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Contact number for meeting venue:

8384 0614

13 August 2020

## NOTICE OF MEETING

NOTICE IS HEREBY GIVEN in accordance with Section 83 of the *Local Government Act 1999* that an Ordinary meeting of Council of the City of Onkaparinga will be held on Tuesday 18 August 2020 at 6.30pm at the Council Chamber at the Civic Centre, Ramsay Place, Noarlunga Centre for the purpose of considering the items included on the attached agenda.

We recognise that the land on which we meet has considerable natural and cultural heritage, including thousands of years of traditional ownership by Kaurna.

A handwritten signature in blue ink, appearing to read "Scott Ashby".

Scott Ashby  
Chief Executive Officer

**Disclaimer:** Please note that the contents of the Council Agendas have yet to be considered by Council and recommendations contained herein may be altered or changed by the Council in the process of formally making decisions of Council

**City of Onkaparinga**

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# AGENDA

## Council Meeting 18 August 2020

VENUE:	Council Chamber Civic Centre, Ramsay Place, Noarlunga Centre
TIME:	6.30pm
APOLOGIES:	
LEAVE OF ABSENCE:	Nil

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### Pledge

We recognise this City's considerable natural and cultural heritage, including thousands of years of traditional ownership by Kurna, and the more recent contribution from people either born here or who have migrated here. As we meet together, we build on this heritage by respecting and listening to each other, thinking clearly, being receptive to new ideas, speaking honestly, and deciding wisely for the current and future well-being of those we serve.

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**1. Opening of meeting**

**2. Confirmation of minutes**

That the minutes of the proceedings of the Council meeting held on 21 July 2020 be received and confirmed as an accurate record of those proceedings.

**3. Adjourned business**

In accordance with Regulation 19(3) of the *Local Government (Procedures at Meetings) Regulations 2013* the following items numbered 3.1 to 3.8 adjourned from the Council meeting of 21 July 2020 are to be dealt with prior to any new business on this agenda.

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### 3.1 Elected Member Training and Development Policy and Plan

(item 9.5 adjourned from Council meeting 21/7/20)

Report contact	Meeting
Therese Brunotte, Senior Governance Officer	Council
8301 7228	
Approving officer	Date
Renee Mitchell, Director Corporate and City Services (Acting)	21 July 2020

#### 1. Purpose

This report presents the reviewed Elected Member Training and Development Policy for adoption and the draft Elected Member Learning and Development Plan for noting.

#### 2. Recommendations

1. That the Elected Member Training and Development Policy provided as attachment 1 to the report be adopted.
2. That the Elected Member Learning and Development Plan provided as attachment 2 to the report be noted and updated in accordance with the evolving training requirements of the elected member body and any legislative changes.

#### 3. Executive summary

All councils are required to prepare and adopt a training and development policy (attachment 1) for elected members in accordance with Section 80A of the *Local Government Act 1999* (the Act) and Regulation 8AA of the *Local Government (General) Regulations 2013*. A review has been undertaken to ensure our current policy is relevant and reflects the local government training standards. For this policy to be effective, it needs to be translated into a meaningful and comprehensive training and development plan.

The Elected Member Learning and Development Plan (attachment 2), (the Plan) has been developed in accordance with the Local Government Association LGA Training Standards and individual feedback received from Elected Members via two surveys and a workshop held in 2019. The Plan consists of essential training elements, identifies further professional development training and includes the mandatory LGA Training Standards that are required to be undertaken in the first 12 months of a member being elected. The Plan is being presented to Council for noting and will be updated in accordance with the evolving training requirements of the elected member body and any legislative changes.

## 4. Background

Community Plan 2030	<p><b>people:</b> vibrant and resilient  <b>place:</b> liveable, connected and green  <b>prosperity:</b> opportunity, diversity and adaptability]</p> <p>Collectively, council members are responsible for decisions that impact on the people, place and prosperity of individuals, organisations and businesses in the City of Onkaparinga.</p>
Policy and/or relevant legislation	<p>All councils are required to prepare and adopt a training and development policy for elected members in accordance with Section 80A of the <i>Local Government Act 1999</i> (the Act) and Regulation 8AA of the Local Government (General) Regulations 2013.</p>
Who did we talk to/who will we be talking to	<p>A survey was developed and workshop held to gather information from elected members on their suggestions and comments in relation to their individual learning and development requirements. The survey was provided to members via email on Friday 19 June 2019 with the workshop held on Tuesday 13 August 2019. In response to feedback received from the workshop an individualised questionnaire was resent to elected members on 28 August 2019. The results of the survey can be found at attachment 3.</p> <p>Following the completion of the surveys a draft Elected Member Learning and Development Plan has been developed for the elected body. The Plan identifies development opportunities for the ensuing 12 months as well as the longer term based on the remaining <b>duration of the current Council's term.</b></p>

## 5. Discussion

### Training needs

In accordance with Regulation 8AA of the *Local Government (General) Regulations 2013*, the training needs of an elected body have been researched and set by the Local Government Association and have resulted in the Local Government Association (LGA) Training Standards for Council Members, which are:

- Introduction to Local Government
- Legal responsibilities
- Council and Committee Meetings
- Financial Management and reporting

The LGA Training Standards for Council Members are required to be completed within the first 12 **months of an election and are included in Council's Training and Development Policy** and Plan. Whilst this mandatory training was completed in the induction, Regulation 8AA requires **that members undertake regular training in accordance with Council's Policy.**

### Learning and Development Plan

The Learning and Development Plan is designed around three key components: essential training, professional training and development opportunities and the LGA Training Standards. The Plan complies with the Regulations by providing specific training and refresher courses in relation to the elected members legislative and governance roles.

### **Essential training**

The LGA Training Standards requires all council members to undertake refresher or update training on legal responsibilities and financial management responsibilities. Whilst not mandatory these areas are considered essential in order for members to fulfil their governance role effectively, thereby improving local governance and accountability of public service to local communities.

Training is organised by staff and conducted in house for all elected members to attend.

### **Training and development - individual elected members**

The LGA Elected Member Leadership Program is a series of professional development opportunities for elected member's individual development requirements. Elected members may register their interest for any of these courses by contacting Civic Governance. These training opportunities are advised in Weekly News and will be included in the new Elected Member website.

### **Local Government Association Training Standards**

The Plan incorporates the LGA Training Standards as offered online by the LGA. Members may wish to undertake refresher training of any or all of the LGA Training Standards training modules. As above please contact Civic Governance if you wish to undertake any of the online modules.

Should expressions of interest in a particular course be received from a number of elected members we can organise for this course to be provided in-house to all elected members.

## **6. Financial implications**

### **Financial summary**

There are no financial implications in adopting the Elected Member Training and Development Policy.

A budget allocation for the training and development of elected members is included in the annual budget.

## **7. Risk and opportunity management**

<b>Risk</b>	
<b>Identify</b>	<b>Mitigation</b>
Reputation/community expectation	A comprehensive training plan that provides regular <b>refresher training will build on the elected body's</b> knowledge and understanding of the legal and statutory obligations that guide elected members in conducting their role and responsibilities, which in turn will promote community confidence in the Council and minimise adverse community commentary.
Compliance/legal	Preparing and adopting a Training and Development Policy meets our legislative requirements under Section 80A of the <i>Local Government Act 1999</i> and Regulation 8AA of the <i>Local Government (General) Regulations 2013</i> .

Opportunity	
Identify	Maximising the opportunity
Robust and cohesive elected member team with effective decision making skills.	A comprehensive training and development plan, which builds on the LGA Training Standards completed early in the term in conjunction with the provision of professional development opportunities will support and build a more robust and cohesive elected member team with effective decision making skills.

## 8. Timelines, Deadlines and Next steps

Essential and refresher training courses outlined in the Plan will be scheduled at regular intervals throughout the remaining term.

LGA elected member leadership program courses are run annually and members will be notified of upcoming courses via Weekly News.

Should training be identified that would be of particular assistance to elected members in their legislative and governance role staff will endeavour to source this training for members.

## 9. Attachments

Attachment 1 – Draft Elected member training and development policy (5 pages)

Attachment 2 – Draft Elected member training and development plan (4 pages)

Attachment 3 – Elected member training survey responses (1 page)

- END OF REPORT -



## Elected Member training and development policy

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## 1 Preamble

The contents of and the commitments that council makes in this policy are not intended to be and should not be interpreted to be any more than a statement of the City of Onkaparinga's general position in relation to those matters, and to facilitate its aspirations wherever it is reasonable to do so.

## 2 Policy purpose

The purpose of this policy is to plan for the provision of the induction, training and development activities for elected members to assist them in the performance and discharge of their functions and duties. This policy recognises our responsibility to develop and adopt a training and development policy for this purpose under Section 80A of the *Local Government Act 1999*. It is expected that all elected members will participate in the induction, learning and development opportunities offered to assist in the formation of a holistic and cohesive team.

The *Elected Member Training and Development Plan (the Plan)* has been developed to support this policy. The Plan will ensure that the activities provided comply with the *Local Government (General) Regulations 2013* and contributes to the personal development of the individual, the elected member team and the achievement of the strategic and good governance objectives of Council.

The *Plan* is a working document and will be updated to capture evolving legislative requirements and the changing training and development needs of the elected member team. The Plan will also be reviewed to prepare for the induction of a new Council term.

It is acknowledged that any legislative requirement which affects Council will take precedence over Council's policies and procedures.

## 3 Scope

This policy applies to all training and development activities for City of Onkaparinga Council Members.

## 4 Definitions

*Induction* – orientation, training and development programme delivered in the first twelve months directly following a general election including the completion of the mandatory Local Government Association Training Standards for Council Members.

*Training* – the provision of necessary information to both the elected member team and individuals enabling them to gain the required skills.

*Development* – the process of enhancing the skills of both the elected member team and individuals.

## 5 Policy

Council recognises that in order to carry out their roles and responsibilities to the community elected members will need specific training and refresher courses about their legislative and governance roles and functions.

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In preparing the Plan staff will undertake consultation with elected members regarding their training and development needs via surveys at regular intervals and where necessary individual discussions with elected members to gauge the effectiveness and appropriateness of the plan.

A range of delivery methods to support the training needs of elected members will be used including:

- in house training and briefing sessions conducted with appropriate staff, trainers and guest speakers
- attendance at workshops and conferences, and online self-paced learning offered by the Local Government Association of SA and the Australian Local Government Association
- attendance at training courses and conferences etc offered by other bodies and/or private providers offering courses closely related or relevant to local government
- information articles and discussion papers

#### **5.1 Local Government Association Training Standards**

Section 80A of the *Local Government Act 1999* requires that Council complies with the requirements set under section 8AA of the *Local Government (General) Regulations* particularly the Local Government Association Training Standards for Council Members. These training standards outline the minimum training requirements for all Councils that must be completed within 12 months of a general election.

- Introduction to Local Government
- Legal responsibilities
- Council and Committee Meetings
- Financial Management and reporting

All Elected Members who are new to Council will be required to undertake all mandatory training. For continuing members refresher or update training on legal responsibilities and financial management is required as a minimum.

#### **5.2 Orientation and induction of the Mayor**

In addition to the orientation and induction Plan for all Council Members, a further orientation and induction plan is developed and undertaken following the appointment of a new Mayor. This would involve a number of important topics for discussion between the Mayor and the Chief Executive Officer, Councillors and Directors to ensure a smooth transition for the whole of Council.

### **6 Attendance at approved Training and Development Activities**

Access to training courses and conferences not directly conducted by the council will require approval in line with Council's Elected Member Allowances Benefits and Support Procedure and must link to the Plan unless otherwise agreed by the Council.

Elected Members attending training courses or conferences shall provide an assessment of the course to Council outlining the nature of the course/conference, the

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key points relevant to Council and the learnings gained by the individual member through such attendance.

Travel and accommodation costs associated with elected member attendance at interstate courses or conferences and the reimbursement of reasonable expenses for training and development purposes will be made in accordance with the requirements of the Elected Members Allowances and Benefits Support Procedure.

## 7 Budget

An additional allocation for the induction and orientation of a new council shall be made in the annual budget prior to a general election year.

A budget allocation for the training and development of elected members shall be made in each annual budget.

## 8 Annual reporting

All training undertaken by elected members will be recorded in the *Elected Member Allowances and Benefits Register* which will be updated as required to reflect attendances of elected members at courses and conferences.

Council's annual report is required to include information on attendances by elected members at training courses and conferences.

## 9 Relevant legislation and references

*Local Government Act 1999*

*Local Government (General) Regulations 2013*

Elected Member Allowances, Benefits and Support Procedure.

## 10 Further information

This policy is available for inspection, during business hours at:  
City of Onkaparinga, Ramsay Place, NOARLUNGA CENTRE SA 5168.

It is also available for inspection, downloading or printing from our website  
[www.onkaparingacity.com.au](http://www.onkaparingacity.com.au).

## 11 Document control

Author (to whom changes are to be recommended):		
Position	Name	
Senior Governance Officer	Therese Brunotte	
Reviewed by:		
Position	Name	Date reviewed
Team Leader Civic Governance	Karyn Ryan	19/07/2019

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Director Corporate and City Services			
<b>Approved by (document owner):</b>			
<b>Position / Group</b>	<b>Name</b>	<b>Approval date</b>	<b>Approval ECM number</b>
Council	N/A		
<b>Current version:</b>			
<b>Current version number</b>	<b>Release date</b>	<b>Review cycle</b>	
V 1.0			
<b>History:</b>			
<b>Date</b>	<b>Author</b>	<b>Nature of change</b>	
20 June 2006 19 June 2007 7 September 2010 15 November 2011 26 August 2014		Reviewed and adopted by Council.	
<b>Related documents: (internal documents that need to be reviewed when this document is amended)</b>			
<b>Title of document</b>			<b>Document number</b>
Elected Member Training and Development Plan			
<b>Document location:</b>			
<b>Published location</b>			<b>Original in ECM</b>
Onkanet and public website			ECM

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## DRAFT ELECTED MEMBER TRAINING & DEVELOPMENT PLAN

2020/2021

Essential Training				
Legislative requirement for elected members to undertake regular training in accordance with the EM Training and Development Policy				
Session	Duration	Content	Provider	Venue
Legal Responsibilities Code of Conduct/ Conflict of Interest.	90 min	This session examines the types of behaviour that is mandated by the Code of Conduct including confidential requirements, gifts and benefits, register of interest, misuse of resources, and the use and implications of the Conflict of Interest provisions.	Legal Firm	Noarlunga Council Offices
Legal Responsibilities Public Interest Disclosure Act/Office for Public Integrity.	60 min	This session will provide an overview of the operation of the PID Act, which replaces the current Whistleblowers Act, and will also discuss the accompanying Public Interest Disclosure Regulations 2019 as well as the Public Interest Disclosure Guidelines released by the Independent Commissioner Against Corruption.	Legal Firm	Noarlunga Council Offices
Legal Responsibilities Risk and WHS	2 hours	The elected member role in Risk and WHS – This course is conducted by the LGA Workers Compensation Scheme.	LGA Workers Compensation Scheme	Noarlunga Council Offices
Legal Responsibilities. Public Officer Duties	60 mins	The public officer duties of Council Members under the Local Government Act 1999, the Criminal Law Consolidation Act 1935 and the Independent Commissioner Against Corruption Act 2012.	Legal Firm	Noarlunga Council Offices
Council and committee meetings		Understanding of the <i>Local Government Act 1999</i> and Regulations in relation to procedures at Council and Committee meetings		Noarlunga Council Offices

Attachment 2

Training and Development - LGA Elected Member Leadership Program				
Training options available for elected members professional development.				
Session	Duration	Content	Provider	Venue
Kaurna Cultural Awareness Training	TBC	<p>This session will provide elected members with an understanding and awareness of:</p> <ul style="list-style-type: none"> <li>• Kaurna protocols and our responsibilities.</li> <li>• the significance of Kaurna history and culture in our region.</li> </ul>	Kaurna Elders	Noarlunga Office
Negotiating and Influencing Skills	½ day	This program will provide participants with the opportunity to improve their understanding of the strategic negotiation and influencing process	LGA	LGA House
Elected Members Leadership Program	Full day	This session is an ideal opportunity to network and learn with other Elected Members from across the state while learning new techniques in managing difficult conversations.	LGA	LGA House
Dispute Resolution	½ day	Dispute resolution is a critical leadership skill. This interactive session explores the factors that drive conflict and offers ways to effectively intervene and facilitate positive outcomes in difficult situations.	LGA	LGA House or webinar
Enhanced Public Speaking and Presenting for Elected Members	½ Day	Learn how to refine you public speaking and presentation techniques so that you become a strong and vibrant communicator, capable of delivering key messages in any forum.	LGA	LGA House
Reputation and media for elected members	2 hours	In this session participants will gain a greater understanding of media dynamics and learn methods to proactively manage media in context of their role.	LGA	LGA House or webinar
Strategy and Risk Management	½ day	Strategic management planning and understanding strategic risks are critical skills for the good governance of a local area. This session will explore the framework for strategic management planning with the use of practical case studies from council.	LGA	LGA House or webinar
Policy Development and Strategic Thinking	3 hours	This session assists participants understand the difference between strategic, operational and public policy and the process for developing policy. It will explore practical and challenging examples of policy development and policy.	LGA	LGA House or webinar

Session	Duration	Content	Provider	Venue
Effective Decision Making for Elected Members	½ day	This program is designed to assist Elected Members who wish to enhance and refine their decision making skills.	LGA	LGA House
Community Engagement for Elected Members	1/2 day	This Community Engagement for Elected Members session will explore frameworks that support council's effective communication and engagement processes as well as practical methods, examples and shared learning experiences.	LGA	LGA House
Emotional Intelligence 101 for Elected Members	Full day	Emotional intelligence is the capacity to be aware of, control, and express one's emotions, and to handle interpersonal relationships judiciously and empathetically. Elected members who develop their emotional intelligence skills will find that they can navigate some of the more challenging parts of their role with greater ease.	LGA	LGA House
Register of Interest for Elected Members	½ day	This training will provide an overview of the requirements regarding 'register of interests' for elected members with a detailed explanation of all the types of interests that must be disclosed in a primary and ordinary return as well as the information contained in the returns that must be published on a website.	LGA	LGA House or webinar
Planning Act Essentials	3 hours	This session will be delivered in partnership with the Department of Planning, Transport & Infrastructure and provide an overview of the essentials of the state planning system, the Planning, Development and Infrastructure Act 2016 that will be fully operational in July 2020	LGA	LGA House or webinar
Audit Committees	3.5 hours	This training provides a disciplined approach to evaluating and improving the effectiveness of council's financial management, risk management, internal controls and governance processes. The session will provide practical information and discussion on being an effective Audit Committee member.	LGA	LGA House or webinar
CEO Performance Management	Full day	This session will provide an overview of the general principles of performance management. Participants will explore the process for establishing clear performance parameters and measures, the value of building on-going effective working relationships and professional approaches for conducting a review of a CEO's performance	LGA	LGA House

Session	Duration	Content	Provider	Venue
Chairing and Chamber Etiquette	3 hours	This session is an opportunity for new and returning elected members to understand council and committee meeting procedures, chairing and the behaviour standard required for compliant and effective formal meetings	LGA	LGA House or webinar
Council Assessment Panel	½ day	This course will provide participants with the crucial information and knowledge to operate effectively as a CAP member in making impartial and transparent development assessment decisions based on the policies in the Development Plan.	LGA	LGA House or webinar
<b>Local Government Training Standards - Modules Online</b> Mandatory training required to be completed within 12 months of general election				
Session	Duration	Content	Provider	Venue
Introduction to Local Government	1-1.5 hours	An understanding of the Australian System of Government and the composition, structure and operational functions of Councils in South Australia.	LGA	Online
Legal Responsibilities	1.5 hours	An overview of their duties as a Council Member under the Local Government Act 1999 and related legislation. The module will describe the roles of the Independent Commissioner Against Corruption, the Minister for Local Government and the Ombudsman regarding individual and Council performance, with an emphasis on investigations of maladministration, corruption and misconduct.	LGA	Online
Council and Committee Meetings	1.5 hours	This session is designed to develop skills and understanding of the structure of council & committee meetings and the formal decision making process.	LGA	Online
Financial Management and reporting	2.5 hours	Understanding of a Council's responsibilities for financial and asset management planning, setting rates and monitoring budgets.	LGA	Online

EM Learning and Development Plan Survey Response

Questions		Elected Member Training Requests												
Question 1	Please select which areas you feel members would benefit from most in during this term.	Mayor	Cr Themeliotis	Cr Olsen	Cr Cowan	Cr de Graaf	Cr Eaton	Cr Greaves	Cr Jamieson	Cr McMahon	Cr O'Brien	Cr Brown	Cr Peat	Cr Bray (no requirments)
*	Leadership skills development	✓		✓		✓								
* #	Roles, responsibilities and obligations of elected members	✓				✓	✓							
*	Information and communications technology (including Social Media)	✓				✓								
*	Influencing & Negotiating Skills			✓		✓								
*	Conflict resolution skills			✓		✓								
*	Council meeting procedures		✓			✓								
#	Legal responsibilities of elected members ( Code of Conduct, Conflict of Interest)	✓				✓	✓		✓					
*	Public speaking			✓		✓								
*	Strategic planning	✓		✓	✓	✓			✓					
#	Financial			✓	✓	✓			✓					
	Asset management			✓	✓	✓	✓		✓					
*	Community engagement	✓				✓								
*	Media awareness	✓		✓	✓	✓								
#	Ombudsman/Office of Public Integrity (OPI) awareness	✓			✓	✓								
*	Audit Committee responsibilities					✓			✓					
Question 2	<i>This list can be supplemented to include other specific areas of training and development. Is there any additional training opportunities that you feel would be of benefit to new and continuing elected members?</i>	Understanding the benefits/risks of reputation. (media)	The real one that sticks out for me is meeting procedures, the current chamber do not understand meeting procedures.	Planning terminology and processes		Personally as I'm proxy on CAP I want to learn about development processess etc plus public speaking	State 's new planning legislation. Tour of council offices, depots, nursery and all other assets.							

## 3.2 Proposal to dispose of vacant land off St Matthews Street, Willunga, on the open market

(item 9.6 adjourned from Council meeting 21/7/20)

Report contact

David Haslam, Senior Property Officer

8301 7213

Approving officer

Anthony Spartalis, Chief Financial Officer

Meeting

Council

Date

21 July 2020

### 1. Purpose

This report seeks Council's authority to place the parcel of vacant council land fronting St Matthews Street, Willunga on the open market for sale.

