is entitled to a renewal of the Lease for a subsequent term of five (5) years in accordance with the terms of the Lease.

COMMENTS

A Deed of Extension and Variation has been prepared to enable the Lessee and Council to enter into the renewed lease term, bring the current holding over arrangement to an end and provide for amendment of the Maintenance Table of the Lease. An updated Disclosure Statement (as required by the *Retail and Commercial Leases Act 1995* (SA)) will also be prepared.

RECOMMENDATION

1. That the Council advises Progressive Music Broadcasting Association Inc (Three D Radio Station) that it agrees to renew the Lease for a further term of five (5) years in accordance with the terms of the Lease.
2. That the Maintenance Table in Annexure B Schedule Item 10 to the Lease be amended to provide for annual inspections of the leased premises by the Council.
3. That the Mayor and Chief Executive Officer be authorised to sign and seal the Deed of Extension and Variation.

Cr Wormald left the meeting at 8.25pm.
Cr Wormald returned to the meeting at 8.27pm.

Cr Stock moved:

- 1. That the Council advises Progressive Music Broadcasting Association Inc (Three D Radio Station) that it agrees to renew the Lease for a further term of five (5) years in accordance with the terms of the Lease.*
- 2. That the Maintenance Table in Annexure B Schedule Item 10 to the Lease be amended to provide for annual inspections of the leased premises by the Council.*
- 3. That the Mayor and Chief Executive Officer be authorised to sign and seal the Deed of Extension and Variation.*

Seconded by Cr Minney and carried.

11.9 COMMERCIAL LEASE VACATED – 68 NELSON STREET, STEPNEY

REPORT AUTHOR: Manager, Governance, Legal & Property
GENERAL MANAGER: General Manager, Governance & Community Affairs
CONTACT NUMBER: 8366 4507
FILE REFERENCE: S/02410
ATTACHMENTS: Nil

PURPOSE OF REPORT

The purpose of this report is to advise the Council that the Lease between the Council and the Minister for Mental Health and Substance Abuse, for the premises located at 68 Nelson Street Stepney, has expired and that the Lessee has vacated the premises and to recommend that the premises be re-advertised for lease on a commercial basis.

BACKGROUND

The premises located at 68 Nelson Street, Stepney have been leased by SA Health since at least 1997.

SA Health have utilised the premises to operate a mental health outreach and psychosocial rehabilitation service, formerly known as 'Club 68', through various entities including the Eastern Mental Health Service and the Central Adelaide Local Health Network Incorporated. The Minister for Mental Health and Substance Abuse was the relevant legal entity to whom the premises was most recently leased.

In April 2012, the Council entered into a commercial lease with the Minister for the premises. The Lease was for an original term of five (5) years commencing on 1 January 2012 and expiring on 31 December 2016. The parties extended the Lease for a further term of one (1) year commencing on 1 January 2017 and expiring on 31 December 2017.

The Lease provided for one further term of one (1) year commencing on 1 January 2018, however, the Minister has advised the Council that the Lessee does not intend to renew the Lease. The Lessee vacated the premises in December 2017.

It is therefore proposed to re-advertise the premises for lease on a commercial basis.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant Goals contained in *CityPlan 2030: Shaping Our Future* are:

Outcome 1: Social Equity

A connected, accessible and pedestrian friendly community.

Objectives

Convenient and accessible services, information and facilities.

Outcome 3: Economic Prosperity

A dynamic and thriving centre for businesses and services.

Objectives

A diverse range of businesses and services.

Attract new enterprises and local employment opportunities to locate in our City.

A local economy supporting and supported by its community.

FINANCIAL AND BUDGET IMPLICATIONS

It is proposed to re-advertise the premises for lease on a commercial basis. As such, a market rent valuation of the premises would be required and commencing rent would be set at 100% of the fair market rent.

The most recent rent charged under the Lease (ie for the final year of the Lease term, being 1 January 2017 – 31 December 2017) was \$52,448.04 (GST incl) per annum. There are no outstanding rent payments.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

Written legal agreements must be in place for Council premises that are used by third parties, to ensure legislative compliance and reduce exposure to claims from third parties that suffer injury or loss, whilst using Council facilities.

Any new lease entered into will therefore contain the usual provisions requiring the Lessee to:

- adopt and implement an All Risks Management Plan;
- indemnify the Council against claims arising from the Lessee's acts or omissions; and
- take out and maintain appropriate insurance covers.

CONSULTATION

- **Elected Members**
Not Applicable.

- **Community**
Community consultation is required to be undertaken pursuant to the provisions of the *Local Government Act 1999*, for any lease of Council land for a term greater than five (5) years.

However, pursuant to the Dunstone Grove-Linde Reserve Community Land Management Plan, any new lease for the premises situated on Dunstone Grove (including 68 Nelson Street) is not to exceed five (5) years. Therefore, if a new lease is granted for a five (5) year term or less, community consultation will not be required.