### 2. Recommendations

That for the vacant land described as Allotment 11 in Deposited Plan 94494 comprised in Certificate of Title Volume 6147 Folio 718 located off St Matthews Street, Willunga and bordered in red on Attachment 1 to this agenda report, Council:

1. Approves the placing of the land on the open market for sale.
2. Authorises the Chief Executive Officer to sign any documentation necessary to progress the disposal of the subject land through to completion.
3. Authorises the Chief Executive Officer to enter into a Contract for Sale at no less than the market value of the subject land as assessed by an independent registered land valuer.
4. Assigns the net proceeds from the sale of the subject land (if approved by Council) to the Community Investment Fund (CIF) to be used strictly in accord **with Council's approved use of that fund.**

### 3. Executive summary

In 2013, Council closed an unmade road in the Town of Willunga to enable disposal of a portion of the road to the adjoining landowner to resolve an encroachment of a heritage building.

Council retained the balance portion of the unmade road and obtained a Certificate of Title in fee simple as part of the Road Process Order to enable the subject land to be sold on the open market at a later stage, as it was not required for any operational or community purpose.

At the time of obtaining title, Council specifically excluded the land from the community land classification to facilitate a future disposal process.

**This report seeks Council's approval to now dispose of the land by placing the property on the open market.**

## 4. Background

Community Plan 2030	<p><b>Prosperity</b> – Disposal of the subject land is consistent with Council's objective to manage its land portfolio in the most financially prudent manner. This includes the requirement to continually review its land holdings and consider disposal options where there are no community or operational requirements for the land.</p> <p>Disposal of the subject land provides income to the Community <b>Investment Fund for Council's use</b> to reduce borrowing and or to deliver other prioritised projects.</p>
Policy and/or relevant legislation	<p><b>Council's Disposal of Council Land and Other Assets Policy</b> in accordance with section 49 of the Local Government Act 1999</p> <p>Disposal will be on the open market and will be at no less than market value as determined by an independent licenced land valuer.</p>
Who did we talk to/who will we be talking to	<p>As part of the road closure in 2013, Council approved that a new Certificate of Title be obtained for the unrequired and unmade former road to enable it to be sold on the open market.</p> <p>Public Consultation in accord with the <i>Roads (Opening &amp; Closing) Act 1991</i> occurred at the time the road was closed and the land was excluded from community land to facilitate sale.</p> <p>Internal investigation and consultation were undertaken with the relevant departments of Council.</p> <p>Following support of the Council Land Assessment Group (CLAG) the Southern Vales Ward Councillors were notified of the proposal by email on 16 June 2020 and offered a site inspection prior to the matter being considered by Council.</p>

In 2013 Council resolved, pursuant to Section 193 (4a) of the Local Government Act 1999, that the subject land (previously unmade public road) be excluded from the classification of community land upon closure under the Roads (Opening & Closing) Act 1991. At the time, the land dealing was initiated because a portion of the former unmade road (known as St Patricks Street) was disposed of to the adjoining landowner at 32 St Matthews Street, Willunga to overcome a long-standing heritage building encroachment.

**Council's decision to retain the balance portion of** the closed road, now in a fee simple certificate of title and excluded from the community land classification, was made at the time in the knowledge that the land was surplus to requirements and planned for future disposal.

The subject land, owned by Council, is now described as Allotment 11 in Deposited Plan 94494 and is comprised in Certificate of Title Volume 6147 Folio 718. The parcel of land has an area of approximately 1200 m<sup>2</sup> (bordered in red on Attachment 1) and is located between 32 and 34 St Matthews Street, Willunga.

Historically, the subject land originally known as St Patricks Street, formed part of a former unmade (but legal) open road that was surveyed to link St Georges Street to St Matthews Street, Willunga.

Due to an earlier disposal of a portion of this unmade road in 1989, the potential linkage was severed, and the balance road land became a dead end, surrounded on three sides by private property.

The subject land has no identified operational or strategic use by Council and represents a cost burden to Council. Disposal as a single vacant parcel of land on the open market is recommended and can be progressed **with Council's approval**.

Open Space Strategic Management Plan (OSSMP)

**The subject land was specifically excluded from Council's OSSMP as the land was identified as surplus to requirements and proposed for future disposal in Council's 2013 report. Therefore, the land was not included in the open space area calculations incorporated in the OSSMP.**

The sale of the subject land will not impact on existing open space facilities in the Willunga area as it has never been used by the community for open space purposes as it was historically unmade public road.

Zoning

The subject land is located in both the Residential Zone, Willunga Policy Area and the Hills Face Zone as it straddles the common zone boundary. Both zones allow for detached dwellings, however the Hills Face Zone is more prescriptive in respect to the design and location of any dwelling.

Council Land Assessment Group (CLAG)

This proposal has been referred to the high-level Council Land Assessment Group (CLAG) and received support to be presented to Council requesting approval to sell the land on the open market **in accordance with the terms of its 'Disposal of Council land and other assets policy'.**

## 5. Discussion

Services and Utilities available but not connected

The subject vacant allotment has access to all services including (power, water and CWMS) but they are not connected.

Site

The vacant allotment is approx. 1200 m<sup>2</sup> with a steep fall from its southern to its northern boundary. Additionally, there is an existing gully and natural small watercourse which bisects the property in a south east to north west direction and creates a steep fall from the St Matthews Street frontage and subsequent substantial rise beyond the natural watercourse.

The fall to the small watercourse and subsequent rise to the western portion of the land, where a future dwelling may be proposed for development, will likely require any future owner/developer to undertake works on the land in the form of an access track and associated storm water culvert as part of any application to develop the subject land with a residence. The structural details **and capacity of any future culvert works will be referred to Council's traffic, stormwater and development engineers** as part of any development application and assessment process.

Our Assets and Technical Services team has recommended that we do not enter into any works on this site and sell the land in its current state, as this provides the maximum flexibility to the purchaser and avoids Council taking on any additional works and possible maintenance.

Due to the initial steep slope from the bitumen carriageway of St Matthews Street to the subject land, both the landowner of the adjoining 32 St Matthews Street residential property and the future owner of the subject land (if a disposal is completed) will continue to obtain access to their properties via an existing short driveway from near the cul-de-sac end of St Matthews Street. This existing short driveway runs adjacent and parallel to the bitumen carriageway, but at a lower and more easily accessible level.

## 6. Financial implications

Staff costs associated with undertaking the disposal process will be contained within the existing Property Transactions staff resources.

Additional professional service fees and charges associated with the transaction (e.g. advertising and agent's fees) will be met from the proceeds of sale.

**Sale of the land will be in accord with Council's Disposal of** Council Land and Other Assets Policy and at no less than the market value of the land as determined by an independent professional land valuer.

It is proposed that net proceeds (gross proceeds less disposal costs) from the sale of the subject land (if approved by Council) be assigned to the Community Investment Fund (CIF) to be used strictly in accord with Council's approved use of that fund.

**Disposal of the subject land will remove Council's on-going** financial obligations in respect to maintenance (in particular flammable growth control) and risk and liability associated with the land.

## 7. Risk and opportunity management

Risk	
Identify	Discussion
The subject land is not approved for disposal.	<p>Council manages its land ownership portfolio in an efficient and sustainable manner by continually reviewing its assets and considering disposal options where little or no community or operational benefit is derived from retention of the land.</p> <p>There has not been any present or future development identified for the subject land nor has there been any strategic or operational need identified to retain the land.</p> <p>Retaining the land will result in Council continuing to fund ongoing maintenance costs (particularly flammable growth control) and being responsible for public liability risks when the land is not required by Council or the community.</p>
Opportunity	
Identify	Maximising the opportunity
The subject land is progressed for disposal.	<p>Disposal of the land will provide Council with additional income to be assigned to the Community Investment Fund to reduce borrowings and to be allocated to other prioritised projects as approved by Council.</p> <p>The land was formerly an unmade legal (dead end) road and was closed (in total) in 2013 specifically to resolve the encroachment of an adjoining heritage property and to enable sale of the balance land in the future.</p> <p>Disposal will avoid the need for continued ongoing operational and risk management costs associated with maintaining and holding the land.</p> <p>The subject land has infill potential, to be developed with a residence in the historic suburb of Willunga creating a rare opportunity for our community.</p>

## 8. Timelines and Deadlines

No specific timelines or deadlines are required to be met.

## 9. Next steps

The disposal process, involving the appointment of an Real Estate agent to act for Council in negotiating a sale, will commence if Council's authorisation is provided in this report.

## 10. Attachments

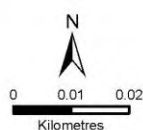
Attachment 1 – Aerial Photograph of the subject land

- END OF REPORT -

## St Matthews Street Willunga



*The boundaries plotted hereon are indicative only and their location cannot be relied upon as accurate.*



### Legend



Subject land proposed for disposal

### 3.3 Proposal to commence a revocation of community land process to enable disposal on the open market of the land and building at 14 Margaret Street, Port Noarlunga

(item 9.7 adjourned from Council meeting 21/7/20)

Report contact  
David Haslam, Senior Property Officer  
8301 7227  
Approving officer  
Anthony Spartalís, Chief Financial Officer

Meeting  
Council  
  
Date  
21 July 2020

#### 1. Purpose

This report is a legislative requirement that requests Council approval to declare the community land and building located at 14 Margaret Street, Port Noarlunga as surplus to requirements and potentially suitable for disposal, and to commence the revocation of community land process.

#### 2. Recommendations

That for the council owned community land described as Allotment 20 in Filed Plan 151896 comprised in Certificate of Title Volume 5856 Folio 354, located at 14 Margaret Street, Port Noarlunga and bordered in red on attachment 1 to the agenda report, Council:

1. Recognises that the proposal to revoke and dispose of the subject property was a strategic outcome from the Council approved Community Facilities District Plan (CFDP).
2. Declares that the subject property is surplus to requirements and potentially suitable for disposal on the open market.
3. Approves the commencement of the revocation of community land process, including undertaking public consultation in accordance with the provisions of subsection 194(2) of the Local Government Act 1999 and in accordance with the Community Engagement Plan included as attachment 2 to the agenda report.
4. Approves the net proceeds from the sale of the subject land (if ultimately approved by Council) to be assigned to the Community Investment Fund (CIF) to **be used strictly in accord with Council's approved use of that Fund.**
5. Requests a further report be presented to Council detailing the outcomes of the public consultation phase of the revocation process to enable Council to determine if the revocation and disposal should proceed.

#### 3. Executive summary

**Council's approved Community Facilities District Plan (CFDP) analysed** council's building stock to identify facilities that were not required for community or commercial use, with the view to a long-term rationalisation plan to dispose of surplus assets, to assist delivery of a network of higher quality, multi-purpose facilities to meet the future needs of the community.

The CFDP identified the subject property at 14 Margaret Street, Port Noarlunga as surplus to the required community service level and recommended disposal.

To dispose of council owned community land first requires the subject land to be revoked from its community land classification in accordance with legislation. This initial report seeks Council approval to commence the revocation of community land process by undertaking the mandatory public consultation.

## 4. Background

Community Plan 2030	<p><b>Prosperity</b> – Revocation and disposal of the subject land is consistent with Council’s intent to manage its property portfolio in the most financially prudent manner. This includes the requirement to continually review its land holdings and consider disposal options when there are no identified community requirements to retain the property.</p> <p>Disposal provides income to the Community Investment Fund (CIF) for Council’s use on other prioritised projects.</p>
Policy and/or relevant legislation	<p>Council’s approved Community Facilities District Plan (strategy).</p> <p>Local Government Act 1999 – section 194.</p> <p>Council’s Disposal of Council Land and Other Assets Policy.</p>
Who did we talk to/who will we be talking to	<p>Council’s Community Facility District Plan (CFDP) underwent community engagement prior to approval from Council.</p> <p>Internal investigation and consultation were undertaken with the relevant departments of Council.</p> <p>Following support of the Council Land Assessment Group (CLAG), the Mid Coast Ward Councillor was notified of the proposal and offered a site inspection prior to the matter being considered by Council.</p> <p>Legislative public consultation will occur as part of the revocation of community land process if Council approves to proceed as recommended.</p>

### Strategy

At its meeting on 5 December 2017, Council’s Strategic Directions Committee approved the Communities Facilities District Plan (CFDP).

The CFDP used a model to assess community needs and floor area service levels for community facilities in each district and adopted those figures relative to the projected 2035 population.

The subject vacant building located at 14 Margaret Street, Port Noarlunga was confirmed as **being surplus to the community service level by Council’s Strategic Directions Committee meeting** on 5 December 2017 (Confidential Report). This property was released from its confidential status by the Chief Executive Officer under delegation to enable the revocation and disposal process to proceed to Council for consideration in this subsequent report.

### Surplus Building

Our Community Assets Team has advised that the building is surplus due to there being an oversupply of community facility buildings in this area (district). The facility is not required to meet existing or future community needs.

The subject building was built in approximately 1970, has not undergone any major capital upgrades in its lifetime and is not being considered for any future major capital works.

Given the age of the building it does not meet current Building Code Requirements or several design principles for community facilities. For example, there is no on-site car parking and limited adjacent street parking, no direct access to adjacent reserves and single room/single toilet amenity only. The building's lack of compliance **in today's standards** restricts its usability and there is no available area on the land to undertake upgrades/extensions to meet necessary compliance as the building footprint occupies most of the allotment.

#### Compliance and Refurbishment Costs

Our Community Assets Team has estimated it would cost up to \$180,000 to refurbish the building and address some of the necessary compliance matters, particularly for disabled access and amenities, but these upgrades would be difficult to implement due to the lack of available land around the building.

#### Single Use Building

For many years the building has only attracted small community groups of up to 10 people for approximately two days per week (on average). The last remaining group has relinquished its licence and **relocated to Council's River Road community facility at W M Hunt Reserve, Port Noarlunga** where carparking and access is safe and compliant.

Recognising that the building is deficient in several ways, future approaches for tenancies received for this **facility will be redirected to Council's other nearby facilities** where compliant community space is readily available.

#### Site

The subject land (bordered in red on Attachment 1) comprises a total area of 211.5 square metres and is located on the corner of Margaret Street and Witton Road, Port Noarlunga. It adjoins fenced residential allotments to the south and east and is in the Port Noarlunga residential area.

The vacant hall building on the property was once used as the Port Noarlunga CWA hall (until approximately a decade ago), but since then has been licenced by Council to several differing tenant groups. All previous tenants have vacated the building, which is now some 50 years old and reaching the end of its useful life as a single use Hall.

The 4-metre-wide access corridor to the rear of the building is not part of the subject land as it forms part of, and provides back yard access to, the adjoining property located at 20 Witton Road, Port Noarlunga.

#### Other Council owned buildings

There are several other Council owned buildings in this district that are required to meet the community facilities service level, all with areas to licence or hire.

To demonstrate accessibility to other Council owned community facilities in close proximity to the subject land and building located at 14 Margaret Street, Port Noarlunga, the following table is provided.

Building	Address	Approx. distance from 14 Margaret Street Port Noarlunga
Port Noarlunga RSL	Esplanade, Port Noarlunga	200 metres
Port Noarlunga Arts Centre	22 Gawler Street, Port Noarlunga	500 metres
Sauerbier House	21 Wearing Street, Port Noarlunga	600 metres
WM Hunt Reserve Community Clubroom	River Road, Port Noarlunga	1 km
Wardli Youth Centre	13 McKinna Road, Christie Downs	3 km
Christie Downs Community House	Cnr Morton & Flaxmill Roads, Christie Downs	5 km
Karawatha Hall	12 Baden Terrace, <b>O'Sullivan Beach</b>	5 km
Elizabeth House	112 Elizabeth Road, Christie Downs	5 km
Morphett Vale Hall	9 William Street, Morphett Vale	7 km
Wakefield House	65-75 Acre Avenue, Morphett Vale	8 km
Woodcroft Community Centre	175 Bains Road, Morphett Vale	10 km
Reynella Neighbourhood Centre	164-170 Old South Road, Old Reynella	11 km

Internal investigations and consultation regarding the use of the subject land

Notwithstanding the original approvals contained within the Community Facilities District Plans (CFDP), we have undertaken additional comprehensive internal investigations across the organisation as part of the processes before preparing a report for Council. These investigations did not identify any strategic or operational need to retain the subject building and land.

No future negative impact on council owned infrastructure was identified if revocation and disposal occurred as recommended in this report.

### Zoning

The land at 14 Margaret Street, Port Noarlunga is held within the Medium Density Policy Area and Residential Zone under the current version of the Onkaparinga Council Development Plan (consolidated 20 December 2018). The provisions of the Medium Density Policy Area and Residential Zone principally support the development of a wide range of dwellings, as well as small scale shops, offices and consulting rooms.

The maximum building height for new dwellings within this area of the Medium Density Policy Area is two storeys, with a 6-metre wall height.

### Council Land Assessment Group (CLAG)

This proposal has also been referred to the Council Land Assessment Group (CLAG) and received support to present a report to Council to consider commencing the revocation process with a view to disposal of the property.

### Mid Coast Ward

The subject property is located in the Mid Coast Ward and the Elected Member for this ward has been notified that the proposal will be coming to Council in the near future and was offered a site inspection.

## 5. Discussion

### Valuation Procedure

The revocation process has the expectation that Council will consider the revocation of community land on an objective basis and determine, on balance, what is in the best interests of the community without the resultant financial outcome in mind.

For this reason, a market valuation is sought toward the end of the revocation process once the **outcome of Council's determination on the merits of removing the land from the classification of community land and a final decision on its disposal is known.**

### Additional Information Summary

The necessary additional information to commence the revocation of community land process in accordance with the *Local Government Act 1999* is provided in Attachment 3.

## 6. Financial implications

Staff costs associated with undertaking the revocation and disposal process will be contained within existing Property Transactions staff resources.

Additional professional service fees and charges associated with the transaction (e.g. advertising and **agent's fees**) **will be met from the proceeds of sale.**

It is proposed that the net proceeds (gross proceeds less normal revocation and disposal costs) from the sale of the subject land (if approved by Council) be assigned to the Community Investment Fund (CIF) **to be used in accord with Council's approved use of that Fund.**

**Disposal of the subject land and building will remove Council's on-going financial obligations in respect to maintenance and risk, building insurance, security contract, graffiti management, asbestos management, etc. associated with the dated building. Marginal savings will be made immediately by removing the building from the Council's cleaning contract.**

## 7. Risk and opportunity management

Risk	
Identify	Discussion
Revocation of the subject land is not commenced, and the land and building are not progressed for disposal.	<p>Council manages its land ownership portfolio in an efficient and sustainable manner by continually reviewing its assets and considering disposal options where little or no community benefit is derived from retention of the land.</p> <p>Council has previously endorsed the CFDP which strategically identified the subject land and building as surplus to requirements and suitable for revocation and disposal.</p> <p>As there is no strategic or operational requirement to retain the property, revocation and disposal is recommended to reduce <b>Council's ongoing holding costs</b> in a district with an oversupply of community space offerings.</p>

Opportunity	
Identify	Maximising the opportunity
The land is declared surplus and suitable for disposal.	<p>Disposal will provide Council with additional income to be assigned to the Community Investment Fund, to be subsequently allocated to other prioritised projects as approved by Council.</p> <p>Disposal of the property will avoid continued ongoing operational costs associated with maintaining and holding the land and building (i.e. grounds maintenance, building insurance, security contracts, graffiti management, building compliance obligations, cleaning and rubbish collection etc.)</p> <p>Disposal will enable a prospective purchaser to redevelop the land with a range of development opportunities, as it is located in a well serviced area close to shops, schools, transport routes and the coast.</p>

## 8. Timelines and Deadlines

The revocation and disposal processes are rigorous and take approximately 12-18 months to complete. It is a statutory requirement for three (3) reports to be presented to Council, public consultation must be undertaken, Ministerial consent must be obtained and the final marketing and disposal process to be approved by Council.

## 9. Next steps

Should Council approve the commencement of the revocation process, public consultation on the proposal will commence in accordance with the Community Engagement Plan at Attachment 2.

Following the public consultation process, all written feedback is collated and summarised into a second report to Council to determine if the revocation of community land process continues by **requesting the relevant Minister's consent.**

## 10. Attachments

Attachment 1 – Aerial photograph of the subject land (1 page)

Attachment 2 – Community Engagement Plan (9 pages)

Attachment 3 – Additional Information Summary (3 pages)

- END OF REPORT -

## 14 Margaret Street Port Noarlunga



The boundaries plotted hereon are indicative only and their location cannot be relied upon as accurate

### Legend



Subject land proposed for revocation and disposal



## Community Engagement Plan

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### Background information

This Community Engagement Plan is prepared in relation to the proposal to revoke the community land classification of a parcel of community land located at 14 Margaret Street, Port Noarlunga (former Port Noarlunga CWA Hall), to enable disposal of the land and building on the open market. The proposed revocation of community land process is to be undertaken in accordance with the provisions of the *Local Government Act 1999* (SA), which prescribes the required consultation with adjacent land owners and the general public by public advertisement. This Community Engagement Plan also outlines the stakeholders to be consulted in accordance with and beyond the legislated requirements of the *Local Government Act 1999*.

### Purpose of engagement

The purpose of the engagement is to provide genuine opportunities for relevant stakeholders to have their say about the proposed revocation of community land and intended sale on the open market.

### Engagement objectives

- Ensure legislative requirements are met.
- Ensure all adjacent land owners are given an opportunity to provide feedback.
- Provide opportunities for the community to provide feedback.
- Ensure multiple engagement techniques are used.
- To go above legislative requirements as appropriate to ensure transparency.
- To ensure a consistent approach to all revocations of community land classification.
- Ensure that stakeholders are kept informed.

### Engagement scope of influence

- Through consultation the stakeholders can influence Council's decision about whether to proceed with the proposed revocation of community land to enable disposal on the open market.

### Related and/or Neighbouring Projects

- Port Noarlunga Traffic Calming
- Port Noarlunga Parking Improvement
- Saltfleet Street slope stabilisation

### Risk and Community Expectations Assessment

The following table will assist you to assess the level of complexity, sensitivity and potential impact, and help to determine the best engagement approach.

Area	low	medium	high	explanation
<b>degree of complexity of project</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The subject land is a parcel of community land that comprises the former port Noarlunga CWA Hall. The hall has not been used by the CWA for many years and in recent times has been the subject of short-term tenancies to small community groups. These groups have now vacated the dated building and it remains vacant. The revocation of community land process is to be undertaken in accordance with the <i>Local Government Act 1999</i> .
<b>degree of potential community impact of project</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposal to revoke and dispose of the land and building is not anticipated to have any detrimental effect on the community, as the building is unused and vacant. Our Community Facilities District Plan identifies a number of more suitable buildings in close proximity that are available for community use.
<b>degree of political sensitivity of project</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Whilst the community has previously used the subject building for small community group use, the dated building is currently vacant and not required for future community use.</p> <p>We are not aware of any political groups who have had an interest in the subject building or its retention.</p> <p>The proposed revocation and sale of community land and buildings can potentially be sensitive and attract media attention.</p>
<b>Total</b>				Consult

## Stakeholders

### Council (Mayor and elected members/ward councillors)

- Mayor
- Elected Members
- Ward Councillors

### Staff

- Property Transactions Team.
- Infrastructure Asset Management Team.
- Community Assets.
- Engagement Unit.
- Customer Relations.
- Council Land Assessment Group.
- Directors Group.

### Customer service centres where the proposal will be available for viewing (subject to the ongoing impacts of COVID-19):

- Ramsay Place, Noarlunga Centre front counter.
- The Hub, Aberfoyle Park.
- St Peters Terrace, Willunga.
- Woodcroft Community Centre.
- Aldinga Library.

### Local Community

- The owners of the adjacent land parcels will be notified in writing. The extent of those adjacent land parcels are outlined under the 'Engagement Parameters' on page 4.
- In addition, the following community groups and resident's associations will be notified in writing (beyond the requirements under the *Local Government Act 1999*):
  - Onkaparinga southern community forum

### Cultural groups/Specific interest groups/NGOs/individuals

- None applicable.

### General Public

- The general public are to be informed by notice in the Advertiser newspaper, as required under the *Local Government Act 1999*. The minimum time period for public comment is 21 days from the date of publication.
- In addition to the requirements of the *Local Government Act 1999*, public notice of the proposed revocation and disposal will be published on Council's 'Your Say' website for public comment.

- Notice will be published in the Advertiser newspaper inviting the public to submit their comments via 'Your Say'. The time period for public comment is 21 days from the date of publication.

**Government agencies/MPs**

- Minister for Transport, Infrastructure and Local Government.

**Engagement parameters****Geographic boundaries**

The aerial photograph below shows the subject parcel of land proposed for revocation and disposal bordered in red and further borders in yellow the adjacent properties that will be contacted in writing. It is planned to consult with approximately 100 land owners in the vicinity.

**Timelines**

- Should Council resolve to proceed with the revocation of community land process, consultation will commence taking into account the ongoing impacts of COVID-19 and to ensure a fair and transparent process.
- This engagement plan will be updated when the timeline is known.

### Engagement Action Plan

If Council approves the process to continue, the following engagement action plan will be undertaken:

Phase	Method	Stakeholders	Techniques	Who's Responsible	Desired outcome	Timeline
	Inform	<b>Mayor/Elected Members</b>	Council Report  Weekly news and/or E-mail as considered necessary		Elected members are aware that engagement is about to commence	TBC
	Inform	<b>Property Transactions Team.</b> <ul style="list-style-type: none"> <li>- Property Transactions Team.</li> <li>- Infrastructure Asset Management Team.</li> <li>- Community Assets.</li> <li>- Engagement Unit.</li> <li>- Customer Relations.</li> <li>- Council Land Assessment Group.</li> <li>- Directors Group.</li> </ul>			Internal stakeholders are aware that engagement is about to commence.  Engagement unit have prepared a Your Say page in preparation.  Customer service centres have information for viewing.  Call Centre know where to direct enquiries.	TBC



		<b>Customer service centres where the proposal will be available for viewing (subject to the ongoing impacts of COVID-19):</b> <ul style="list-style-type: none"> <li>- Ramsay Place, Noarlunga Centre front counter.</li> <li>- The Hub, Aberfoyle Park.</li> <li>- St Peters Terrace, Willunga.</li> <li>- Woodcroft Community Centre.</li> <li>- Aldinga Library.</li> </ul>				
	Consult	<b>Adjoining and nearby land owners:</b>  As per the aerial photograph included under Engagement Parameters	Letter  Your Say page live	Property Team	Property Team sends letters to adjacent land owners as per mandatory requirements to gather feedback.  Adjacent landowners have an opportunity to provide feedback	TBC
	Consult	<b>Government agencies:</b> <ul style="list-style-type: none"> <li>- Minister for Local Government.</li> </ul>		Property Team	Minister is written as part of the approval process and has the opportunity to advise of any issues/concerns with the revocation and potential open market disposal.	TBC
	Inform	<b>General public</b>	Messenger	Property Team	Property Team arranges advertisement notices as per mandatory requirements.	TBC

		<b>Community/interest groups/associations</b> <ul style="list-style-type: none"> <li>- Onkaparinga Southern Community Forum</li> </ul>	Email	Property Team	Resident/association/interest groups are advised of the proposal and asked to provide feedback via the Your Say page.	
	Data analysis	<b>Property Team</b>	Community Engagement Feedback Report	Property Team Engagement Unit	<p>Once engagement closes:</p> <p>The Property Transactions Team analyse the data using the Your Say reports and any other feedback received via other methods (emails, letters etc.).</p> <p>A community engagement feedback report is written from the data analysis.</p>	TBC
	Reporting	<b>Mayor</b>  <b>Elected Members</b>	Council Meeting	Property Team	A report is presented to Council with the community engagement feedback report.	TBC
	Inform	<b>All stakeholders listed in this engagement plan</b>	<p>Letter to adjacent land owners</p> <p>Email to resident/interest groups</p> <p>Your Say Newsletter to all online participants</p>	Property Team Engagement Unit	<p>All stakeholders have been made aware of the outcomes from the council meeting and next steps.</p> <p>Your Say page is updated with outcomes</p>	TBC



**Sign-off**

**Officer who prepared the document**

Name: David Haslam  
Position Title: Senior Property Officer

**Reviewed by Community Engagement Advisor**

Name: Paula Bugden  
Date: 8 /04/2020

**Approved by**

Name: Jock Berry  
Position Title: Manager Property and Commercial  
  
Signature  Date

**Proposal to commence a revocation of community land process to enable disposal on the open market of the land and building at 14 Margaret Street, Port Noarlunga.**

**Additional Information Summary**

**Community Facilities District Plan (CFDP)**

At its meeting on 5 December 2017, Council's Strategic Directions Committee approved the Communities Facilities District Plan (CFDP).

The CFDP included an analysis of council owned land holdings to identify potential land and buildings that may not be required for community or commercial use, with the view to a long term rationalisation plan to dispose of excess assets to ultimately deliver a network of high quality facilities that better meet the future needs of the community.

The CFDP used a model to assess community needs and floor area service levels for community facilities in each district and adopted those figures relative to the projected 2035 population.

The subject vacant former Country Women's Association (CWA) building located at 14 Margaret Street, Port Noarlunga was formally confirmed as being surplus to the community service level by Council's Strategic Directions Committee meeting on 5 December 2017 (Confidential Report). This parcel of land and building was released from the confidential status by the Chief Executive Officer to enable the revocation and disposal process to proceed to Council for consideration in this subsequent report.

Our Community Assets Team has advised that the building was previously confirmed as surplus due to there being an oversupply of community facility buildings in the specific area and the facility is not required to meet community needs.

**Report pursuant to the *Local Government Act 1999***

The *Local Government Act 1999* prescribes that council must prepare a report before it proposes to revoke the classification of land as community land. The report must address the following:

**Summary of the reasons:**

The proposed strategic revocation and disposal is consistent with the intent and outcomes of the Council approved Community Facilities District plan (CFDP).

The CFDP identified the subject former CWA hall and land as surplus to future community facility demand as the building is in a planning area where there is an oversupply of community facilities.

In addition, the building was built in approximately 1970 and has not undergone any major capital upgrades in its lifetime. The hall building does not meet current Building Code Requirements and there is limited potential to expand and upgrade due to the footprint of the building occupying a major portion of the land parcel.

The building will not be considered for any future capital works other than to maintain its current integrity which is limited due to the age of the building and the fact that it is near the end of its useful life.

**A statement of any dedication, reservation or trust to which the land is subject:**

The land is not subject to any dedication, additional reservation or trust, albeit it is held in Trust for use as a Public Reserve. The proposed revocation of community land (if ultimately approved by Council) will remove the trust to facilitate sale on the open market.

**Proposal to sell**

This report proposes the revocation and eventual sale of the subject land and building on the open market, at not less than the market value advised at the time of disposal.

The net proceeds from the sale of the subject land (if ultimately approved by Council) will be assigned to the Community Investment Fund (CIF) to be used strictly in accord with Council's approved use of that Fund.

**Summary of effect on the community**

It is considered that disposal of the subject land and building presents little or no known impact on current community facility requirements in the area. It has been identified through the CFDP that the demand for community facilities of this nature can be satisfied by other council owned community facilities within close proximity to the subject land.

Disposal of the subject land and building will remove Council's on-going financial obligations in respect to maintenance and risk associated with the dated building and will enable net proceeds to be assigned to CIF for more strategic use by Council.

**Revocation process**

The *Local Government Act 1999* states that all council land (excluding roads) is classified as community land and that council may only sell or otherwise dispose of an interest in community land after revocation of this classification.

To commence that process, Council must first declare the land surplus to requirements and suitable for disposal, followed by public consultation.

As part of the public consultation process council follows the requirements of the *Local Government Act 1999* and seeks public comment for a minimum period of 21 days, by;

- placing a notice in the Advertiser Newspaper,
- placing a notice and supporting documentation on our 'your Say' website,
- forwarding letters of explanation to adjacent landowners,
- providing information folders at our five Customer Service Centres, and;
- by erecting a sign/s on the subject land.

A second update report is presented to Council discussing the outcomes of the public consultation phase to enable Council to decide if it should proceed with the revocation process by seeking the approval of the Minister for Transport, Infrastructure and Local Government.

A third report is provided to Council to formally approve the revocation once the consent of the Minister is received.

### **Council policy on the disposal of council land**

Council adopted a 'Disposal of council land and other assets' Policy on 7 September 2010. Broadly, the policy provides a number of disposal options, a range of matters that may influence the disposal process and method, and possible conditions that should be applied to any real property disposal.

The proposal outlined in this report for the disposal of the subject land (should a revocation be successful) is in accordance with council's Disposal Policy. In this case it is intended to place the subject property for sale on the open market at no less than the market value at the time of sale. The method of disposal (e.g. auction, private treaty) will be determined at the time based on advice from prospective agents.

### **Valuation Procedure**

The revocation process has the expectation that Council will consider revoking the classification of community land on an objective basis and determine, on balance, what is in the best interests of the community without the financial outcome of the process in mind.

A valuation is sought at the end of the revocation process, once Council has decided on the merits of removing the land from the classification of community land and a final decision on its disposal is known.

### 3. Adjourned business – Confidential items

#### Confidential Clause

If the Council so determines items 3.4 to 3.8 may be considered in confidence under Section 90(2) of the *Local Government Act 1999* on grounds contained in the Recommendations below.



Scott Ashby  
Chief Executive Officer

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### 3.4 Proposed extension of lease over land at 10 Meyer Road, Lonsdale

(Item 14.4 adjourned from Council meeting 21/7/20)

1. Exclusion of the public

That:

- a. under the provisions of Section 90(2) of the *Local Government Act 1999* an order be made that the public, with the exception of staff on duty, be excluded from attendance at the meeting in order to consider this item in confidence.
- b. the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Council to consider the report at the meeting on the following grounds:

Section 90(3)(b) information the disclosure of which -

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

Section 90(3)(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -

- (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
  - (ii) would, on balance, be contrary to the public interest;
- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

2. Confidential recommendations

3. Period of confidentiality and delegations

- a. That the matter of Proposed extension of lease over land at 10 Meyer Road, Lonsdale having been considered by the Council in confidence under sections 90(2), 90(3)(b) and 90(3)(d) of the *Local Government Act 1999* that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999*, that the extended lease over council owned Land at 10 Meyer Road, Lonsdale and the minutes and the report of the Council relating to discussion of the subject matter be kept confidential until the end of all current and future contractual arrangements between the parties.
- b. That, pursuant to section 91(9)(a) of the *Local Government Act 1999*, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.
- c. That, pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.

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### 3.5 Audit, Risk, Value and Efficiency Committee meeting confidential minutes of 22 June 2020

(Item 14.5 adjourned from Council meeting 21/7/20)

1. Exclusion of the public

That:

- a. under the provisions of Section 90(2) of the *Local Government Act 1999* an order be made that the public, with the exception of staff on duty, be excluded from attendance at the meeting in order to consider this item in confidence.
- b. the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Council to consider the report at the meeting on the following grounds:  
Section 90(3)(e) matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person.
- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

2. Confidential recommendations

3. Period of confidentiality and delegations

- a. That the matter of Audit, Risk, Value and Efficiency Committee meeting confidential minutes of 22 June 2020 having been considered by the Council in confidence under sections 90(2) and 90(3)(e) of the *Local Government Act 1999* that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the agenda report, discussion and minutes of the Council relating to the subject matter be kept confidential.
- b. That, pursuant to section 91(9)(a) of the *Local Government Act 1999*, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.
- c. That, pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.

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### 3.6 CEO Performance Management Committee meeting minutes of 25 June 2020 re Appointment of Independent Advisor

(Item 14.6 adjourned from Council meeting 21/7/20)

#### 1. Exclusion of the public

That:

- a. under the provisions of Section 90(2) of the *Local Government Act 1999* an order be made that the public, with the exception of staff on duty, be excluded from attendance at the meeting in order to consider this item in confidence.
- b. the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Committee to consider the report at the meeting on the following grounds:

Section 90(3)(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead), in this instance being matters related to the terms and conditions of the employment contract for the Chief Executive Officer and

Section 90(3)(b) information the disclosure of which -

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

The Council is satisfied that it is reasonably foreseeable that the public disclosure or discussion of information concerning the contract of employment of a person at the meeting would be inconsistent with accepted principles of professional human resource management and that the commercial nature of the information that is presented in this report is not for broader public consumption.

- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

#### 2. Confidential recommendations

#### 3. Period of confidentiality and delegations

- a. That the matter of CEO Performance Management Committee meeting confidential minutes of 25 June 2020 re Appointment of Independent Advisor having been considered by the Council in confidence under sections 90(2) and 90(3)(a) and (b) of the *Local Government Act 1999* that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the agenda report, discussion and minutes of the Council relating to the subject matter be kept confidential with the exception that this information may be released to the Chief Executive Officer, the Director Corporate and City Services, Manager Human Resources, and that the name of the Independent Advisor and the value of the engagement be released once renewal of the term for the Independent Advisor appointment is finalised.

- b. That, pursuant to section 91(9)(a) of the *Local Government Act 1999*, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.
- c. That, pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.

### 3.7 CEO Performance Management Committee meeting minutes of 25 June 2020 re CEO Key Performance Areas and Key Performance Indicators

(Item 14.7 adjourned from Council meeting 21/7/20)

#### 1. Exclusion of the public

That:

- a. under the provisions of Section 90(2) of the *Local Government Act 1999* an order be made that the public, with the exception of staff on duty, be excluded from attendance at the meeting in order to consider this item in confidence.
- b. the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Committee to consider the report at the meeting on the following grounds:

Section 90(3)(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead), in this instance being matters related to the terms and conditions of the employment contract for the Chief Executive Officer and

The Council is satisfied that it is reasonably foreseeable that the public disclosure or discussion of information concerning the contract of employment of a person at the meeting would be inconsistent with accepted principles of professional human resource management and that the commercial nature of the information that is presented in this report is not for broader public consumption.

- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

#### 2. Confidential recommendations

#### 3. Period of confidentiality and delegations

- a. That the matter of CEO Performance Management Committee meeting confidential minutes of 25 June 2020 re CEO Key Performance Areas and Key Performance Indicators having been considered by the Council in confidence under sections 90(2) and 90(3)(a) of the *Local Government Act 1999* that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the agenda report, discussion and minutes of the Council relating to the subject matter be kept confidential until 20 April 2032 **(being seven years following the expiry of the CEO's contract in accordance with standard human resource recording keeping practices)**, with the exception that this information may be released to the Chief Executive Officer, the Director Corporate and City Services, Manager Human Resources, and the Independent Advisor
- b. That, pursuant to section 91(9)(a) of the *Local Government Act 1999*, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.
- c. That, pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.

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## 3.8 Strategic Directions Committee meeting confidential minutes of 7 July 2020

(Item 14.8 adjourned from Council meeting 21/7/20)

### 1. Exclusion of the public

That:

- a. under the provisions of Section 90(2) of the *Local Government Act 1999* an order be made that the public, with the exception of staff on duty, be excluded from attendance at the meeting in order to consider this item in confidence.
- b. the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Council to consider the report at the meeting on the following grounds:

Section 90(3)(j) information the disclosure of which—

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

The report is confidential at the request of Santos Tour Down Under until they advise council when the information can be released.

- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

### 2. Confidential recommendations

### 3. Period of confidentiality and delegations

- a. That the matter of Strategic Directions Committee meeting confidential minutes of 7 July 2020 having been considered by the Council in confidence under sections 90(2) and 90(3)(j) of the *Local Government Act 1999* that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the agenda report, discussion and minutes of the Council relating to the subject matter be kept confidential until we have confirmation from Santos Tour Down Under that this information can be released.
- b. That, pursuant to section 91(9)(a) of the *Local Government Act 1999*, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.
- c. That, pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.

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## 4. Leave of absence

Nil.

## 5. Mayor's Communication

### 5.1 Mayor's Report

#### Supplementary Election update – Mid Coast Ward

Nominations for the Mid Coast councillor position closed on 6 August 2020. The supplementary election is being held to fill a vacancy, following the resignation of Beau Cowan due to illness.

Residents of Mid Coast Ward and businesses enrolled to vote will automatically receive voting papers in the mail from 18 August 2020.

Voting papers can be returned via the reply paid envelope, or place it in the ballot box at **council's Noarlunga office**. Voting closes at 12 noon on 7 September 2020.

#### Go Local

We have launched our Go South – Go Local campaign, aimed at supporting local businesses to recover and grow amid COVID-19, showcasing the amazing products and services available in **the region, and promoting the incredible stories of Onkaparinga's business community**.

You can make a difference simply by buying local. Every dollar spent locally helps to rebuild our local economy, grow our local business community, ensure local people continue to be employed, and so much more!

To get involved you can:

- Look for local producers, suppliers and makers for everything you need
- Like, comment and share social media posts from your favourite local businesses
- And encourage friends and family to GO SOUTH - GO LOCAL too!

If you would like to know if a product or service you need is available in our region, check out the ON Business Directory to see the incredible range of options available to you. For business owners **we've developed a toolkit to help get involved and spread the Go South – Go Local message**.

Head to the ON Business website to learn how to download digital assets, receive an introductory pack including in-store displays, learn how to get your business listed in our free directory and gain access to events, business advice, offers and promotions.

[www.onbusinesspartnerprogram.com](http://www.onbusinesspartnerprogram.com)

Together we can help our economy recover, assist our business community to grow and showcase what our region has to offer.

#### RSPCA announcement

**Late last month we announced our partnership with the RSPCA to offer Australia's largest cat desexing program.**

Funded by RSPCA South Australia through a \$200,000 donation from a single donor and \$50,000 from the City of Onkaparinga, all Onkaparinga residents will be eligible to have their cats desexed, at no cost, **over the next two years by the veterinary team at RSPCA's Lonsdale animal shelter**. Subsidised cat desexing will also be available at several vet clinics in the Onkaparinga region.

We want people to enjoy having cats as pets, but when cats are having unwanted litters of several kittens, it can create a real problem for our city. Together, the RSPCA and Animal Welfare League receive over 10,000 unwanted kittens and cats at their shelter each year. Clearly, desexing cats is the answer.

We will also work with RSPCA South Australia to promote the three core elements of responsible cat ownership — desex, microchip and **'indoors at night'**. Responsible cat ownership is good for cats, good for wildlife, and good for neighbours.

Onkaparinga residents will receive details about the desexing program this month. The first surgeries will begin in September, prior to the spring/summer kitten breeding season.

#### Meals on Wheels Christies Beach

I recently had the opportunity to volunteer with the Meals on Wheels volunteers at Christies Beach. Together with Katrine Hildyard MP, we were treated to a hands on morning of cooking, sorting and delivering to our wonderful local residents. A sincere thank you to all of the Volunteers who showed us the ropes, it was a great insight into your dedication to the community.

#### Your Say engagements

There are several projects up on our Your Say page now where residents can provide feedback and help shape the decisions that affect our region and communities.

Your Say Onkaparinga is our online platform designed to give you the opportunity to have a say on important issues.

Engagements currently open include:

- Your Voice Matters – a questionnaire campaign designed to hear from young people (aged 8-30), their families and community that live, work, play and learn in the City of Onkaparinga. Your feedback will contribute to future planning for the city and Onkaparinga Youth programs and activities.
- The design of the proposed \$3.1 million Morton Road Sports and Community Hub at Christie Downs, and a separate engagement on its skate park.

Register now at [onkaparingacity.com/yoursay](https://onkaparingacity.com/yoursay) to join the conversation and add ideas and feedback.

#### Mayor's Garden Competition

For beginners or experienced green thumbs, the community can **get involved in this year's Mayor's Garden Competition**. Nominations are open 18 September 2020.

There are four categories to enter – urban, rural, school and community – with prizes up for grabs.

There are so many amazing gardens in the City of Onkaparinga – **let's celebrate them and their creators**. The competition recognises local gardeners and encourages community interest in local gardens that enhance the presentation and liveability of our city.

Details on the competition, including how to nominate, are available on our website – just **search mayor's garden competition at [onkaparingacity.com](https://onkaparingacity.com)**.

Upcoming events: Shimmer, Southern Deadly Yarns & National Science Week

**We've got some exciting events coming up** – both in person and online – over the coming months, suitable for all ages. For the youngsters, Onkaparinga Libraries is hosting a free series of online events around National Science Week, celebrating our marine environments. The program (suitable for ages 5+) runs until 28 August 2020 and there are sessions involving virtual reality, learning about oil spills and plastic pollution, making boats, a book group and even computer programming.

Onkaparinga Libraries is also launching a new series of digital Aboriginal author talks from Monday 24 August 2020, starting with award-winning writer Bruce Pascoe, author of the fantastic *Dark Emu*. Southern Deadly Yarns will examine topics including truth telling, recognition and what makes a good yarn, and the series is presented in partnership with Neporendi Aboriginal Forum.

**We'll be revealing some more names in the series soon, but rest assured there'll be some more fantastic authors involved.** And finally, our renowned biannual photography festival, Shimmer, kicks off on 11 September 2020 and boasts an incredible line-up of artists with exhibitions across the city. Head to the events tab at [onkaparingacity.com](http://onkaparingacity.com) for all the details on these events and more.