- **Staff**
General Manager, Urban Services
General Manager, Governance & Community Affairs
General Manager, Corporate Services
- **Other Agencies**
Not Applicable.

DISCUSSION

At its Special Meeting held on 14 June 2011, the Council considered a report in respect to the future lease arrangements for the Council properties located Dunstone Grove – Linde Reserve (ie the three cottages which were renovated as part of the development of the Reserve) and the St Peters Town Hall Complex and resolved as follows:

1. *That a “fair market” rent principle for facilities that the Council holds or rents for commercial purposes at Linde Reserve / Dunstone Grove and the St Peters Town Hall, be adopted.*
2. *That a breakeven principle for the setting of rent for Council facilities that it leases to “not-for-profit” community groups, where the rent set reflects the average annual Whole of Life costs incurred by the Council (not the Lessees) for maintaining and keeping the rented facility at Linde Reserve / Dunstone Grove, be adopted.*
3. *That the base rent per annum of a property being leased by the Council for community purposes at Linde Reserve / Dunstone Grove and the St Peters Town Hall, be set at 20% of the annual market value of that rented property, this percentage being deemed to be representative of the costs that the Council is likely to incur as landlord of the rented property and provides a common base for the levying of rent to the tenants of Council owned facilities.*
4. *That a phase in period of five (5) years be adopted to permit existing Lessees to transition rent payments to the full amount of rent payable by a lessee, if applicable.*
5. *That the Chief Executive Officer be authorised to implement these principles and arrangements, as set out in Attachment C, for the properties located at:*
 - *St Peters Town Hall, 99-101 Payneham Road, St Peters;*
 - *64 Nelson Street, Stepney;*
 - *66 Nelson Street, Stepney; and*
 - *68 Nelson Street, Stepney;*

Of the three (3) properties located at Nelson Street, Stepney, two (2) are currently leased to not-for-profit community groups and have a reduced rental in accordance with the Council’s resolution above.

Namely, the premises at 64 Nelson Street is leased to the Women’s Community Centre (SA) Incorporated at a current rental of \$6,296.00 (GST incl) per annum. The premises at 66 Nelson Street is leased to No Strings Attached Theatre of Disability Inc at a current rental of \$9,514.80 (GST incl) per annum.

In accordance with the Council’s resolution (as set out above), it is proposed to re-advertise the premises at 68 Nelson Street for lease once again on a commercial basis, with commencing rent to be set at 100% of the fair market rent. As stated previously, the most recent rental charged for this premises (for the final year of the Lease term) was \$52,448.04 (GST incl) per annum.

The premises at 68 Nelson Street comprises a central corridor with offices and meeting rooms off to each side, along with a small courtyard and verandah area, with a total floor area of 188.7m². Some commercial fittings, including pinboards, a whiteboard and tables, remain in the premises and are in good condition and available for use by a future commercial tenant.

The premises at 68 Nelson Street is located in the Dunstone Grove – Linde Reserve Policy Area within the Community Zone of the Norwood Payneham and St Peters (City) Development Plan. The Community Zone lends itself to a range of land uses, with the planning objectives for this Zone being fairly broad. Namely, the Zone seeks to accommodate community, educational, environmental, recreational, cultural and health care facilities and activities for the general public’s benefit.

The Zone objectives are consistent with the objectives of the Dunstone Grove-Linde Reserve Community Land Management Plan and should simply guide the Council’s decision regarding any proposed use of the premises at 68 Nelson Street.

The building at 68 Nelson Street was approved for a health centre in 1986 and would continue to have existing use rights for that purpose. This does not, however, exclude other uses of that building – any proposal would simply require consideration by the Council’s Planning Staff.

OPTIONS

Option 1

The Council could determine to re-advertise the premises for lease on a commercial basis with rent to be set at 100% of the “fair market rent”.

Option 2

The Council could determine to re-advertise the premises for lease not on a commercial basis and find another suitable tenant.

Option 3

The Council could determine not to re-advertise the premises for lease.

As stated within this report, the premises at 68 Nelson Street are suitable for lease on a commercial basis. It is therefore recommended that Option 1 is adopted, enabling the Council to maintain the commercial income stream obtained from the premises over the previous six (6) years.

This is not inconsistent with ensuring the permitted use under any new lease for the premises is consistent with community, social and cultural purposes in accordance with the Community Land Management Plan. The most recent Lease to the Minister for Mental Health and Substance Abuse, under which the premises has been used as a mental health outreach and psychosocial rehabilitation service, yet rented on a commercial basis, is evidence of this.

A commercial lease and rental may also attract a greater diversity of high-quality providers to 68 Nelson Street, whether Government or private, to deliver community-focused services from the premises moving forward.