#### Correspondence

Att 1	Minister for Regional Health, Regional Communications and Local Government Federal Member for Parkes	Regional Connectivity program applications now open
Att 2 & Att 3	Minister for the Environment	Thank you letter concerning the restoration of shellfish reefs in the City of Onkaparinga and further letter regarding future funding allocation
Att 4	Federal Member for Mayo	Support for constituents of Mayo
Att 5	Chair of State Planning Commission	<b>South Australia's new planning system covering the state's outback and rural areas</b>
Att 6	Chair of State Planning Commission	Thanking Council for submission on the Productive Economy Policy Discussion Paper
Atts 7, 7a and 7b	Local Government Association of South Australia	Greater Adelaide Regional Organisation of Councils (GAROC) Strategic Plan 2019-23 and Annual Business Plan 2020-21
Att 8	Chair of Green Adelaide Board	Grassroots Grants Program applications now open
Att 9	Presiding Member, Environment Protection Authority	My letter regarding proposed storage and disposal of PFAS-contaminated waste at the McLaren Vale landfill site

#### Representation at events

Thank you to Deputy Mayor Geoff Eaton for representing me at the following events:

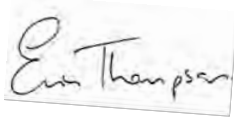
31 July 2020	Fleurieu Arthouse SALA event
1 August 2020	Hopgood Theatre Country Arts opening event
13 August 2020	Coast FM radio session

### Mayor's calendar

My activities between 18 July and 14 August 2020 are reflected in Attachment 10.

The Deputy Mayor's activities are reflected in Attachment 11.

Thank you.



Erin Thompson  
Mayor

### Recommendation

That Council note the 18 August **2020 Mayor's report**.

Attachment 1

**Sent:** Thursday, 30 July 2020 3:02 PM**Subject:** Regional Connectivity Program - applications now open [SEC=UNCLASSIFIED]

Please see below a message from the Hon Mark Coulton MP, Minister for Regional Health, Regional Communications & Local Government regarding the Regional Connectivity Program. Any enquiries should be sent to [RegionalConnectivity@communications.gov.au](mailto:RegionalConnectivity@communications.gov.au) as outlined below.

Dear Mayor

The Australian Government has committed up to \$53 million to a new Regional Connectivity Program (the Program) to improve access to and participation in the digital economy in regional, rural and remote Australia. The Program will provide targeted, place-based investment in telecommunications infrastructure projects which facilitate economic and social opportunities in communities that are not classified as in a Major Urban area and that are outside the existing NBN fixed-line footprint.

I am pleased to advise that the Government has now opened the competitive assessment process for the Program and is calling for applications. Details on how to apply for Program funding and the assessment criteria for eligible projects may be found in the Program Guidelines, available via the Government's GrantConnect website at [www.grants.gov.au](http://www.grants.gov.au). Applications are due by 5:00pm AEDT on 20 October 2020.

As part of the application process, the Government has launched a project noticeboard to help interested parties to form partnerships with the telecommunications sector and to develop applications for Program funding.

I invite you to encourage local businesses, community organisations and other interested parties to view, upload and share potential projects at [www.communications.gov.au/what-we-do/internet/regional-connectivity-program/regional-connectivity-program-noticeboard](http://www.communications.gov.au/what-we-do/internet/regional-connectivity-program/regional-connectivity-program-noticeboard). The noticeboard will be available until the closing date for applications.

Further information on the Program and the project noticeboard can be obtained by contacting the Department of Infrastructure, Transport, Regional Development and Communications at [RegionalConnectivity@communications.gov.au](mailto:RegionalConnectivity@communications.gov.au).

I look forward to your support for this important Program which will deliver improved digital connectivity to regional, rural and remote Australia.

Yours sincerely

**Mark Coulton MP**  
**Minister for Regional Health, Regional Communications and Local Government**  
**Federal Member for Parkes**



**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

MC20-008258

15 JUL 2020

Mayor Erin Thompson  
City of Onkaparinga  
PO Box 1  
NOARLUNGA CENTRE SA 5168

Dear Mayor

Thank you for your letter of 10 June 2020 concerning the restoration of shellfish reefs in the City of Onkaparinga.

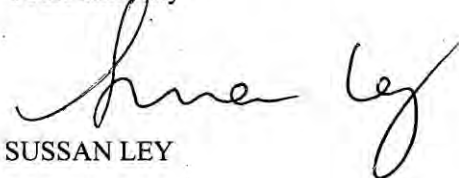
The Nature Conservancy's shellfish reef restoration work at several sites around Australia, including in South Australia, has been brought to my attention. The Australian Government contributed funding from the Building Better Regions Fund to The Nature Conservancy for the construction of the 20-hectare Windara Reef in the Gulf St Vincent, South Australia.

This work demonstrates how partnerships between governments, businesses and communities can help to restore coastal and marine ecosystems and, in turn, support economic recovery and prosperity.

The Australian Government is making a significant investment through the \$1 billion COVID-19 Relief and Recovery Fund and the \$2 billion National Bushfire Recovery Fund to support regions, communities and industry sectors rebuild from these crises. We will continue to tailor support to meet the needs of communities and industries that need assistance.

Thank you for raising this matter with me and outlining the potential benefits of shellfish reef restoration in the City of Onkaparinga.

Yours sincerely



SUSSAN LEY



**THE HON SUSSAN LEY MP  
MINISTER FOR THE ENVIRONMENT  
MEMBER FOR FARRER**

Councillor Erin Thompson  
Mayor  
City of Onkaparinga  
PO Box 1  
NOARLUNGA CENTRE SA 5168

MC20-010756

31 JUL 2020

Dear Mayor

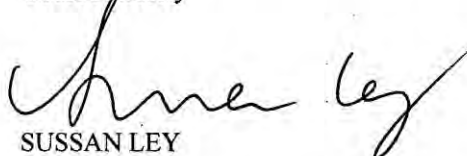
Thank you for your letters of 16 July 2020 to the Minister for Agriculture, Drought and Emergency Management, the Hon David Littleproud MP and myself, concerning the restoration of shellfish reefs in the City of Onkaparinga.

Thank you for sharing your positive views on the Australian Government's \$1 billion COVID-19 Relief and Recovery Fund. I note your request for a contribution from the Fund to support the restoration of two shellfish reef sites within the City of Onkaparinga.

Further to my letter to you of 15 July 2020, the Government is considering future allocations from the Fund and will continue to tailor support to meet the needs of communities and industries that need assistance.

Thank you for writing on this matter. I have copied this letter to the Minister for Agriculture, Drought and Emergency Management, the Hon David Littleproud MP.

Yours sincerely



SUSSAN LEY

CC: The Hon David Littleproud MP, Minister for Agriculture, Drought and Emergency Management



**Rebekha Sharkie MP**  
Federal Member for Mayo



The Hon Corey Wingard MP  
Minister for Infrastructure and Transport  
GPO Box 668  
ADELAIDE SA 5001

Attachment 4

Dear Minister 

**MAIN SOUTH ROAD DUPLICATION PROJECT**

I write to you on behalf of my constituents of Mayo who live near Main South Road, especially the residents in and around Aldinga, Sellicks Beach, Myponga, Yankalilla and Normanville.

My communities remain very thankful that Stage 1 of the duplication project (Seaford to Aldinga) is proceeding. On their behalf, I wish to seek clarity on Stage 2 of the project (Aldinga to Sellicks).

Noting that Stage 1 is estimated to be completed by the June quarter of 2022, may I kindly inquire how much is Stage 2 estimated to cost, and when the State Government will likely be in a position to confirm that the Stage will proceed?

Further, I have received inquiries from several constituents about the incorporation of bicycle lanes in Stage 1 of the project (Seaford to Aldinga).

Can the State Government please provide an update on the inclusion and alignment of bicycle lanes in Stage 1 of the project?

Thank you in advance for your assistance on this issue; I look forward to your response.

Yours sincerely



**REBEKHA SHARKIE MP**  
Federal Member for Mayo

3 / 8 / 2020

Cc City of Onkaparinga  
Cc District Council of Yankalilla

Electorate Office: Shop 1, 72 Gawler Street (PO Box 1601) Mount Barker SA 5251

Document Set ID: 5249040 8398 5566 Fax: 08 8398 5577 Email: rebekha.sharkie.mp@aph.gov.au Web: www.rebekhasharkie.com.au  
Version: 1, Version Date: 05/08/2020

#15836343

31 July 2020

Council Mayor and Chief Executive – Phase Three  
Via email



STATE  
PLANNING  
COMMISSION

Level 5, 50 Flinders Street  
Adelaide SA 5000

GPO Box 1815  
Adelaide SA 5001

08 7109 7466  
saplanningcommission@sa.gov.au

Dear Mayor/Chief Executive,

I am pleased to announce that South Australia's new planning system covering the state's outback and rural areas has been implemented and is now live as of 31 July 2020.

The activation of the new planning system for outback and rural areas marks a major milestone for planning and development in South Australia, as the state moves a step closer to the full implementation of Australia's first state wide ePlanning platform.

Those living and working in the state's outback and rural areas now have access to clear and consistent planning policies. Development applications can now be submitted and tracked from the comfort of people's homes, offices or whilst on the go using a mobile, tablet or computer.

The ePlanning platform brings together the new PlanSA Portal, the online Planning and Design Code (the Code), the South Australian Property and Planning Atlas and the electronic Development Application Processing system. The online ePlanning platform can be accessed via [www.plan.sa.gov.au](http://www.plan.sa.gov.au).

It is important to note that when accessing the Phase Two Planning and Design Code in the ePlanning platform, only addresses in outback and rural areas of the state will display results. Metropolitan addresses, whilst able to be entered, will not display a result as the Phase Three Planning and Design Code has not yet been added to the ePlanning platform.

Prior to activation the Code was refined and improved following the Minister for Planning's approval of the Commission's formal Engagement Report. The report, released in June, summarises how the Code for the state's rural areas has been altered following an 8-week public consultation period. During the public consultation period more than 230 submissions were received and over 70 consultation events conducted, with all feedback considered by the State Planning Commission.

The final phase of South Australia's new planning system covering urban and metropolitan areas is under active consideration and on track to be implemented later this year.

We value and appreciate your continued involvement as we work towards a state wide planning system that simplifies and strengthens the planning and development process for all. The new system will produce a platform to shape the communities we want to live and work in, both now and into the future.

For more information and to access support materials including a Guide to the Phase Two Code, FAQs, videos and webinars, visit the [PlanSA Portal](http://PlanSA Portal), email [DPTI.PlanSA@sa.gov.au](mailto:DPTI.PlanSA@sa.gov.au) or call the PlanSA Service Desk on 1800 752 664.

SAPLANNINGCOMMISSION.SA.GOV.AU



Government of South Australia

Department of Planning,  
Transport and Infrastructure

Should you have any questions in regards to the implementation of the new planning system or wish to provide feedback on the ePlanning platform please don't hesitate to contact your Council Liaison Officer directly.

Yours sincerely,



**Michael Lennon**  
Chair



Attachment 6

17 June 2020

Mayor Erin Thompson  
City of Onkaparinga  
PO Box 1  
NOARLUNGA SA 5168

Via email: [mail@onkaparinga.sa.gov.au](mailto:mail@onkaparinga.sa.gov.au)

State Planning Commission

Level 5  
50 Flinders Street  
Adelaide SA 5000

GPO Box 1815  
Adelaide SA 5001

08 7109 7466

Dear Mayor Thompson,

**Re: Productive Economy Policy Discussion Paper**

I write to you in response to the City of Onkaparinga's submission on the *Productive Economy Policy Discussion Paper*, released by the State Planning Commission (the Commission) as part of *The Blueprint for South Australia's Planning and Design Code* in late 2018.

Firstly, I wish to thank Council for the considerable time and effort it has invested into the preparation of submissions, particularly in regard to the draft Planning and Design Code (the Code) itself. I can assure you that we are listening to your feedback and we are constantly seeking to work with your key staff to help ensure that the Code is a success story for our communities when it goes live for Phase Three Council areas later this year.

I note that it is not usual practice for the Commission or the Department of Planning, Transport and Infrastructure (the Department) to provide specific responses to individual submissions made on policy papers of this nature, due principally to the large number of responses received. I also note that the Commission released a comprehensive *What We Have Heard Report* in response to the submissions received on the discussion paper in June 2019. Both reports remain available via the SA Planning Portal.

In assembling the discussion paper and its accompanying background paper, the Commission sought the expertise of two independent advisory firms – SGS Economics and Planning, and Deloitte Access Economics. The Department's Population and Demographic Research Unit also provided extensive information on population projections, demographic analyses and housing and land supply trends for South Australia. Much of the detailed analysis used to inform the discussion paper is contained in the accompanying background paper, which also remains available via the SA Planning Portal.

Under the *Planning, Development and Infrastructure Act 2016*, part of the role of the Commission is to promote the principles of good planning, encourage state-wide economic growth and liveability and act in the best interests of all South Australians. The Commission sets the planning framework for the state, acting on the advice and expertise of the Department, partner agencies

#15615258

[saplanningcommission.sa.gov.au](http://saplanningcommission.sa.gov.au)

Government of South Australia  
Department of Planning,  
Transport and Infrastructure

and other sectors. Importantly, the Commission is not responsible for the state's population growth and migration policy agendas – these are set by the government and administered by the Department of Premier and Cabinet.

Notwithstanding South Australia's current low rates of population growth, the State Government and the Commission are acutely aware of the challenges posed by a growing population and urban footprint.

As you know, the Commission has partnered with Council on the Metropolitan Growth Management pilot program, which will help build a better understanding of the land supply and infrastructure needs of our growth areas into the future.

Our state's unique legacy of good planning has shown that a strategic response to our growth challenges can be used to build prosperity, liveability and sustainability for the South Australian community. I look forward to continuing to partner with Council to deliver these outcomes.

Yours sincerely,



Michael Lennon  
**CHAIR**



The voice of local government.

In reply please quote our reference: ECM 714958 TC/MD

30 July 2020

Mayor Erin Thompson  
Mayor  
City of Onkaparinga  
PO Box 1  
NOARLUNGA CENTRE SA 5168  
Emailed: [erin.thompson@onkaparinga.sa.gov.au](mailto:erin.thompson@onkaparinga.sa.gov.au)

Dear Mayor Thompson

**GAROC Annual Business Plan 2020-21 and Strategic Plan 2019-2023**

As chair of the LGA's Greater Adelaide Regional Organisation of Councils (GAROC) committee, I am writing to provide you with a copy of the revised GAROC Strategic Plan 2019-23 and the Annual Business Plan 2020-21<sup>11</sup>.

Following significant engagement and input from metropolitan councils, these important documents have been endorsed by the LGA Board of Directors. I would like to take this opportunity to thank all mayors, elected members and council staff for providing written submissions and verbal feedback during our consultations.

Overwhelmingly, member councils expressed a view that GAROC should prioritise the economic development and undertake actions to support local government's role in economic and social recovery from the Covid-19 pandemic.

Over the next 12 months, GAROC will build on our recent webinar series and work with metropolitan councils to further explore how community hubs can be rejuvenated to maximise economic vitality and social wellbeing.

We will also advocate for the reinstatement of the State/Local Government Red Tape Taskforce to ensure government continues to support local business as they recover from the impact of Covid-19, including strengthening member council commitments to the Small Business Friendly Council initiative.

Other priority actions have been identified to continue our collective advocacy on the planning reforms, including heritage and infill issues, support for State and local government collaboration on climate change, as well as contributing to projects on coastal management and food waste.

In all our actions, we will continue to listen to and represent the interests of all metropolitan councils.

I encourage you to familiarise yourself with these documents and consider how we can come together for the benefit of our communities and give every South Australian the best local government experience.

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<sup>11</sup> <https://www.lga.sa.gov.au/about-lga/lga-meetings/garoc>



**Local Government Association**  
of South Australia

The voice of local government.

If you have any questions about GAROC please do not hesitate to contact me directly or email  
Lea Bacon, Director Policy (LGA) at: [Lea.Bacon@lga.sa.gov.au](mailto:Lea.Bacon@lga.sa.gov.au).

Yours sincerely



Mayor Karen Redman

**Chairperson - Greater Adelaide Region Organisation of Councils (GAROC)**

Email: [lga@lga.sa.gov.au](mailto:lga@lga.sa.gov.au)

Attach: ECM 671987 – GAROC Strategic Plan 2019-2023  
ECM 708594 – GAROC Annual Business Plan 2020-21

## Greater Adelaide Regional Organisation of Councils

Strategic Plan 2019-2023



## Chair's forward

I have pleasure in presenting the Greater Adelaide Regional Organisation of Councils (GAROC) Committee's Strategic Plan 2019-23 (*revised in May 2020*).

Metropolitan councils play an essential role in the long-term prosperity, sustainability and wellbeing of the Greater Adelaide community. GAROC is a strong, united voice for metropolitan councils and represents their shared interests for the benefit of the Greater Adelaide community.

As a committee of the LGA, GAROC will play a key role in regional advocacy, policy initiation and review, leadership, engagement and capacity building on behalf of the 19 member councils within the metropolitan region. We listen to and represent our members and make decisions openly and transparently.

We will work in close partnership with metropolitan councils, in addition to regional councils, State and Federal Governments and their departments, and other sector and industry bodies as the need arises.

We will also promote and facilitate information sharing, communication and collaboration between metropolitan councils.

GAROC has identified four strategic themes that will guide our work over the next four years. These are:

1. Economic Development
2. Design, Planning and Placemaking
3. Environmental Reform
4. Reform and Innovation

Each year GAROC will consult with metropolitan councils and adopt an Annual Business Plan that outlines the priority actions and outcomes that we will work with our members and strategic partners to progress to progress our strategic objectives.

I look forward to working with our members and key stakeholders on implementing this plan over the next four years.

Mayor Karen Redman

Chair

Greater Adelaide Regional Organisation of Councils

### GAROC's Vision

For every South Australian to have the best local government experience

### GAROC's Mission

*To provide advocacy, policy initiation and review, leadership, engagement and capacity building in collaboration with the LGA for the benefit of metropolitan South Australian councils and their communities*

GAROC will undertake the following important roles, which will drive its strategic objectives and underpin achievement of its vision and mission.

Role	GAROC will:
<b>Regional Advocacy</b>	Represent members' interests on issues that matter to all metropolitan councils
<b>Policy Initiation and Review</b>	Develop policy that is of strategic importance to all metropolitan councils.  Review items of business put forward by member councils and advise on policy matters as requested by the LGA.
<b>Leadership</b>	Initiate actions and lead activities that provide benefit to all metropolitan councils.  Develop and maintain relationships with state and federal governments.
<b>Engagement and Capacity Building in the Region(s)</b>	Engage with members within the GAROC Regional Group and keep them informed of the activities of GAROC.  Actively promote communication between members and between members and the LGA.

## About the LGA

The Local Government Association of South Australia (LGA) is a peak membership body that provides leadership, support and services to member councils.

Membership of the LGA is voluntary, but all 68 of South Australia's councils are members. In 2019, the estimated value of LGA membership has been independently verified by UHY Haines Norton as being almost \$2.5 million per council.

The LGA is governed by a Board of Directors comprised of mayors and councillors, which provides oversight of the Association's corporate governance.

Two separate bodies – the Greater Adelaide Regional Organisation of Councils (GAROC) and the South Australian Regional Organisation of Councils (SAROC) – are established under the LGA's Constitution to review and develop policy positions for the sector and provide strategic advice to the LGA Board.

Member councils have the opportunity to provide input into LGA policies and advocacy through two general meetings every year.

The LGA has also established separate commercial entities to provide services to members, which include LGASA Mutual, LGASA Commercial, and LGA Procurement.

The Local Government Act 1999 specifies that:

*The LGA is constituted as a public authority for the purpose of promoting and advancing the interests of local government and has the objects prescribed by its constitution.*

The object of the LGA is to achieve public value through the promotion and advancement of the interests of local government by:

- **advocating** to achieve greater influence for local government in matters affecting councils and communities;
- **assisting** Members to build capacity and increase sustainability through integrated and coordinated local government; and
- **advancing** local government through best practice and continuous improvement.

## About GAROC – what we do

The Greater Adelaide Regional Organisation of Councils (GAROC) is a committee of the LGA, established under its Constitution. The member councils of GAROC are listed at **Attachment 1**.

We are responsible to the LGA Board of Directors for the discharge of our functions.

Under the Terms of Reference, adopted by the LGA membership, GAROC has a key role in regional advocacy, policy initiation and review, leadership, engagement and capacity building.

The GAROC Committee supports the LGA to 'advocate, assist, and advance' the interests of local government by:

1. Supporting the activities of the LGA at a regional level;
2. Promoting communication between Members and between Members and the LGA;
3. Advocating in respect of matters which affect the GAROC Regional Group;
4. Encouraging engagement of Members within the GAROC Regional Group with GAROC and the LGASA; and
5. Participating in policy development and implementation.

## Our guiding principles

As an organisation working to promote and deliver on behalf of metropolitan South Australia, GAROC has developed the following guiding principles we will operate under.

We will:

1. Be community centered and put people first in our decision making.
2. Prioritise and address issues that are common across the metropolitan region.
3. Carefully consider items of business from any member of the metropolitan area or items raised independently by GAROC members, for consideration by the LGA Board of Directors or at a General Meeting.
4. Collaborate closely with the LGA and SAROC on issues that matter to metropolitan councils.
5. To be nimble, agile and responsive to the needs of metropolitan councils.

## Our stakeholders & partners

GAROC recognises that to be successful and deliver value for metropolitan councils we need to work in close collaboration and engagement with our key stakeholders and partners. These are:

- Metropolitan councils.
- The South Australian Regional Organisation of Councils (SAROC) Committee.
- State Government
- Federal Government
- Members of Parliament
- Other peak bodies, associations and statutory authorities



## Strategic themes and objectives

This Strategic Plan identifies four themes and objectives for GAROC to deliver on over the next four years. They have been identified having considered LGA annual member surveys, a broad ranging environmental scan and developed in consultation with metropolitan councils.

These themes and objectives will form the basis of GAROC's Annual Business Plans, which will be developed each year to guide the activities, actions and engagement of GAROC.

### **Theme 1: Economic Development**

GAROC recognises that local government's significant investment in infrastructure and services is a driver of the local economy. A strong state economy is underpinned by a financially sustainable local government sector that promotes its area and provides an attractive climate and locations for the development of business, commerce, industry and tourism.

GAROC recognises the important role of councils to enable, facilitate and enhance local economic opportunities. With the right policy settings and partnerships, councils can help to create the best conditions for local businesses to grow and thrive.

*Objective: Enable advocacy and partnership opportunities that recognise the specific needs and opportunities in metropolitan Adelaide and assist councils to contribute to creating conditions for productivity that supports sustainable job growth and pathways to employment.*

*Objective: Support member councils to play their important role in stimulating the economic and social recovery of their communities in post COVID-19 recovery.*

### **Theme 2: Design, Planning and Placemaking**

GAROC recognises the importance of good decision making that enhances the built environment and supports well-considered planning processes that achieve quality design outcomes and the preservation of character and local heritage.

*Objective: Advocate to the State Government and Parliament to ensure that South Australia's planning system reflects leading practice, facilitates better design outcomes and supports local decision making.*

*Objective: Provide assistance and resources to metropolitan councils that support their important role as local place makers and custodians of public spaces.*

### **Theme 3: Environmental Reform**

GAROC acknowledges local government's role in protecting and enhancing the environment and recognises that climate change poses a serious risk to local communities and ecosystems. GAROC also recognises the important role councils play in providing high quality, innovative and sustainable waste management services that meet the needs of the community.

*Objective: Support LGA advocacy to State and Federal Government and assists member councils to ensure that all levels of government undertake mitigation and adaptation actions that reduce climate risks and build community resilience.*

*Objective: Support councils to improve waste and recycling practices and deliver viable and innovative waste services that meet the needs of the community and grow the Circular Economy and advocate for State and Federal Government legislation, policies, funding and programs that will enable and support these outcomes.*

**Theme 4: Reform and Innovation**

GAROC recognises the opportunity to work with metropolitan councils to lead reform and innovations that enhance decision making, build community trust and drive downward pressure on council rates.

*Objective: Assist councils to enhance local government through innovations in benchmarking, systems thinking, data management and engagement processes.*

**Strategic Plan Implementation and Review**

Under GAROC's Terms of Reference, the Committee is required to:

- develop an Annual Business Plan which supports the delivery of the Strategic Plan;
- present its Strategic Plan and Annual Business Plan to the Board of Directors for approval by June each year;
- assess its performance against this Strategic Plan and the Annual Business Plan each quarter; and
- provide an Annual Report to the Board of Directors by September each year summarising its performance against the Strategic Plan and Annual Business Plan.

The GAROC 2019-20 Annual Business Plan provides the specific actions against which the activities of GAROC may be monitored.

## Attachment 1

### Regional Groupings of Members within GAROC – effective 29 October 2020.

GAROC Regional Grouping	Members
North	Gawler Playford Salisbury Tea Tree Gully
West	Charles Sturt Holdfast Bay Port Adelaide Enfield West Torrens
South	Marion Mitcham Onkaparinga
East	Adelaide Hills Bumside Campbelltown Norwood Payneham & St Peters Prospect Unley Walkerville
	Adelaide

## **GAROC Annual Business Plan 2020-21**





## Introduction

The Greater Adelaide Region Organisation of Councils (GAROC) is a committee established by the Local Government Association of South Australia (LGA). It is responsible to the LGA Board of Directors for the discharge of its functions.

One of the functions of GAROC is to develop a four-year Strategic Plan in consultation with metropolitan councils. GAROC's Strategic Plan for the period 2019-2023 should be read in-conjunction with this Annual Business Plan. This revised Strategic Plan 2019-23 identifies four strategic themes and objectives. These are:

### Theme 1: Economic Development

GAROC recognises that local government's significant investment in infrastructure and services is a driver of the local economy. A strong state economy is underpinned by a financially sustainable local government sector that promotes its area and provides an attractive climate and locations for the development of business, commerce, industry and tourism.

GAROC recognises the important role of councils to enable, facilitate and enhance local economic opportunities. With the right policy settings and partnerships, councils can help to create the best conditions for local businesses to grow and thrive.

**Objective: Enable advocacy and partnership opportunities that recognise the specific needs and opportunities in metropolitan Adelaide and assist councils to contribute to creating conditions for productivity that supports sustainable job growth and pathways to employment.**

**Objective: Support member councils to play their important role in stimulating the economic and social recovery of their communities in post COVID-19 recovery.**

### Theme 2: Design, Planning and Placemaking

GAROC recognises the importance of good decision making that enhances the built environment and supports well-considered planning processes that achieve quality design outcomes and the preservation of character and local heritage.

**Objective: Advocate to the State Government and Parliament to ensure that South Australia's planning system reflects leading practice, facilitates better design outcomes and supports local decision making.**

**Objective: Provide assistance and resources to metropolitan councils that support their important role as local place makers and custodians of public spaces.**

### Theme 3: Environmental Reform

GAROC acknowledges local government's role in protecting and enhancing the environment and recognises that climate change poses a serious risk to local communities and ecosystems. GAROC also recognises the important role councils play in providing high quality, innovative and sustainable waste management services that meet the needs of the community.

**Objective: Support LGA advocacy to State and Federal Government and assists member councils to ensure that all levels of government undertake mitigation and adaptation actions that reduce climate risks and build community resilience.**



**Objective: Support councils to improve waste and recycling practices and deliver viable and innovative waste services that meet the needs of the community and grow the Circular Economy and advocate for State and Federal Government legislation, policies, funding and programs that will enable and support these outcomes.**

#### **Theme 4: Reform and Innovation**

GAROC recognises the opportunity to work with metropolitan councils to lead reform and innovations that enhance decision making, build community trust and drive downward pressure on council rates.

**Objective: Assist councils to enhance local government through innovations in benchmarking, systems thinking, data management and engagement processes.**

### **Reporting and Approval Process**

This Annual Business Plan links the key activities that the GAROC will undertake on an annual basis to support the implementation of the Strategic Plan.

The GAROC Annual Business Plan will be supported by a budget to cover anticipated expenses of the proposed activities to be undertaken during the financial year.

The GAROC Annual Business Plan and budget is required to be presented to the LGA Board of Directors for approval by June each year.

On a quarterly basis, GAROC will assess its performance against the Strategic Plan and Annual Business Plan and provide a report to the LGA Board of Directors and member councils.

### **Other Plans**

The GAROC recognises the work of other organisations and their plans which support the business of the GAROC, these other plans include:

1. The LGA Strategic Plan and Annual Business Plan
2. The LGA Advocacy Plan
3. LGA Work Plans
4. The LGA Research and Development Fund Annual Business Plan



## GAROC Annual Business Plan 2020-21

### Theme 1: Economic Development

**Objective:** Enable advocacy and partnership opportunities that recognise the specific needs and opportunities in metropolitan Adelaide and assist councils to contribute to creating conditions for productivity that supports sustainable job growth and pathways to employment.

**Objective:** Support member councils to play their important role in stimulating the economic and social recovery of their communities in post COVID-19 recovery.

Actions	Milestone	Proposed Outcomes	Budget / Resources	Link to GAROC role
<p><b>Supporting economic development – advocacy</b></p> <p><b>Economic stimulus and local recovery</b></p> <p>Support LGA advocacy to Federal and State governments for funding, initiatives and legislation that assists councils to support businesses and communities to respond and recover from the COVID-19 pandemic.</p> <p><b>Reducing red tape</b></p> <p>Advocate for the reinstatement of the State/Local Government Red Tape Taskforce and seek opportunities for all levels of government to work proactively to simplify decision-making, planning and administration policies and practices.</p>	June 2021	<p>GAROC will listen to and represent the interests of metropolitan councils, and advocate for funding, policy and legislation that supports economic and social recovery from the COVID-19 pandemic.</p> <p>Key opportunities for future advocacy will arise from the COVID-19 pandemic. GAROC will seek opportunities to consult with member councils to inform and support written submissions to influence the response from State and Federal government.</p> <p>Reinstatement of the State/Local Government Red Tape Taskforce would ensure government continues to support local business as they recover from the impact of COVID-19, including strengthening member council commitments to the Small Business Friendly Council initiative.</p>	<p>LGA Secretariat</p> <p>\$50,000 budget allocation in 2020-21 to support actions in the Economic Development theme - for research and workshops identified in the actions.</p>	<p>Policy initiation and review</p> <p>Leadership</p> <p>Regional advocacy</p>



<p><b>Supporting economic development – assistance</b></p> <p><b><i>Collaboration and Leadership</i></b></p> <p>Host a series of workshops to inform local government's role in economic and community recovery from COVID-19.</p> <p><b><i>Strategy and purpose</i></b></p> <p>Commissioning an assessment to develop an understanding of State and federal government policies and initiatives that support local government's economic development role and a framework for the economic development strategies within metropolitan councils.</p>	June 2021	<p>Efforts to support economic recovery from the impacts of COVID-19 provides an opportunity for GAROC to bring metropolitan councils together to encourage a culture of collaboration and further participate in existing networks to build and maintain effective relationships with key stakeholders.</p> <p>GAROC will bring together Economic and Community Development practitioners within councils to drive a cohesive approach, cross-collaboration, innovation and build the evidence base for meaningful partnerships with local businesses, not-for-profit groups and other stakeholders to identify practical actions and activities that stimulate economic and community development in their areas.</p> <p>Metropolitan councils come together to collaborate and build partnerships with each other and with other agencies, authorities and organisations that have a complementary role in economic and community development.</p> <p>Metropolitan councils are assisted to adopt a customer service approach to support economic development to make it easier to do business in South Australia.</p> <p>Metropolitan councils are aware of and are supported to align their key objectives and priorities to leverage funding support from Federal and State government policies and initiatives.</p>	As above.	<p>Regional advocacy</p> <p>Leadership</p> <p>Policy initiation and review</p> <p>Leadership</p> <p>Regional advocacy</p>
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## Theme 2: Design, Planning and Placemaking

*Objective: Advocate to the State Government and Parliament to ensure that South Australia's planning system reflects leading practice, facilitates better design outcomes and supports local decision making.*

*Objective: Provide assistance and resources to metropolitan councils that support their important role as local place makers and custodians of public spaces.*

Action	Milestone	Proposed outcomes	Budget	Link to GAROC role
<p><b>Heritage</b></p> <p>Engage with metropolitan councils further understand and represent their interests on local heritage issues.</p> <p><b>Infill</b></p> <p>Undertake a review of the Planning and Design Code with respect to the impacts of infill development in consultation with councils.</p>	June 2021	<p>Listen and represent the interest of metropolitan councils and advocate for planning reform that supports quality design outcomes that complement and preserve the special qualities of local communities.</p> <p>There is an opportunity for GAROC member councils to support strong advocacy on the Planning and Design Code. It is important for the local government sector to assist in ensuring that the planning system underpins the ability of councils to deliver sustainable developments and public spaces.</p>	LGA Secretariat \$40,000 budget allocation in 2020-21 for optional research and workshop activities as required, as identified by GAROC.	Regional advocacy Leadership



<b>Theme 3: Environmental Reform</b>				
<p><b>Objective:</b> Support LGA advocacy to State and Federal Government and assists member councils to ensure that all levels of government undertake mitigation and adaptation actions that reduce climate risks and build community resilience.</p> <p><b>Objective:</b> Support councils to improve waste and recycling practices and deliver viable and innovative waste services that meet the needs of the community and grow the Circular Economy and advocate for State and Federal Government legislation, policies, funding and programs that will enable and support these outcomes.</p>				
Action	Milestone	Proposed outcomes	Budget	Link to GAROC role
<p><b>Climate Change – coordination</b></p> <p>Support LGA advocacy to the State Government for</p> <ul style="list-style-type: none"> <li>the State - Local Government Climate Change Partnership Proposal; and</li> <li>renewal of the Regional Climate Partnerships – Sector Agreements</li> </ul> <p>by working with member councils and the Regional Climate Partnerships coordinators to clearly identify and communicate their success in delivering practical, proactive, and positive climate action.</p>	June 2021	<p>Build State Government awareness and appreciation for the practical outcomes of the Regional Climate Partnerships and activities being undertaken by member councils.</p> <p>Commence a <i>State - Local Government Climate Change Partnership Proposal</i> with the State Government to jointly progress actions that harness economic opportunity, reduce greenhouse gas emissions, and build resilience to climate risk.</p> <p>Renewed commitment and co-investment from the State Government in the eleven Regional Climate Partnerships (Resilient South, AdaptWest, Resilient East and Adapting Northern Adelaide are the Partnerships within Greater Adelaide).</p> <p>Realise the potential for greater collaboration and alignment between State and local government on climate change.</p> <p>Support capacity building in councils including climate risk in asset management, identifying sector-wide needs and</p>	LGA Secretariat \$10,000 budget allocation in 2020-21 for workshop activities and promotional materials as identified.	Regional advocacy



		improve understanding of state and federal government priorities and funding programs.		
<b>Coastal Management</b> Financial contribution to the activities and resourcing of the SA Coastal Council Alliance.	January 2021	Ensure the financial sustainability of SA Coastal Council Alliance, that the momentum generated through the early start-up phase of the Alliance is not lost, and that issues facing coastal councils continue to be strongly advocated and workable solutions implemented.	\$20,000	Regional advocacy
<b>Food Waste</b> Provide in-principal support to a proposal to partner with a supermarket chain to support community uptake of food waste recycling.	June 2021	Leverage opportunity from the Food Waste Recycling Proposal.  by providing waste recycling initiatives and education campaigns, partnering with councils and Green Industries SA (GISA) to provide kitchen caddies free through supermarkets.	\$50,000	Leadership



## Theme 4: Reform and Innovation

**Objective:** Assist councils to enhance local government through innovations in benchmarking, systems thinking, data management and engagement processes.

Action	Milestone	Proposed outcomes	Budget	Link to GAROC role
<b>Benchmarking, expenditure framework, service reviews and data</b>  Support LGA activities in sector-wide performance measurement and enhance integrated long-term asset and financial management.	June 2021	Metropolitan councils' issues sufficiently considered in local government reform and innovations.	Nil required from 2020-21 (\$70,000 allocated in 2019-20)	Engagement and capacity building  Leadership  Policy initiation and review
<b>Integrated service, asset management and financial planning</b>  Support the LGA's Local Government Asset Management Integration Program	June 2021	Maturity of metropolitan asset management plans assessed and increased understanding of integrated asset management to deliver better services and community outcomes.	Nil required from 2020-21 (\$30,000 allocated in 2019-20)	Leadership  Policy initiation and review
<b>Establishing GAROC regions</b>  Support councils in the transition to GAROC regions	June 2021	New GAROC regions will come into effect in October 2021.  After that time, subject to other priorities, GAROC may seek to bring interested councils together for a further workshop to discuss a consistent approach to the transition to a regionalised GAROC structure.	No significant allocation required.	Engagement and capacity building



**Local Government Association**  
of South Australia

The voice of local government.



Government of South Australia  
Green Adelaide Board

GA-D000008

**Green Adelaide Board**

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Adelaide SA 5001  
Tel 08 8463 3733

[DEW.GreenAdelaide@sa.gov.au](mailto:DEW.GreenAdelaide@sa.gov.au)  
[landscape.sa.gov.au](http://landscape.sa.gov.au)

Dear Mayor and Chief Executive

**\$1m in grants for community landscape management**

I am writing to bring to your attention to the Green Adelaide Board's (the Board) new Grassroots Grants program for community organisations and volunteers in the metropolitan area.

The Board is providing \$1 million in funding for the program, which will support individuals, volunteers, community groups and other bodies working on local projects that contribute to improved management of the environment.

Although councils are not eligible to apply, there is an important role you can play in promoting the Grassroots Grants program within your communities, particularly among those people and groups with an interest in the local environment.

Local government could also have a role as project sponsors. For example, non-incorporated organisations seeking a grant will need to partner with a legal entity, which would receive the grant and oversee expenditure. In return, the applicant's sponsor organisation would be able to recoup administration costs of up to 10% of the grant.

The Grassroots Grants will be available in three categories:

- up to \$10,000
- \$10,000 to \$50,000
- \$50,000 to \$150,000

The grants underpins two of the Board's operating principles: that community organisations and volunteers make an indispensable contribution to environmental work in our community, and the acknowledgment that councils play a significant role in supporting local communities.

I am excited by the opportunities that the grants present and look forward to seeing project ideas, which will help us progress towards being a climate resilient and ecologically vibrant city.

For more information, or to download application guidelines, visit Green Adelaide's [website](#) or email [DEW.GreenAdelaideGGP@sa.gov.au](mailto:DEW.GreenAdelaideGGP@sa.gov.au). Applications close on 16 September 2020

Regards,



**Chris Daniels**  
Chair, Green Adelaide Board

From the office of the Mayor  
City of Onkaparinga

Attachment 9

11 August 2020

Ref 5254608

Ms Catherine Cooper  
Presiding Member  
Environment Protection Authority  
GPO Box 2607  
ADELAIDE SA 5001  
Email: [engage.epa@sa.gov.au](mailto:engage.epa@sa.gov.au)

Dear Ms Cooper

#### **PFAS-contaminated waste at the McLaren Vale SWR site – further request**

I write to you again, following my letter of 17 June 2020, to raise the serious and significant concerns of myself, Council and the residents of the City of Onkaparinga regarding the proposed storage and disposal of PFAS-contaminated waste at the McLaren Vale landfill operated by ResourceCo Pty Ltd.

#### **Consultation**

I begin with our concerns regarding the consultation process undertaken by staff of the EPA. Council received a generic letter addressed to 'Dear all' in April 2020, as below

*I am writing to let you know that the Environment Protection Authority (EPA) has today sent a community update to residents surrounding the Southern Waste ResourceCo site at Tatachilla Road, McLaren Vale.*

*As you may be aware, SWR operates a landfill at this site and holds EPA licence #32682 to undertake activities of environmental significance.*

*On 21 February 2020, SWR sought EPA approval to receive, store, treat and dispose of waste contaminated with per-and polyfluoroalkyl substances (PFAS). The EPA is now assessing SWR's proposal against the landfill acceptance criteria outlined in the PFAS National Environment Protection Measure and in accordance with the EPA Landfill disposal criteria for PFAS-contaminated waste.*

*In assessing the application, the EPA will consider feedback from the community, prior environmental performance, the availability of new data or scientific information, and the use of new technologies.*

*I attach a copy of the community update for your information. If you have any queries or would like further information, please don't hesitate to let me know.*

It is our understanding that the attached 'community update' to the above letter was sent to 60 residents of the surrounding properties of the subject site. This is considered to be a woefully inadequate level of consultation, when considered against the significant number (many thousands) of people who would suffer the potential health and economic impacts of any environmental accident or breach subsequently allowing PFAS chemicals into the world renown McLaren Vale wine region.



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Woodcroft office  
175 Bains Road  
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We do acknowledge the impact of COVID-19 and that the EPA extended the consultation period and provided information to Council's elected members in July and held a community information session on 30 July 2020 at the McLaren Vale Visitors Centre. Unfortunately, at this event, the messaging of the EPA gave an impression to attendees that the EPA had taken the role of advocate for the PFAS disposal, rather than the role as the independent licencing and enforcement authority as required under the *Environment Protection Act 1993*.

The EPA responses to the submissions by residents and businesses indicate that no change or concessions to concerns raised will result from this process – consultation appears to have been merely a rubber-stamping exercise, rather than genuinely considering the community's views, feedback and resulting opposition.

In fact, it must be noted that where consultation is required pursuant to the *Environment Protection Act 1993* it is in relation to consultation activities to be undertaken by the applicant, rather than the EPA itself. It is this perceived conflict that has raised the ire of some residents of Onkaparinga and members of Council.

#### **Request**

In light of the above I request that the Board of the Environment Protection Authority review the consultation process as undertaken by the EPA's Engagement team, prior to any decision being issued. It is my belief that the community's concerns regarding this proposed use of the site are being brushed aside, despite the almost universal condemnation of the proposal.

#### **Site suitability**

As described at length in my letter to you of 17 June 2020, our community has pronounced concerns regarding the suitability of the location of such a storage and recovery facility in close proximity to one of Australia's and the world's premier wine regions. Wine production and tourism is a \$2.15 billion dollar industry in South Australia, with McLaren Vale and Barossa districts heading the worldwide marketing and promotion campaigns that impact the entire state:

McLaren Vale is a recognised world leader in sustainable grape growing, a reputation that has taken significant time and resources to achieve. The Sustainable Australia Winegrowing (SAW) program developed by the McLaren Vale Grape Wine and Tourism Association began in the early 2000's, with the objectives to improve viticultural practices, fruit quality and financial viability in the region. The McLaren Vale SAW program has been so successful it has transitioned to the single national sustainability program for wine growers and producers in Australia. This a complete contrast to the perception of McLaren Vale as a site for PFAS and other chemical storage/remediation.

While the risk of PFAS chemicals infiltrating the Willunga Basin aquifer in the case of leakage at the proposed site may be low, the consequence could be catastrophic. Based upon current scientific knowledge of PFAS compounds, the resultant impact could be extraordinarily high. It is our contention that such an infiltration to the water supply for McLaren Vale's vines will have a significant marketing and reputational impact, and quite possibly a direct economic hit.

Europe and China, Australia's largest wine export markets, already ban and downgrade wine containing residues of listed chemicals - the presence of PFAS compounds, with increasing studies showing adverse effects on humans, is likely to lead to further bans. This would be a disastrous result for our economy and environment.

The longevity of PFAS in the environment means that any leakage and contamination could have significant impacts for generations to come. This is too high a consequence should this risk of leakage be realised. We contend the best way to mitigate the risk is to not dump PFAS at this site.

### **Request**

It is our position that McLaren Vale and South Australia's wine industry is too valuable to be put at risk (albeit how small) for such a small return to a single company. South Australia has vast areas of low risk, geologically stable drylands that would be eminently more suitable to such a waste facility. On behalf of the City of Onkaparinga I ask again that the EPA reconsider their position on licencing this facility for the storage of PFAS contaminated materials.

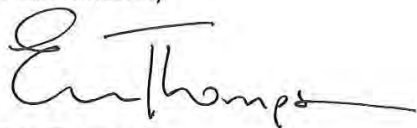
### **Conclusion**

As noted above, I formally request that the Board of the EPA carefully consider the matters raised prior to a decision on the progression of this matter. As is clearly outlined in the submissions received by residents, businesses and elected officers of the Onkaparinga area, the proposal to store PFAS contaminated materials at this site is clearly seen to be a major risk to the area and of no benefit except to the waste contractor and the contaminated site remediator. While such activity can be licenced with rigorous conditions, such conditions are redundant in the face of a significant environmental breach, which could have generational impacts.

On behalf of the community I ask you to consider refusing this proposal.