Moreover, continuing to lease the premises on a commercial basis provides the Council with a valuable income stream that enables it to continue to provide convenient and accessible services and facilities to the community both through the Nelson Street properties and more broadly.

As the Council does not have an alternative use for the premises at 68 Nelson Street, it is recommended that Option 1 be endorsed by the Council.

CONCLUSION

The premises at 68 Nelson Street is currently vacant and is suitable to be re-advertised for lease on a commercial basis.

COMMENTS

Nil.

RECOMMENDATION

1. That the premises located at 68 Nelson Street, Stepney be re-leased on a commercial basis.
2. That the Council determines to obtain a market rent valuation of the premises to determine “fair market rent” and notes that a property agent will be engaged to re-advertise the premises for lease on a commercial basis.
3. That the Council authorises the Chief Executive Officer to enter into negotiations with potential commercial tenants of the premises and to prepare draft lease documents for presentation to the Council for its consideration and endorsement.

Cr Duke moved:

- 1. That the premises located at 68 Nelson Street, Stepney be re-leased on a commercial basis.*
- 2. That the Council determines to obtain a market rent valuation of the premises to determine “fair market rent” and notes that a property agent will be engaged to re-advertise the premises for lease on a commercial basis.*
- 3. That the Council authorises the Chief Executive Officer to enter into negotiations with potential commercial tenants of the premises and to prepare draft lease documents for presentation to the Council for its consideration and endorsement.*

Seconded by Cr Whittington and carried unanimously.

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 - C

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:

- St Peters Child Care Centre & Pre-School Committee – (26 February 2018)
(A copy of the Minutes of the St Peters Child Care Centre & Pre-School Committee meeting is contained within **Attachment A**)
- Audit Committee – (26 February 2018)
(A copy of the Minutes of the Audit Committee meeting is contained within **Attachment B**)
- Norwood Parade Precinct Committee – (27 February 2018)
(A copy of the Minutes of the Norwood Parade Precinct Committee meeting is contained within **Attachment C**)

ADOPTION OF COMMITTEE MINUTES

- **St Peters Child Care Centre & Pre-School Committee**

Cr Moore moved that the minutes of the meeting of the St Peters Child Care Centre & Pre-School Committee held on 26 February 2018, be received and that the resolutions set out therein as recommendations to the Council are adopted as decisions of the Council. Seconded by Cr Whittington and carried.

- **Audit Committee**

Cr Minney moved that the minutes of the meeting of the Audit Committee held on 26 February 2018, be received and that the resolutions set out therein as recommendations to the Council are adopted as decisions of the Council. Seconded by Cr Shepherdson and carried.

- **Norwood Parade Precinct Committee**

Cr Whittington moved that the minutes of the meeting of the Norwood Parade Precinct Committee held on 27 February 2018, be received and that the resolutions set out therein as recommendations to the Council are adopted as decisions of the Council. Seconded by Cr Marcuccitti and carried.

13. OTHER BUSINESS

13.1 Undergrounding of Power Lines (S/00295)

Cr Moore moved:

That Council writes to the incoming State Government and ask for its support in assisting the Council to:

- a. underground power lines and/or;*
- b. aerial cable high voltage power lines and/or;*
- c. pursue other measures to save our mature street trees from SA Power Networks pruning practices which are undermining the health, beauty, wildlife habitat and shade-giving values of these trees.*

Seconded by Cr Mex and carried unanimously.

Cr Whittington left the meeting at 9.03pm.

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:

- (e) matters affecting the security of the Council, members or employees of the Council, or Council property, or the safety of any person;

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

RECOMMENDATION 2

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report, with the exception of the minutes and attachments, be kept confidential for a period not exceeding six (6) months, after which time the order will be reviewed.

Cr Stock moved:

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

- (e) matters affecting the security of the Council, members or employees of the Council, or Council property, or the safety of any person;*

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

Seconded by Cr Minney and carried.

Cr Whittington returned to the meeting at 9.05pm.

Cr Minney moved:

That the report be received and noted.

Seconded by Cr Duke and carried unanimously.

Cr Dottore moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report, with the exception of the minutes and attachments, be kept confidential for a period not exceeding six (6) months, after which time the order will be reviewed.

Seconded by Cr Minney and carried unanimously.

14.2 COUNCIL RELATED MATTER (S.04309 S.02949)

Cr Duke moved:

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

- (g) matters that must be considered in confidence in order to ensure that the council does not breach any duty of confidence;*

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

Seconded by Cr Dottore and carried.

Cr Duke moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the discussion be kept confidential for a period not exceeding twelve (12) months, after which time the order will be reviewed.

Seconded by Cr Minney and carried.

15. CLOSURE

There being no further business, the Mayor declared the meeting closed at 9.40pm.

Mayor Robert Bria

Minutes Confirmed on _____
(date)