Please do not hesitate to contact me to discuss this matter further, telephone 8384 0118 or email [Erin.Thompson@onkaparinga.sa.gov.au](mailto:Erin.Thompson@onkaparinga.sa.gov.au)

Yours sincerely



Erin Thompson  
**Mayor**

## Mayor's calendar 18 July to 14 August 2020

Attachment 10

<b>July</b>	
20	Meeting with Mayor and CEO Adelaide Hills Council videoconference
	Meeting with staff
	Meeting with sporting club
	Meeting with resident
21	Virtual Summit on Waste Strategy 2 half days
	Meeting with Chief Executive Officer
	Meetings with staff
	Meeting of Council
22	Virtual Summit on Waste Strategy
	Meeting with Ward Councillor
23	Meeting with staff
	Meeting with ON Ambassadors videoconference
	Media event
	Video filming
	Meeting with Ward Councillor and residents
24	Meals on Wheels volunteering
27	Meetings with Ward Councillor
	Meeting with Director
28	Meetings with Ward Councillor
	Meetings with staff
	Meeting with Chief Executive Officer
	Elected Member Session
29	Meeting with sporting club
	Meetings with Ward Councillors
	Candidate Briefing Session – Mid Coast Ward Supplementary Election
30	Meeting with Coast Protection Board
	Meeting with business
	Meeting with Member for Kingston and Member for Hurtle Vale
	Environmental Protection Authority community information session
31	Meeting of metropolitan Mayors
<b>August</b>	
3	Meetings with staff
4	Meeting with Minister of Education
	Meeting with Chief Executive Officer

### Mayor's calendar 18 July to 14 August 2020

	Meeting with resident
	Meeting with community group
	Meeting of Strategic Directions Committee
5	Meetings with staff
	Meeting with Member for Reynell teleconference
	Video filming
	Meeting with resident
6	Meetings with residents
	Photo shoot with media team
	Site visit with business owner
	Chief Executive Officer Performance Management Committee
	Meeting with resident
	Meeting with Ward Councillor
	Tribe FM radio session
10	Meetings with staff
	Meeting with Chief Executive Officer
	Video filming
11	Pre council meeting with staff
	Council Assessment Panel interviews
	Meeting with Ward Councillor
	Elected Member Session
12	Meeting with Member for Kaurua
	Meeting with staff
	Meeting with resident
	Site tour of Southern Region Waste Resource Authority (SRWRA)
	Glenthorne National Park community briefing
13	Meeting with community representative
	Meeting with resident
	Meeting with Mayor of Mitcham and Mayor of Holdfast Bay
14	Visit to National Trust Coromandel Valley
	Opening of South Port SALA event

Elected Member sessions held during this period :

- 28 July - Long Term Financial Plan
- 11 August - Management of Vehicle Impacts on Protected Foreshore Areas

### Deputy Mayor's calendar 22 July - 14 August 2020

<b>July</b>	
25	Listening post Wilfred Taylor Reserve
26	Listening post O'Sullivan's Beach, Christies Beach and Port Noarlunga beach areas
27	Meeting of Audit, Risk, Value & Efficiency committee
28	Meeting with Chief Executive officer
	Meeting with staff
29	Ward Councillor briefing
	Supplementary Election briefing session for Mid Coast
30	EPA community briefing McLaren Vale re Southern Waste Services application
31	Fleurieu Arthouse Extensions SALA event on Mayor's behalf
<b>August</b>	
1	Hopgood Theatre Country Arts opening event on Mayor's behalf
3	Meeting of Strategic Directions Committee meeting
5	Meeting with resident
6	Meeting with resident
	Attended Finance Working Group meeting
	Chief Executive Officer Performance Management Committee
7	Liaison with staff and volunteers Coromandel Valley Community Centre and listening post at Waymouth Oval, Coromandel Valley
8	Listening post at Sturt River Linear Park
11	Elected Member session
12	Community briefing on Glenthorne National Park
13	Coat FM monthly update segment on behalf of Mayor
14	Meeting with Mayor and CEO and the Coromandel National Trust committee

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6. Presentations

Nil.

7. Deputations

7.1 Section 270 Review – Wilfred Taylor Reserve – Geoff Goss,  
Southern Table Tennis

7.2 Section 270 Review – Wilfred Taylor Reserve – Steve Willis and  
Eric Heapy, South Coast Sports & Social Club

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## 8. Presentation by Committee chairpersons and reports to Council by Council Committees

### 8.1 Audit, Risk, Value and Efficiency Committee meeting minutes of 27 July 2020

Report contact	Meeting
Sue Hammond, Senior Governance Officer	Council
8384 0747	
Approving officer	Date
Chris White, Director Corporate	18 August 2020

#### 1. Purpose

A meeting of the Audit, Risk, Value and Efficiency Committee meeting was held on 27 July 2020.

Agenda for this meeting is available on the website [here](#)

There are no items that require a resolution of Council.

#### 2. Recommendations

That Council note the minutes of the Audit, Risk, Value and Efficiency Committee meeting held on 27 July 2020 as attached to the agenda report.

#### 3. Attachments

Attachment 1 – Minutes of the Audit, Risk, Value and Efficiency Committee meeting of 27 July 2020 (5 pages)

- END OF REPORT -



# MINUTES

## Audit, Risk, Value and Efficiency Committee Meeting 27 July 2020

VENUE:	Council Chamber Civic Centre, Ramsay Place, Noarlunga Centre
MEETING COMMENCED:	4pm
PRESENT:	David Powell (Chair) Peter Brass Cr Eaton Cr Jamieson (4.05pm) Cr O'Brien
APOLOGIES:	Nil
LEAVE OF ABSENCE:	Nil
ABSENT:	Nil

---

**CITY OF ONKAPARINGA** 

1. Opening of meeting

David Powell officially declared the meeting open at 4.03pm.

2. Confirmation of minutes

*MOVED Cr Eaton.*

*That the minutes of the proceedings of the Audit, Risk, Value and Efficiency Committee meeting held on 22 June 2020 be received and confirmed as an accurate record of those proceedings.*

*Seconded by Cr O'Brien.*

**CARRIED**

3. Adjourned business

Nil.

4. Chairperson's report

Nil.

5. Presentations

Nil.

6. Deputations

Nil.

Cr Jamieson entered the meeting at 4.05pm.

7. Reports of officers

7.1 Corporate and Strategic Risk Register Review

Adity Roy Chowdhury , Local Government Risk Services, provided a presentation as part of this item.

*MOVED Peter Brass.*

1. *That the Audit, Risk, Value and Efficiency Committee receives and notes:*

- a. the amendments to the Corporate and Strategic Risk Register included as attachments 1 and 2 to the agenda report for discussion at the meeting*
- b. that Corporate Governance will, with the assistance of the Local Government Risk Scheme, review all current risks, risk owners and risk controls with relevant Directors and Managers to ensure the Corporate and Strategic Risk Register is current.*

2. *That the Audit, Risk, Value and Efficiency Committee provides the following feedback or comments in relation to the review of the Corporate and Strategic Risk Register as included as attachment 1 to the agenda report:*

- That attachment 1 was updated and provided to members prior to the meeting.*

## **CITY OF ONKAPARINGA**

- *That the strategic risks be separately recorded in a strategic risk register and aligned to the Community Plan 2030 with a view to prioritising the key risks.*
- *Engaging with the elected members to have input into the identification and assessment of the strategic risks,*
- *That conflict of interest by elected members and staff be considered in the register.*
- *That breach of confidentiality be extended to include management and staff.*

*Seconded by Cr Jamieson.*

**CARRIED**

### **7.2 Internal Audit Quarterly Update**

*MOVED Cr Eaton.*

1. *That the Audit, Risk, Value and Efficiency Committee receive and note the Internal Audit Quarterly Update report, including:*
  - *the status of internal audit program attached as attachment 1 to the agenda report, and*
  - *the status of actions arising from internal audits attached as attachment 2 to the agenda report.*
2. *That the Audit, Risk, Value and Efficiency Committee provides the following feedback/comments in relation to the revised Internal Audit Plan 2019-2022 as contained in attachment 3 to the agenda report:*
  - *Rename Artificial Intelligence to Data analytics*
  - *Clarify and update audit types*
  - *Leases audit – include scope that we are dealing with accounting appropriately*

*Seconded by Cr O'Brien.*

**CARRIED**

### **7.3 2019-20 External audit interim management letter**

*MOVED Cr Eaton.*

*That the Audit, Risk, Value and Efficiency Committee note the report received from the external auditors in relation to the 2019–20 interim visits (attachment 1 to the agenda report).*

*Seconded by Peter Brass.*

**CARRIED**

#### 7.4 Quarterly Performance Improvement Report

*MOVED Cr Jamieson.*

1. *That the Audit, Risk, Value and Efficiency Committee note the agenda report and the City of Onkaparinga Quarterly Performance Improvement Report, attachment 1 to the agenda report.*
2. *That the Audit, Risk, Value and Efficiency Committee recognises the significant savings found this year of \$1.699M and encourages recognition of staff who identify savings and contribute improvement ideas.*

*Seconded by Cr Eaton.*

**CARRIED**

#### 7.5 Work, Health Safety and Return to Work activities update

*MOVED Peter Brass.*

1. *That the Audit, Risk, Value and Efficiency Committee note the agenda report.*
2. *That the Audit, Risk, Value and Efficiency Committee acknowledges the progress on completion of the findings from the LGA Risk and Evaluation Plan and:*
  - *Notes that we currently sit at 94% year to date*
  - *Notes the replacement from the use of Glyphosate with alternatives*
  - *Notes the plan to move from Skytrust to OneCouncil for recording of incidents*
  - *Recommends a section on COVID in the strategic plan.*
  - *Notes the strategies around mental health of staff during the COVID crisis.*

*Seconded by Cr O'Brien.*

**CARRIED**

#### 7.6 Committee Reporting Schedule (Work Plan)

*MOVED Cr Eaton.*

*That the Audit, Risk, Value and Efficiency Committee notes the information contained in the Committee Reporting Schedule and Action List, attachments 1 and 2 to the agenda report.*

*Seconded by Cr O'Brien.*

**CARRIED**

#### 8. Questions on notice

Nil.

#### 9. Motions on notice

Nil.

#### 10. Petitions

Nil.



11. Urgent business

Nil.

12. Confidential items

Nil.

13. Closure

David Powell officially declared the meeting closed at 6.03pm.

*Certified Correct* ..... *Chair*

/ /2020

## 8.2 Strategic Directions Committee meeting minutes of 4 August 2020

Report contact

Sue Hammond, Senior Governance Officer

8384 0747

Approving officer

Chris White, Director Corporate

Meeting

Council

Date

18 August 2020

### 1. Purpose

A meeting of the Strategic Directions Committee meeting was held on 4 August 2020.

Agenda for this meeting is available on the website [here](#)

There are no items that require a resolution of Council.

### 2. Recommendations

That Council note the minutes of the Strategic Directions Committee meeting held on 4 August 2020 as attached to the agenda report.

### 3. Attachments

Attachment 1 – Minutes of the Strategic Directions Committee meeting of 4 August 2020  
(4 pages)

- END OF REPORT -



# MINUTES

## Strategic Directions Committee Meeting 4 August 2020

**VENUE:** Council Chamber  
Civic Centre, Ramsay Place, Noarlunga Centre

**MEETING COMMENCED:** 6.30pm

**PRESENT:** Mayor Thompson  
Cr Brown  
Cr de Graaf  
Cr Eaton  
Cr Greaves  
Cr Jamieson  
Cr McMahon  
Cr O'Brien  
Cr Peat (electronically)  
Cr Themeliotis

**APOLOGIES:** Cr Bray  
Cr Olsen

**LEAVE OF ABSENCE:** Nil

**ABSENT:** Nil

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1. Opening of meeting

Cr Greaves officially declared the meeting open at 6.30pm.

2. Confirmation of minutes

*MOVED Cr Themeliotis.*

*That the minutes of the proceedings of the Strategic Directions Committee meeting held on 7 July 2020 be received and confirmed as an accurate record of those proceedings.*

*Seconded by Cr O'Brien.*

**CARRIED**

3. Adjourned business

Nil.

4. Chairperson's Report

Nil.

5. Presentations

Nil.

6. Deputations

**6.1 Southern Volunteering – Mel White**

Mel White gave a deputation and answered questions from elected members in relation to Southern Volunteering.

7. Reports of officers

**7.1 Clarendon Recreation Ground Master Plan**

*MOVED Cr Themeliotis.*

- 1. That the Strategic Directions Committee approve the Clarendon Recreation Ground Master Plan as shown at attachment 2 to the agenda report.*
- 2. That the Strategic Directions Committee note that resulting projects will be placed into the Project and Capital works program for consideration in future budgets.*
- 3. That the Strategic Directions Committee note that Council staff write to all key stakeholders thanking them for their contribution to the plan and advising that the final Clarendon Recreation Park Masterplan is available via YourSay.*

*Seconded by Cr Eaton.*

**CARRIED**



## 7.2 Draft SA Waste and Food Waste strategies

*MOVED Cr Jamieson.*

*That the Strategic Directions Committee approves the draft submission to Green Industries SA on the consultation drafts of the Waste Strategy 2020-25 and Food Waste Strategy, forming attachment 1 to the agenda report.*

*Seconded by Cr Brown.*

Cr Peat left the meeting at 7.07pm.

CARRIED

Cr Peat returned to the meeting at 7.10pm.

## 7.3 Statutes Amendment (Local Government) Review Bill 2020

*MOVED Cr Mayor Thompson.*

*That the Strategic Directions Committee approves the draft feedback to the Local Government Association on the Statutes Amendment (Local Government Review) Bill 2020, forming attachment 1 to the agenda report.*

*Seconded by Cr Eaton.*

CARRIED

## 7.4 Witton Bluff Base Trail: Community Engagement Plan, Risk Management and Procurement Strategy

*MOVED Cr Jamieson.*

*That the Strategic Directions Committee:*

- 1. Notes the project background and update included within the agenda report.*
- 2. Approves the Witton Bluff Base Trail Community Engagement Plan (attachment 2 to the agenda report) for the purposes of community engagement.*
- 3. Note that the outcomes of the community engagement process will be presented to the Council for consideration in the latter part of 2020.*
- 4. Approves the Witton Bluff Base Trail Risk Management and Procurement Strategy (attachment 3 to the agenda report)*

*Seconded by Cr Peat.*

CARRIED

## 7.5 Council and Committee Reporting Schedule

*MOVED Cr Themeliotis.*

*That the Strategic Directions Committee notes the agenda report and Reporting Schedules (attachments 1 and 2 to the agenda report).*

*Seconded by Cr McMahon.*

CARRIED



8. Questions on notice

Nil.

9. Motions on notice

9.1 **Motion on notice – Mayor Thompson – Southern Volunteering**

*MOVED Cr Mayor Thompson.*

*That council explores the impact and benefit of Southern Volunteering on volunteers, community volunteering and council services.*

*That a report be provided to Council by 15 October 2020 that considers:*

- *the history and current partnership between the City of Onkaparinga and Southern Volunteering*
- *the value of services provided by Southern Volunteering to our internal volunteer management service*
- *the impact and value of the activities of Southern Volunteering within the City of Onkaparinga*
- *the merits of council providing financial support to Southern Volunteering.*

*Seconded by Cr Jamieson.*

**CARRIED**

10. Petitions

Nil.

11. Urgent business

Nil.

12. Confidential items

Nil.

13. Closure

Cr Greaves officially declared the meeting closed at 7.44pm.

*Certified Correct* ..... *Chair*  
/ /2020

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## 8.3 Chief Executive Officer Performance Management Committee meeting minutes of 6 August 2020

Report contact

Sue Hammond, Senior Governance Officer

8384 0747

Approving officer

Chris White, Director Corporate

Meeting

Council

Date

18 August 2020

### 1. Purpose

A meeting of the Chief Executive Officer Performance Management Committee meeting was held on 6 August 2020.

Agenda for this meeting is available on the website [here](#)

There were no items that require a resolution of Council.

Item 6.1 is a confidential item and will be considered at item 14.3 of this agenda.

### 2. Recommendations

That Council note the minutes of the Chief Executive Officer Performance Management Committee meeting held on 6 August 2020 as attached to the agenda report.

### 3. Attachments

Attachment 1 – Minutes of the Chief Executive Officer Performance Management Committee meeting of 6 August 2020 (4 pages)

- END OF REPORT -



# MINUTES

Chief Executive Officer Performance  
Management Committee meeting  
6 August 2020

**VENUE:** Council Chamber  
Civic Centre, Ramsay Place, Noarlunga Centre

**MEETING COMMENCED:** 6.30pm

**PRESENT:** Mayor Thompson  
Cr Bray  
Cr Brown  
Cr de Graaf  
Cr Eaton  
Cr Jamieson  
Cr McMahon  
Cr Olsen  
Cr Peat (electronically)  
Cr Themeliotis

**APOLOGIES:** Cr O'Brien

**LEAVE OF ABSENCE:** Nil

**ABSENT:** Cr Greaves

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## **CITY OF ONKAPARINGA**

1. Opening of meeting

Mayor Thompson officially declared the meeting open at 6.30pm.

2. Confirmation of minutes

*MOVED Cr de Graaf.*

*That the minutes of the proceedings of the Chief Executive Officer Performance Management Committee meeting held on 25 June 2020 be received and confirmed as an accurate record of those proceedings.*

*Seconded by Cr Themeliotis.*

**CARRIED**

3. Adjourned business

Nil.

4. Reports of officers

4.1 Chief Executive Officer position description

*MOVED Cr de Graaf.*

*That the Chief Executive Officer Performance Management Committee approve that the Chief Executive Officer's position description be updated to include the Key Result Areas as endorsed by the Chief Executive Officer Performance Management Committee at its meeting held on 25 June 2020.*

*Seconded by Cr Eaton.*

**CARRIED**

5. Urgent business

Nil.

6. Confidential items

6.1 Chief Executive Officer probation review

1. *Exclusion of the public*

*MOVED Cr Themeliotis.*

*That:*

- a. under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting in order to consider this item in confidence, with the exception of the Director Corporate, Manager Human Resources, Independent Advisor and Governance Officers for the purposes of any relevant discussion and or presentation at the meeting.*
- b. the Chief Executive Officer Performance Management Committee is satisfied that it is necessary that the public be excluded to enable the Committee to receive and consider the information and report at the meeting on the following grounds:*

*Section 90(3)(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead), in this instance being matters related to the terms and conditions of the employment contract for the Chief Executive Officer.*

*The Chief Executive Officer Performance Management Committee is satisfied that it is reasonably foreseeable that the public disclosure or discussion of information concerning the contract of employment of a person at the meeting would be inconsistent with accepted principles of professional human resource management and that the commercial nature of the information that is presented in this report is not for broader public consumption.*

- c. accordingly, on this basis the principle that meetings of the Committee should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.*

*Seconded by Cr Eaton.*

**CARRIED**

2. *Confidential recommendations*

3. *Period of confidentiality and delegations*

*MOVED Cr McMahon.*

- a. That the matter of Chief Executive Officer probation review having been considered by the Chief Executive Officer Performance Management Committee in confidence under sections 90(2) and 90(3)(a) of the Local Government Act 1999 that an order be made under the provisions of sections 91(7) and (9) of the Local Government Act 1999 that the agenda report, discussion and minutes of the Committee relating to the subject matter be kept confidential until 6 August 2032 (being seven years following the expiry of the CEO's contract in accordance with standard human resource recording keeping practices), with the exception that this information may be released to the Chief Executive Officer, the Director Corporate, Manager Human Resources, and the Independent Advisor.*

- b. That, pursuant to section 91(9)(a) of the Local Government Act 1999, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.*
- c. That, pursuant to section 91(9)(c) of the Local Government Act 1999, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.*

*Seconded by Cr Jamieson.*

*CARRIED*

Mayor Thompson reopened the meeting to the public at 6.55pm

## 7. Closure

Mayor Thompson officially declared the meeting closed at 6.55pm.

*Certified Correct* ..... *Chair*  
/ /2020

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## 9. Reports of officers

### 9.1 Section 270 Review – Wilfred Taylor Reserve

Report contact	Meeting
Kathryn Brown, Team Leader Corporate Governance	Council
8384 0760	
Approving officer	Date
Chris White, Director Corporate	18 August 2020

#### 1. Purpose

The purpose of this report is to provide Council with the conclusions and recommendations from an Internal Review Report undertaken by an External Reviewer following a request for review by the Southern Table Tennis Inc under section 270 of the *Local Government Act 1999* (the Act). Having regard to the Internal Review Report, Council needs to resolve to either affirm, vary or revoke the decision under review.

#### 2. Recommendations

1. That Council receive the Internal Review Report as provided in Attachment 1 to the agenda report.
2. That Council accept the recommendations of the External Reviewer as outlined in section 7 of Attachment 1 to the agenda report.
3. That Council accordingly determine to revoke the decision of 19 September 2019, and substitute a new decision that either:  
Council prohibit smoking at all times in the courtyard area;  
OR  
Council prohibit smoking in the courtyard area at any time the lessees offer food as outlined in paragraph 7.2 of the Internal Review Report.
4. That Southern Table Tennis and South Coast Sports & Social Club, as interested **parties, be informed of Council's decision in this matter and confirm their ongoing legislative review rights.**
5. That **all Council's existing leases and licences are reviewed to ensure a consistent application of council's No Smoking Policy and adherence to applicable legislation.**

#### 3. Executive summary

Council received a request for a review of a decision made by the Mayor on behalf of council in relation to the designated non-smoking areas at Council premises located at Wilfred Taylor Reserve. The decision under review was communicated by letter dated 19 September 2019 (the Decision) **that 'the no smoking area applies to the majority of the existing courtyard area, with the exception of the western area of the courtyard in the grassed area.'**

This matter has a long and complicated history. A prior decision concerning the same subject matter was subject to an earlier section 270 review, and a chronology is extracted in the attachments to this agenda report.

Ongoing disputes between the lessees of the premises, the Southern Table Tennis (STT) and South Coast Sports & Social Club (SCSSC), has seen a further section 270 review request by STT. This request challenged the validity of the Decision, on the grounds of it being contrary to **Council's original decision of 30 May 2017 which banned smoking in the courtyard area**. The complete factual, policy and legislative context is outlined in the attachments to this agenda report.

In order to ensure independence, Kelledy Jones Lawyers were appointed as the External Reviewer to undertake this review. The Internal Review Report and appendices are provided as attachments 1 and 2 to this agenda report.

The External Reviewer found that the Decision did not take into account all relevant matters as it was limited to consideration of the **council's No Smoking Policy only and did not apply the** relevant Act to the facts. Their relevant considerations and findings are contained in section 6 of the Internal Review Report, with conclusions and recommendations appearing at section 7.

This matter has been brought to Council, as the owner of the Premises, to determine whether smoking should be permitted in the courtyard area. Two options are proposed:

1. That Council prohibit smoking at all times in the courtyard area;

OR

2. That Council prohibit smoking in the courtyard area at any time the lessees offer food as outlined in paragraph 7.2 of the Internal Review Report.

## 4. Background

Community Plan 2030	<b>prosperity: opportunity, diversity and adaptability</b> To be open, accountable and transparent in the conduct of our business with communities, business and other tiers of government and staff
Policy and/or relevant legislation	<i>Local Government Act 1999</i> – section 270 Internal Review of Council Decisions (s270) administrative procedure <b>Council's No Smoking Policy</b> Legislative obligations pursuant to the <i>Tobacco and E-Cigarette Products Act 1997</i>
Who did we talk to/who will we be talking to	An External Reviewer was appointed to assess and review the council decision. The Applicant was given the opportunity to make further submissions to be considered in the review.

## 5. Discussion

Background

The Application

Council received a request under Section 270 of the *Local Government Act 1999* (the Act) from the Southern Table Tennis Inc. (STT) for a review of a decision made by the Mayor on behalf of council in relation to the designated non-smoking areas at Council premises located at Wilfred Taylor Reserve.

### Decision under review

The decision under review is the decision as communicated by the letter of 19 September 2019 (the Decision):

*"the no smoking area applies to the majority of the existing courtyard area, with the exception of the western area of the courtyard in the grassed area."*

Attachment 3 provides a copy of the Decision letter.

The letter was prepared in response to a dispute that had arisen in relation to a white line that had been painted in the carpark with the words **'No smoking beyond this point'**. The letter **sought to apply council's No Smoking Policy to the dispute, and determine a position. A full background is provided in section 1 of Attachment 1. In summary:**

- **Council's premises at Wilfred Taylor Reserve** is occupied by Southern Table Tennis (STT) and South Coast Sports & Social Club (SCSSC) under two separate leases.
- **Both clubs are currently operating on 'holding over' provisions in their expired leases on a month-by-month basis** while Council conducts a review of its leasing practices and new leases are negotiated.
- They operate from separate parts of the premises and share the use of a courtyard; the subject of this review. Neither club have any occupation agreement over the courtyard area.
- The courtyard is located at the front of STT and is their primary entry and exit for the building. The courtyard can also be accessed from the side of the SCSSC building.
- It consists of a partially paved and a partially grassed area with a verandah covering a portion of it. There are two fixed picnic tables, a round plastic table and chairs and a built-in BBQ located within the courtyard. The fence around majority of the courtyard is an open **'pool type' fence**. Attachment 4 **depicts the premises' respective frontages, the courtyard and a site plan.**
- STT has advised that it occasionally uses the BBQ in the courtyard for its members and guests and that members may use the courtyard to consume meals they have brought with them.
- The SCSSC has a function room which it makes available for hire. As a result, anyone that hires the room can either arrange for catering to be provided at the functions or use the BBQ in the courtyard. Catered food may be taken into the courtyard to be consumed.
- The SCSSC has also advised that it occasionally provides a shared meal to its members for consumption inside the premises or in the courtyard.
- **The premises also have a shared canteen which predominantly serves 'snack food'.**
- Both clubs hold a Food Business licence which allows for the sale of food items such as pre-packaged snacks, cakes, muffins and hot food (such as pies/pasties).
- Discussions have been ongoing between Council and the clubs for several years regarding the shared use of the premises and specifically the designated non-smoking areas.
- On 30 May 2017, following the inability of the parties to come to an agreement about the use of the courtyard area, Council decided that the courtyard was to be **'a non-smoking area to ensure the health, safety and comfort of all users of the facility'**.
- This decision was confirmed by Council in subsequent section 270 review and then by the Ombudsman who determined that Council did not act in a manner that was unlawful, unreasonable or wrong, within the meaning of the *Ombudsman Act 1972*, when it made its decisions and was **'... satisfied that council had undertaken a thorough investigation and appropriately considered the relevant information in reaching its final decision'**.

Attachment 5 provides a chronology of previous reviews and decisions managed or coordinated by Corporate Governance.

- Discussions have continued since that time between the Council and the parties, culminating in **Council's most recent decision on the matter (as communicated in the letter dated 19 September 2019)** that is the subject of this report.

#### Concerns of the parties

The STT supports Council's original decision of 30 May 2017 banning smoking altogether. Their contentions are set out in Appendix 1 of the Internal Review Report (attachment 2).

The SCSSC's main concern has centred on whether the courtyard area is in fact an 'outdoor dining area'. This issue has become the centre of the dispute in question, and is addressed in detail in the Internal Review Report (Attachment 1).

Neither club has been issued an outdoor dining permit by Council, and the respective leases (in holding over) are silent on the matter.

#### **Internal review process**

In accordance with Council's Internal Review of Council Decisions (s270) Administrative Procedure (attachment 6) Kelliedy Jones Lawyers were appointed as the External Reviewer to undertake this review and provide a report back to Council.

The scope of the review was to:

- undertake an independent review of all information available to the Council at the time of the Decision, and
- having regard to the concerns raised by the STT, to review the decision-making process **and prepare a report for Council's consideration.**

#### Council as the reviewer

As the reviewer Council does not look at whether the decision is a good or bad one. It is more about whether the legislative framework and its policies and procedures were followed, and due consideration given to the information available at the time the decision was made.

It also requires Council to consider the merits of the decision under review. A merits review requires all aspects of a decision to be reviewed and a determination to be made as to the correct and preferable decision.

In doing so the Council is to consider all information available to the original decision-maker, as well as any new information, to determine the best and preferable decision.

This may result in the Council affirming, varying or setting aside the original decision unless there is a statutory requirement that does not permit this to occur.

A full discussion of the relevant policy and legislation is contained in Attachment 1, from pages 6-10.

The relevant considerations taken into account by the External Reviewer, and their findings, appear at section 6 of the report.

The conclusions and recommendations of the External Reviewer are set out on pages 11 and 12 of the Internal Review Report.

#### **Next steps for Council**

The Council, as the owner of the Premises, needs to decide what position it wishes to take in relation to smoking in the courtyard. In doing so, it must consider both the legislative and policy requirements; they cannot be considered in isolation.

Having regard to the conclusions and recommendations in the Internal Review Report, the **following options are proposed for Council's consideration:**

### Option 1 - That Council prohibit smoking at all times in the courtyard area

This option is consistent with:

- **Council's commitment (as stated in the Policy) to ensuring measures are taken to eliminate, minimise or control risks to health and safety of persons from exposure to second-hand smoke and the adverse health effects of passive smoking**
- increasing community expectations for smoke free venues to ensure the health, safety and comfort of all users of council facilities.

OR

### Option 2 - Council prohibit smoking in the courtyard area at any time the lessees offer food as outlined in paragraph 7.2 of the Internal Review Report

This option requires the lessees to work with Council as to when food is being served or sold in the canteen (other than snack foods) to ensure that there is no smoking during those times. It will also require appropriate signage to be prominently displayed in the courtyard area to reflect the same. Compliance issues will accordingly need to be addressed as part of this solution.

### Other considerations:

#### *Leases and Licences*

STT and SCSSC are currently operating on 'holding over' provisions in their expired leases until new leases are negotiated. The outcome of the Council's decision in this matter will need to be reflected in any new lease conditions, and this may influence the decision of one or both parties on a possible renewal.

In addition, council administration will be conducting a review of its leasing practices to ensure a consistent application of the **council's No Smoking Policy and adherence to the applicable legislation.**

## 6. Financial implications

### Financial summary

Item	\$	Comment
<b>Current budget</b>		
Current budget allocation		Any additional costs incurred to put council's decision into effect will be covered by operational budget reviews. Costs associated with undertaking this Section 270 review were \$3,920 (ex GST) plus internal administration time.
Funding required		Not applicable
External funding		Not applicable
Budget impact		Not applicable
FTE		Not applicable
<b>Next year's budget</b>		
Funding required		Not applicable
Funding source		Not applicable
Operating position		Not applicable

Rate rise impact		Not applicable
FTE		Not applicable
<b>Long Term Financial Plan</b>		
Debt		Not applicable
Interest		Not applicable
Reserve		Not applicable

### Scope of impact

Not applicable for this report.

### Baseline budget rate and debt impact

Year to date Decisions	Operating position	Rates (next budget)	Debt
Cumulative Impact	Not applicable	Not applicable	Not applicable
This proposal	Not applicable	Not applicable	Not applicable
Including this proposal	Not applicable	Not applicable	Not applicable

## 7. Risk and opportunity management

Risk	
Identify	Mitigation
Employee welfare/public safety	Prohibiting smoking in the shared use courtyard promotes <b>Council's commitment to ensuring that measures are taken to eliminate, minimise or control risks to health and safety of persons from exposure to second-hand smoke and the adverse health effects of passive smoking</b>
Reputation/community expectation	Prohibiting smoking will assist in meeting community expectation that venues will be smoke free and recreational and sporting clubs have a significant role in promoting healthy lifestyles.
Compliance/legal	Prohibiting smoking ensures compliance with the now <i>Tobacco and E-Cigarette Products Act 1997</i> and council's No Smoking Policy
Opportunity	
Identify	Maximising the opportunity
An internal review is an opportunity to reconsider all the evidence relied on for the original decision as well as any new information / evidence.	Reviews provide an opportunity to identify potential <b>improvements for council's services, policies and practices.</b>

## 8. Timelines and deadlines

The section 270 review will be finalised following a decision of Council.

## 9. Next steps

Once Council has made a decision on whether to permit smoking in the shared courtyard, **council's administration will advise both sporting clubs of the outcome** of this review and any recourse available.

## 10. Attachments

Attachment 1 – Internal Review Report (13 pages)

Attachment 2 – Appendices to Internal Review Report (134 pages)

Attachment 3 – Decision letter including site plan defining no smoking areas (3 pages)

Attachment 4 – Site plan and photos of premises (2 page)

Attachment 5 – Chronology of previous governance related reviews (2 pages)

Attachment 6 – Internal Review of Council Decisions (s270) Procedure (12 pages)

- END OF REPORT -

**CITY OF ONKAPARINGA  
NO SMOKING POLICY  
WILFRED TAYLOR RESERVE**

**CITY OF ONKAPARINGA**  
**NO SMOKING POLICY**  
**WILFRED TAYLOR RESERVE**

**Review pursuant to section 270 of the *Local Government Act 1999***

**1. BACKGROUND**

- 1.1 By letter dated 11 November 2019, Mr Geoff Goss, on behalf of Southern Table Tennis Inc. ('the Applicant'), requested a review of a decision made by the City of Onkaparinga ('the Council') regarding designated non-smoking areas at a Council facility located at Wilfred Taylor Reserve ('the Application').
- 1.2 The Application is pursuant to section 270 of the *Local Government Act 1999*.
- 1.3 A copy of the Application and attachments is **Appendix 1**.
- 1.4 Wilfred Taylor Reserve is land described in Certificate of Title 5835/102 (**Appendix 2**) and located at Lot 642, on the corner of States Road and Wheatsheaf Road, Morphett Vale ('the Land').
- 1.5 A building (consisting of two (2) co-joined buildings) owned by the Council is located on the land ('the Premises').
- 1.6 The Premises are currently the subject of two (2) separate leases held by the Applicant (**Appendix 3**) and the South Coast Sports & Social Club ('the SCSSC') (**Appendix 4**).
- 1.7 Both leases are currently being 'held over', on a month-by-month basis, and have been since 1 July 2015, while the Council conducts a review of its leasing practices (**Appendix 5**).
- 1.8 While the Applicant and the SCSSC operate in separate parts of the Premises, as delineated in the respective leases, there is a shared courtyard that provides access and egress to each club's portion of the Premises (**Appendix 6**).
- 1.9 The courtyard consists of a partially paved and a partially grassed area and a verandah covers a portion of the courtyard.
- 1.10 Located within the courtyard are two (2) fixed picnic tables, a round plastic table and chairs and a built-in BBQ.
- 1.11 The Applicant has advised that it occasionally uses the BBQ in the courtyard for 'sausage sizzles' for its members and guests and that members may use the courtyard to consume a meal they have brought with them, prior to playing table tennis.
- 1.12 The SCSSC has a function room in its part of the Premises which it makes available for hire. As part of this arrangement, other community groups and

members of the public hire the function room and either arrange for catering to be provided at the functions or use the BBQ in the courtyard area.

- 1.13 Catering provided as part of any function may, likewise, be taken into the courtyard area to be consumed.
- 1.14 The SCSSC has also advised that it occasionally provides a shared meal to its members which may be consumed inside the Premises or in the courtyard.
- 1.15 There is a shared canteen at the Premises which, following an inspection by Council employees in 2017, was determined only to serve '*snack foods*'.
- 1.16 Following the inability the Applicant and the SCSSC to come to a mutual agreement about the use of the courtyard area, by letter dated 30 May 2017, the Council advised the Secretary of the SCSSC that the courtyard was to be '*a non-smoking area to ensure the health, safety and comfort of all users of the facility*'. Further, that as the courtyard did not form part of the SCSSC's leased area, the Council did not support its application to extend the licence over this area (Appendix 7).
- 1.17 Following which, on the application of the SCSSC, the Council decisions regarding the designation of non-smoking areas, the liquor licence held by SCSSC and the Council's complaint processes, were the subject of a review pursuant to section 270 of the Act ('the 2017 Review').
- 1.18 The findings of the 2017 Review, included, amongst other things, that:
  - 1.18.1 the Council made a decision in relation to the 'no smoking' portions of the Premises, after the Applicant and the SCSSC could not come to a mutual agreement in relation to the same;
  - 1.18.2 the Council decision that the shared use courtyard is a non-smoking area was considered reasonable in the circumstances, in accordance with the clubs' leases, specifically clause 4.6.3, (requiring that the lessee and its visitors, at all times, abide by the Council's *Non Smoking Policy*), and that it met community expectations in relation to passive smoking and healthy active lifestyles; and
  - 1.18.3 the intention to ensure the shared use courtyard be excluded from the liquor licence held by the SCSSC was confirmed, it not being within the SCSSC's lease boundary and that an alternate licensed location at the Premises should be investigated.
- 1.19 By letter dated 18 October 2017, the Council notified the SCSSC of the outcome of the 2017 Review (Appendix 8), following which, the SCSSC complained to the Ombudsman regarding the findings.
- 1.20 After an assessment of the complaint, the Ombudsman was of the view that the Council **did not** act in a manner that was unlawful, unreasonable or wrong, within the meaning of the *Ombudsman Act 1972*, when it made its decisions in relation to the designated non-smoking areas and the liquor licence. However, the Ombudsman did make several recommendations in relation to the Council's *Customer Complaints Policy*.

- 1.21 Following the finalisation of the Ombudsman's consideration of the SCSSC's complaint, by letter dated 1 December 2017, the outcome of the 2017 Review was notified to the Applicant and confirmed with the SCSSC (**Appendix 9**).
- 1.22 Discussions have continued since that time between the Council, the Applicant and the SCSSC, regarding the shared use of the Premises and, in particular, the designated non-smoking areas at the Premises.
- 1.23 This culminated in the Mayor advising the Applicant, by letter dated 19 September 2019, that the operation of the Council's current *No Smoking* policy provided that while smoking was not permitted in the majority of the courtyard area, smoking **was permitted** in the western end of the courtyard, on the grassed area (**Appendix 10**).
- 1.24 This position is contrary to that which was set out in both the letter of 30 May 2017 sent to the SCSSC (**Appendix 7**), as confirmed by the 2017 Review and to the letters sent to the Applicant and the SCSSC on 1 December 2017 (**Appendix 9**).
- 1.25 The Applicant contends that the letter from the Mayor evidences a decision of the Council to now permit smoking in a portion of the courtyard and that this decision is contrary to that which had been previously notified to it and the SCSSC, creating a scenario whereby its participants, including children, are required to walk through cigarette smoke to enter the Premises.
- 1.26 The Applicant has now sought a review of that decision.

## 2. THE SECTION 270 REVIEW PROCESS

- 2.1 As set out above, there is an extensive history between the Applicant, the SCSSC and the Council, in relation to both the shared use of the courtyard and where smoking may (or may not) be permitted on the Premises.
- 2.2 For the avoidance of doubt, it is outside of the scope of this review to undertake a forensic analysis of that correspondence in relation to the decision, the subject of **this review** or to making findings in relation to any decisions of the Council which may have been made during that period of time.
- 2.3 Rather, the purpose of this review is to determine whether the alleged 'decision' of the Council, as communicated by the Mayor to the Applicant in the letter of 19 September 2019, based on all of the available information, was:
  - 2.3.1 a reasonable decision to make in the circumstances;
  - 2.3.2 a decision open to be made on the facts before it;
  - 2.3.3 a decision made in the public interest; and
  - 2.3.4 the decision-making process was not flawed in any manner.
- 2.4 Given that the 2017 Review was undertaken internally and as the decision, the subject of this review, was a decision of Council communicated by the Mayor, in accordance with clause 7.1 of the Council's *Internal Review of Council Decisions*

(s270) *Procedure* ('the Procedure') the Council has engaged Kelliedy Jones Lawyers ('KJL'), as an external body, to undertake the review.

- 2.5 The scope of the engagement of KJL is to:
  - 2.5.1 undertake an independent review of all relevant information available to the Council at the time of the decision, the subject of the review; and
  - 2.5.2 having regard to the concerns raised by the Applicant, to review the decision-making processes and prepare a report for the consideration of the Council.
- 2.6 The review has been undertaken in accordance with the Procedure (**Appendix 11**), as well as the principles of procedural fairness.
- 2.7 For the avoidance of doubt, reference to 'the Council' in this report is a comprehensive term and is to be read, as necessary, as encompassing the governing body, employees of the Council and the corporate entity.
- 2.8 The standard of proof that has been applied in this review is on the balance of probabilities. In determining whether that standard has been met, in accordance with the High Court decision in *Briginshaw v Briginshaw* (1938) 60 CLR 336, KJL has considered the nature of the allegations made and the consequence if they were to be upheld.
- 2.9 The objective of this Report is to assist the Council in its review process and it sets out:
  - 2.9.1 the background facts which have given rise to the application;
  - 2.9.2 a summary of relevant information obtained during the course of the review;
  - 2.9.3 the findings of KJL in relation to the issues raised by the Applicant; and
  - 2.9.4 the options now available to the Council.
- 2.10 By letter dated 26 November 2019, KJL wrote to the Applicant, inviting it to make any further submission to be taken into account on the review, with any further material to be provided by 5pm on Tuesday 3 December 2019. No further submission was received.
- 2.11 Accordingly, the review has proceeded on the basis of the information contained in the Applicant's request, and on the materials, we have request of and have been provided by, the Council.

### 3. THE LEASES

- 3.1 The Council is the registered proprietor in fee simple of the land upon which the Premises are located (**Appendix 2**).
- 3.2 The Council is the owner of the Premises located on the land.

- 3.3 The Applicant (**Appendix 3**) and the SCSSC (**Appendix 4**) each have a lease to use a portion of the Premises, which leases are drafted in substantially the same terms.
- 3.4 The term of each lease was for an initial period of five (5) years, to commence from 1 July 2005, with one (1) five (5) year period of extension, which was exercised by both clubs.
- 3.5 The leases expired on 1 July 2015, however, the Applicant and the SCSSC have been 'holding over' in accordance with clause 6.10.1 of the leases on a monthly basis since that time, on the terms and conditions contained in the leases.
- 3.6 The relevant clauses of the leases for the purposes of this review are drafted in identical terms, and provide as follows:

#### 4.5 *Legislation*

*The Lessee will comply (at its own cost and expense in all things) with the provisions of all acts, regulations, by-laws and all directions and orders of any local government or semi government authority in relation to the Premises.*

#### 4.6 *Alcohol, Gaming and Smoking*

*4.6.3 The Lessee, the Lessee's visitors, invitees, agents, employees and contractors will at all times abide by Council's "Smoking" policy, amended, varied or replaced from time to time.*

#### 4.13 *Offences*

*The Lessee will not carry on any activity or do anything or fail to do something, which is or may become an offence under any Act or regulation or by-law.*

#### 4.21 *Professional Management*

*The Lessee will operate and manage the Premises in a professional and competent manner in accordance with good commercial practice. In particular, the Lessee is required to:*

*4.21.5 comply at all times and in all respects with all Applicable Legislation and will use its best endeavours to ensure that no conduct, activities or other events occur, and that circumstances do not arise which make it likely that any conduct, activities or events may occur which are in breach of any Applicable Legislation. (our emphasis)*

### 4. NO SMOKING POLICY

- 4.1 The Applicant has advised that it is an affiliated member of Table Tennis South Australia, which has a smoke free policy, a condition of which is that all stadiums, halls and in or around entrances must be smoke free.
- 4.2 On 18 December 2016, the Applicant adopted its own 'No Smoking Policy', which currently provides at clause 1.4 that:

*The following areas are declared smoke free environments;*

- *all internal spaces occupied by STT [Southern Table Tennis],*
- *in line with the City of Onkaparinga direction, the whole of the entrance courtyard,*
- *the small rear courtyard (other than as defined on the appended plan) [being five (5) metres from the entrance doorway]*
- *that area in the car park which is within 5 metres from the entrance gates and fence-line to the venue.*
- *all complex entrances and exits, and*
- *the external area within 5 metres of both stadium emergency side exit doors.*

4.3 This position is consistent with that which was communicated to the Applicant in the letter from Council of 1 December 2017 (**Appendix 9**).

4.4 The Council's *No Smoking Policy* ('the Policy') was most recently reviewed in June 2019 and approved by the Directors Group on 6 June 2019.

4.5 The Policy aims to ensure, as far as reasonably practicable, that measures are taken to eliminate, minimise or control risks to health and safety of persons from exposure to second-hand smoke and the adverse health effects of passive smoking.

4.6 The Policy applies to:

*All Council employees, including contractors, apprentices, trainees, labour hire workers and work experience students, volunteers, visitors, stakeholders, lessees, community groups and customers to Council's designated Workplaces are required to comply with this policy. (our emphasis)*

4.7 'Workplace' is defined to mean 'a place of work where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work.'

4.8 Clause 5.3 of the Policy provides that:

*Under the Tobacco Products Regulation Act 1997 [now Tobacco and E-Cigarette Products Act 1997] smoking is banned in all enclosed public places, workplaces (including work vehicles) or shared areas.*

*In Workplaces under the control of the City of Onkaparinga smoking is prohibited in the following areas:*

- *Any and all Council buildings at all times and within five (5) metres of any entrance/exit of a Council building*
- *Five (5) metres from the intake area for building air conditioning systems*

• ...

(our emphasis)

4.9 Clause 5.4 of the Policy provides under 'Public areas' that:

*In South Australia, it is an offence under the Tobacco Products Regulation Act 1997 [now Tobacco and E-Cigarette Products Act 1997] to smoke in the following public areas:*

*Any outdoor dining areas where people go to eat and/or drink ...*

*All persons covered by this policy are required to abide by these restrictions whilst conducting council work or using council facilities. Failure to do so will be a breach of this policy. (our emphasis)*

4.10 While the scope of the Policy is said to be 'Council's designated Workplaces', we do not support any narrow interpretation that the Policy applies only to those workplaces where Council employees are present, or may be present.

4.11 It appears clear that, when considered in totality, the objective and the provisions of the Policy are directed at Council facilities, as well as any public outdoor dining area at Council premises.

4.12 This interpretation arises from, amongst other things, clause 3, which states that the Policy applies to 'lessees' and clause 5.3 which provides that smoking is prohibited at 'any and all Council buildings at all times' as well as 'within five (5) metres of any entrance/exit of a Council building'.

4.13 On the facts of this matter:

4.13.1 the Premises are a Council building;

4.13.2 the use of which is subject to leases, held by the Applicant and the SCSSC;

4.13.3 the Applicant and SCSSC are lessees;

4.13.4 employees of the Council may have recourse to attend at the Premises from time to time (and, indeed, have done so for the purposes of conducting inspections);

4.13.5 the SCSSC has employees who are required to be present at the Premises, and it hires out the function room to community groups who may engage caterers to attend the Premises; and

4.13.6 the Applicant and the SCSSC have members, volunteers, visitors and community groups attending to make use of the Premises.

4.14 It is our view that the Policy applies to the Premises and, in accordance with clause 4.6.3 of the leases, the lessees' visitors, invitees, agents, employees and contractors must abide by the Policy.

4.15 Taking into account the contents of the Policy, the statements set out in the Mayor's letter of 19 September 2019 (Appendix 10) are not accurate, as they apply to the application of the Policy.

- 4.16 While we have been advised this letter was prepared in response to a dispute that had arisen in relation to a white line that had been painted in the carpark with the words 'no *smoking beyond this point*', which was interpreted as being inconsistent with the Policy, it is unfortunate that the letter did not also iterate the legislative position, as previously communicated to the parties.

## 5. LEGISLATIVE FRAMEWORK

- 5.1 Any consideration of the decision of the Council requires not only an assessment of the Policy, but also a consideration of the legislative framework in relation to smoking in certain areas. Any inconsistency between the Policy and the law results in the law prevailing to the extent of the inconsistency.
- 5.2 Clauses 4.13 and 4.21.5 of the leases confirm the obligations of the lessees to not carry on any activity or do anything which is an offence under any Act or regulation and to comply at all times and in all respects with all applicable legislation (Appendices 3 and 4).
- 5.3 By way of Gazette Notice published on 31 March 2019, the *Tobacco Products Regulation Act 1997* was renamed the *Tobacco and E-Cigarette Products Act 1997* ('the Act').
- 5.4 Section 52 of the Act provides that the Governor may, by regulation, declare that smoking is banned in any public area, as described. A person who smokes in any area so declared, is guilty of an offence.
- 5.5 Regulation 15 of the *Tobacco and E-Cigarette Products Regulations 2019* ('the Regulations') provides that for the purposes of section 52 of the Act:

*smoking is banned in a public area consisting of an outdoor dining area at any time that food is being offered for purchase, or otherwise provided, by or on behalf of the occupier of the outdoor dining area for the purpose of consumption in the area (whether or not a person is, in fact, dining in the area).* (our emphasis)

- 5.6 Regulation 15(3) further provides that 'food' does not include 'snack food', being 'prepackaged food of a kind generally intended to be consumed between meals.' Foods such as sandwiches, hot chips, cakes or muffins are not snack food.
- 5.7 Enquiries with SA Health confirm that an outdoor dining area is an unenclosed 'public area' in which tables, or tables and chairs, are permanently or temporarily provided for the purpose of public dining and will include 'temporary eateries at events and other venues' (our emphasis).
- 5.8 Section 4 of the Act defines 'public area' or 'public place' to mean:
- an area or place that the public, or a section of the public, is entitled to use or that is open to, or used by, the public or a section of the public (whether access is unrestricted or subject to payment of money, membership of a body or otherwise).* (our emphasis)
- 5.9 Accordingly, any Council facility, that is open to, or used by, the public or a section of the public, whether or not access is unrestricted or subject to payment or

membership, that has a public outdoor area where food is offered or provided for consumption, even on a temporary basis, **must be smoke-free, regardless of whether anyone is actually eating in the area.**

5.10 This position is confirmed at clause 5.4 of the Policy.

5.11 There are penalties under the Act for non-compliance by individuals who smoke in an outdoor dining area, **as well as any occupier (i.e. the lessees) who allow smoking to occur in an outdoor dining area.**

5.12 Importantly for the purposes of this review, a venue can choose to allow smoking in an outdoor area at times when food is not available. For example, an outdoor dining area can be provided for a set period of time, with other times specified in that same area for smoking but not dining.

5.13 Further, if an unenclosed public area is separated from the part in which dining occurs, by a wall or other solid barrier of not less than 2 meters in height, this is not included as part of the outdoor dining area. However, we understand that this has been previously proposed, but was not supported by the Applicant or the SCSSC.

## 6. RELEVANT CONSIDERATIONS AND FINDINGS

6.1 The above matters have been carefully considered as part of this review and the findings of KJL in relation to each are set out below:

6.1.1 the Applicant and the SCSSC each have a lease to use a portion of the Premises, the relevant terms of which for the purpose of this review are identical;

6.1.2 read together, clauses 4.5, 4.6.3 and 4.13 of the leases require that the lessees, as well as any invitees, agents, employees and contractors, at all times, abide by Council's Policy, as well as all relevant legislation;

6.1.3 clause 3 of the Policy provides that it will apply to all lessees and community groups and clause 5.3 provides that smoking is prohibited in any and all Council buildings at all times and within five (5) metres of any entrance/exit of a Council building, as well as five (5) metres from the intake area for building air conditioning systems;

6.1.4 this position accords with the decision of the Council, as communicated by the Mayor to the Applicant, by way of letter dated 19 September 2019;

6.1.5 however, while the Policy recognises this position at clause 5.4 thereof, the letter **does not** set out the applicable legislative framework in relation to smoking in outdoor dining areas;

6.1.6 we understand that when the letter was prepared in draft form, it did set out the application of the Act. However, these paragraphs were removed as it was considered that they *'seemed not to be relevant to the particular enquiry regarding the white line in the carpark'*;

6.1.7 unfortunately, this has led to confusion arising as between the parties, and the subsequent request for a review of the Council's 'decision';

- 6.1.8 in the final letter that was sent, the 'decision' does not appear to have taken into account the application of the Act and, in this regard, we note the title of the letter is '*City of Onkaparinga – No Smoking Policy*';
- 6.1.9 section 52 of the Act provides that the Governor may, by regulation, declare that smoking is banned in any public area, as described and a person who smokes in any area so declared, is guilty of an offence;
- 6.1.10 regulation 15 of the Regulations provides that for the purposes of section 52 of the Act, smoking is banned in a public area consisting of an outdoor dining area at any time that food is being offered for purchase, or otherwise provided, by or on behalf of the occupier of the outdoor dining area for the purpose of consumption in the area, whether or not a person is, in fact, dining in the area;
- 6.1.11 it is our view that the courtyard constitutes a public outdoor dining area:
- it falls within the definition of a temporary eatery '*at other venues*';
  - it is located at a Council facility, that is open to, or used by, the public or a section of the public;
  - there are fixed picnic tables and chairs located in the courtyard;
  - there is a fixed BBQ located in the courtyard; and
  - food is offered or provided at the Premises, by or on behalf of the occupiers of the outdoor dining area, for the purpose of consumption in the area;
- 6.1.12 accordingly, at any time the lessees offer food for purchase, or otherwise provide food, the **entire courtyard** area is required to be smoke free, regardless of whether anyone is actually eating in the area, not just that portion which is beyond five (5) metres of the entrance/exit to the Premises;
- 6.1.13 this will include any time the SCSSC hires out the function room, where food is provided, any time that the BBQ in the courtyard area is used, or any time that either club offers a shared meal or food for its members or visitors;
- 6.1.14 if the canteen offers foods such as sandwiches, hot chips, cakes or muffins (i.e foods beyond that defined as '*snack foods*' under the Act) the courtyard area would, likewise, be required to be smoke free at all times that the canteen is open;
- 6.1.15 there are penalties under the Act for non-compliance for individuals who smoke in an outdoor dining area, as well as any occupier (i.e. the lessees) who allow smoking to occur in an outdoor dining area.

## 7. CONCLUSIONS AND RECOMMENDATIONS

- 7.1 Taking the above into account, **we find** that the Council decision, as ultimately communicated in the Mayor's letter of 19 September 2019, **did not** take into

account all relevant matters, in informing the Applicant that smoking was permitted in the western, grassed area end of the courtyard, as it was limited to consideration of the Policy only and did not apply the Act to the facts.

- 7.2 The courtyard is a public area, consisting of an outdoor dining area. At any time, that the lessees offer food for purchase, or otherwise provide food, the courtyard area is required to be **entirely smoke free** at those times. This is regardless of whether anyone is actually eating in the area.
- 7.3 Given the inability of the Applicant and the SCSSC to come to a mutually agreeable position in relation to this issue, **we recommend** that the Council, as the owner of the Premises, determine what position it wishes to take in relation to smoking in the courtyard.
- 7.4 In any consideration of this issue, the Council should be mindful of its commitment to ensuring, so far as reasonably practicable, that measures are taken to eliminate, minimize or control risks to health and safety of persons from exposure to second-hand smoke and the adverse health effects of passive smoking, as set out at clause 2 of its Policy.
- 7.5 Whatever decision that the Council makes in relation to smoking in the courtyard, it must be consistent with both the Act and the Policy.
- 7.6 That is, if a decision is made to continue to allow smoking in the courtyard, as the owner of the Premises, the Council will be required to designate the courtyard as being available for outdoor dining only between certain hours, at which time the entire courtyard is to be smoke free in accordance with the Act.
- 7.7 The Applicant and SCSSC will need to confirm that the canteen does not offer foods such as sandwiches, hot chips, cakes or muffins outside of these times, otherwise, that would be a breach of the Act.
- 7.8 Outside of any designated dining hours, smoking would only be permitted in the western, grassed area, end of the courtyard, consistent with the Council Policy.
- 7.9 Irrespective of the manner in which the Council resolves to determine this matter, it is acknowledged that the Applicant has recourse to the Ombudsman if it remains dissatisfied.

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## **APPENDICES**

(provided as Attachment 2)

**Kelley Jones Lawyers  
Section 270 Internal Review Report**

**APPENDICES**

## APPENDIX 1

Happy Valley SA 5159  
11 November 2019

Manager  
Property & Commercial  
City of Onkaparinga  
PO Box 1  
Noarlunga Centre S 5168

CITY OF ONKAPARINGA  
12 NOV 2019  
NOARLUNGA

Dear [REDACTED]

[REDACTED] President of Southern Table Tennis Inc. (STT) has asked me to write this letter given that I represented STT at a meeting with Mayor [REDACTED] former Council CEO [REDACTED] plus [REDACTED] and [REDACTED] representing South Coast Sports and Social Club Inc. (SCSSC) on Tuesday 22 October 2019.

The Meeting was called by [REDACTED] "to further discussions about accommodating the future growth of both clubs". As could be expected the meeting degenerated into discussion regarding smoking in the courtyard leading to the entrance of the premises occupied by STT, and the liquor licence held by SCSSC over the same area. It became clear that [REDACTED] were firm in their view "that the no smoking area applies to the majority of the existing courtyard area, with the exception of the western end of the courtyard in the grassed area", as contained in [REDACTED] letter of 19 September 2019 to [REDACTED]. The site plan enclosed with Erin's letter indicates smoking will now be permitted in portion of the courtyard adjacent to the courtyard entrance /exit gates. This is a situation which existed prior to receipt of your letter of 30 May 2017 to [REDACTED].

In that letter you stated "Given the need for STTC to access their facility through the courtyard and the requirements of our no smoking procedure, we will be declaring the courtyard a non-smoking area to ensure the health, safety and comfort of all users of the facility". The STT Committee was delighted to receive that letter and breathed a collective sigh of relief that common sense had prevailed.

Your letter brought about a request from SCSSC to review the decision making process and Council completed a review under section 270 of the Local Government Act.

1

██████████ in a letter dated 1 December 2017, advised ██████████ that Council's decision (presumably the content of your letter of 30 May 2017) had "been upheld and the whole courtyard is now declared smoke free". She also wrote "In addition, the courtyard area will also have the existing liquor licence revoked so the consumption of alcohol in this area will not be permitted".

Following receipt of that letter, STT revised the STT No Smoking Policy on 29 January 2018 to reflect that the whole of the entrance courtyard was smoke free as well as that area in the car park which is within 5 metres from the entrance gates and fence-line to the venue. SCSSC made a further attempt to challenge the content of your letter of 30 May 2017 by writing a letter dated 27 February 2018. That letter contained an assertion that Council had incorrectly interpreted the Tobacco Products Regulations Act 1997. In your letter of 4 April 2018 you advised ██████████ that there had been no change in Council's position and the courtyard remained a defined 'no smoking' area.

However, with the receipt of the Mayor's letter of 19 September 2019, STT is now confronted with a decision that smoking is permitted in an area adjacent to the double gates of the entrance courtyard, thus creating a scenario where STT participants have to walk through a tobacco smoke haze generated by SCSSC members and their guests standing in the gateway, a situation which is not in keeping with an object in the Tobacco and E-Cigarette Products Act 1997 viz., to protect non smokers from unwanted exposure to tobacco smoke and e-cigarette vapour.

Therefore we request a review of Council's decision making process that was undertaken to inform the Mayor when writing her letter of 19 September 2019 to ██████████. We expect that review to be conducted under section 270 of the Local Government Act 1999.

Yours sincerely,

██████████

Geoff Goss  
Southern Table Tennis Inc



**Government of South Australia**  
Office of Consumer and  
Business Affairs

Our Reference: [REDACTED]  
Refer to: [REDACTED]  
Direct line: [REDACTED]

Ground Floor  
Chesser House  
91-97 Grenfell Street  
Adelaide SA 5000

GPO Box 1407  
Adelaide SA 5001

Tel 1300 138 918  
Fax 08 8204 9771

[www.ocba.sa.gov.au](http://www.ocba.sa.gov.au)

1 April 2008

The Public Officer  
Southern Table Tennis Incorporated  
Attention [REDACTED]  
Education Road  
HAPPY VALLEY SA 5159

Dear [REDACTED]

**Re: SOUTHERN TABLE TENNIS INCORPORATED**

I refer to your Application for Registration of Alteration to Rules for the above named associations incorporated under the provisions of the Associations Incorporation Act 1985 received on 18 March 2008.

The Commission is satisfied that the proposed alteration conforms with the requirements of the Act and has registered the alterations.

Should you have any further queries please contact our office on 1300 138 918.

Yours sincerely



Client Services Officer (Associations)

**SOUTH AUSTRALIA**

Associations Incorporation Act 1985  
Section 24(5)(b)

Incorporation Number: A8745

**Certificate of Incorporation  
on Change of Name**

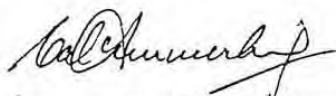
This is to certify that

**SOUTHERN TABLE TENNIS ASSOCIATION  
INCORPORATED**

an association which was on the twenty-sixth day of September 1983  
incorporated under the Associations Incorporation Act 1985  
resolved on the twenty-fifth day of February 2008  
to change its name to

**SOUTHERN TABLE TENNIS INCORPORATED**

Given under the seal of the Corporate Affairs Commission at Adelaide on this first  
day of April 2008



Commissioner of Corporate Affairs





**Southern Table Tennis Policy (STT 08)  
NO SMOKING POLICY**

## Revisions, Approval, Distribution & Review

### Revision History:

Revision Date	Version No	Revision Undertaken
18/12/ 2016	1.0	Initial Policy, predominantly embracing the TTSA policy
29/01/2018	2.0	Definitions introduced and 'application of policy' modified due to Council ruling
28/10/2019	2.1	Close proximity to air conditioning intakes updated (at 1.2 Definitions)

### Current Approved Version:

Name & Position	Signature	Date Approved
President, Southern Table Tennis		28/10/2019

### Distribution:

	Date Of Issue
Southern Table Tennis Web Site	28/10/2019
Placed on Stadium Notice Board	28/10/2019

### Date Next Due For Review:

January 2021

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## THE POLICY

### 1.1 INTRODUCTION:

Southern Table Tennis (STT) is committed to providing a safe and healthy environment to its members, guests and visitors. This policy endorses and embraces the Table Tennis SA (TTSA) 'No Smoking Policy' as varied from time to time and available on the TTSA web site at [www.tabletennissa.org.au](http://www.tabletennissa.org.au)

Additionally STT has introduced specific 'no smoking' conditions recognizing the uniqueness of its physical environment.

### 1.2 DEFINITIONS:

**Entrances and Exits** – means doorways, gates and emergency exit doors and gates

**Close proximity to air conditioning intakes** – for the purpose of this policy infers a minimum distance of 5 metres.

### 1.3 SCOPE:

This policy relates to the premises occupied by Southern Table Tennis which includes the playing stadium, canteen, store rooms, wet areas, office and meeting room, small rear courtyard, entrance courtyard and other such locations STT may utilize from time to time for social activities or other events.

Additionally, smoking shall not occur in close proximity to air conditioning intakes.

### 1.4 APPLICATION OF POLICY:

The following areas are declared smoke free environments;

- all internal spaces occupied by Southern Table Tennis,
- in line with the City of Onkaparinga direction, the whole of the entrance courtyard,
- the small rear courtyard (other than as defined on the appended plan)
- that area in the car park which is within 5 metres from the entrance gates and fence-line to the venue,
- all complex entrances and exits, and
- that external area within 5 metres of both stadium emergency side exit doors

### 1.5 EXCLUSIONS:

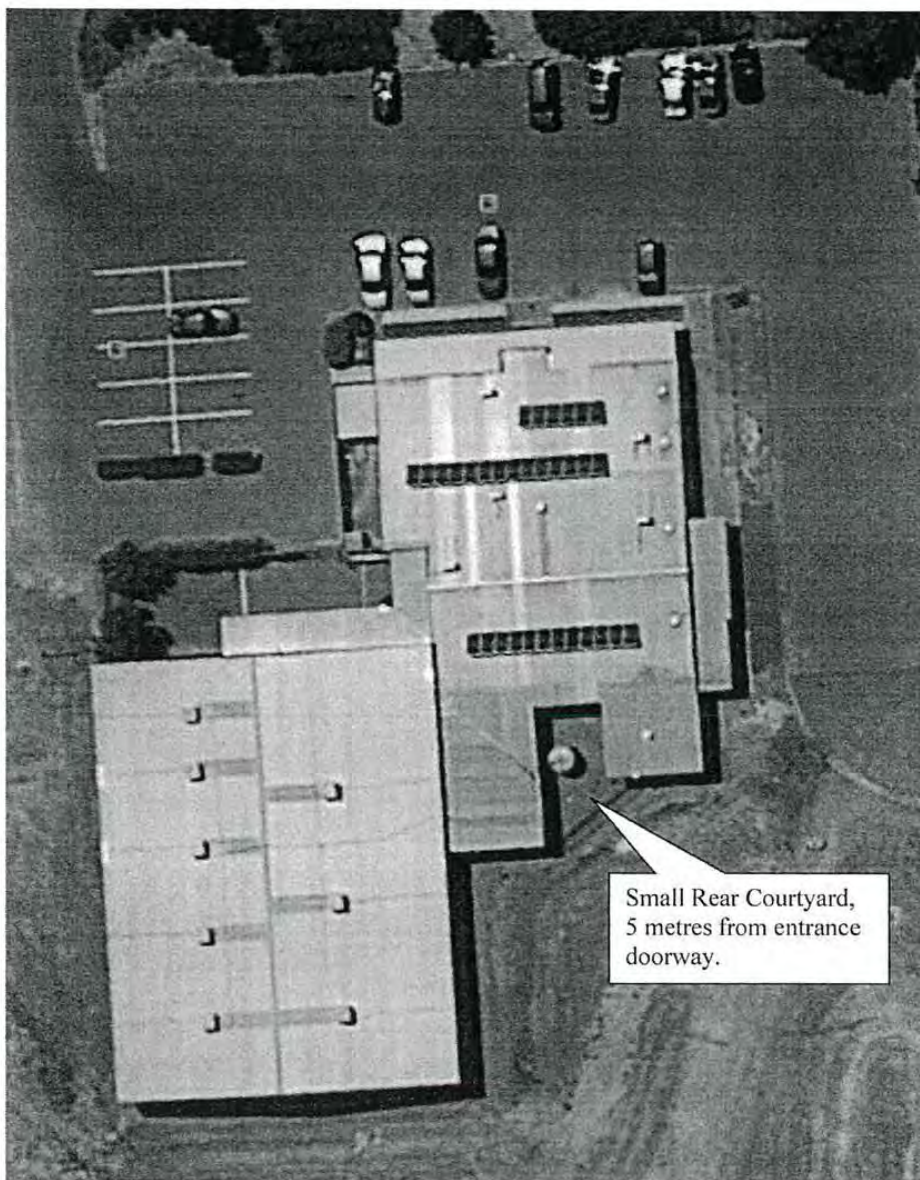
The small rear courtyard (refer annexure 1) is the designated area provided for smokers. Smoking shall not occur within five (5) metres of the entrance door to the small rear courtyard in line with STT lease requirements.

### 1.6 RELATED DOCUMENTS:

TTSA 'No Smoking Policy', reference TTSA-09, at [www.tabletennissa.org.au](http://www.tabletennissa.org.au), and Table Tennis Australia 'Member Protection Policy', at [www.tabletennis.org.au](http://www.tabletennis.org.au)

*Document END*

## Annexure 1



Small Rear Courtyard,  
5 metres from entrance  
doorway.

## APPENDIX 2



Product Register Search (CT 5835/102)  
Date/Time 06/12/2019 12:05PM  
Customer Reference 190474  
Order ID 20191206004902

REAL PROPERTY ACT, 1986



South Australia

The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



## Certificate of Title - Volume 5835 Folio 102

Parent Title(s) CT 725/164  
Creating Dealing(s) CONVERTED TITLE  
Title Issued 24/01/2001 Edition 1 Edition Issued 24/01/2001

### Estate Type

FEE SIMPLE

### Registered Proprietor

CITY OF ONKAPARINGA  
OF PO BOX 1 NOARLUNGA CENTRE SA 5168

### Description of Land

SECTION 642  
HUNDRED OF NOARLUNGA  
IN THE AREA NAMED MORPHETT VALE

### Conditions

PUBLIC PARK PURSUANT TO THE PUBLIC PARKS ACT, 1943

### Easements

NIL

### Schedule of Dealings

NIL

### Notations

Dealings Affecting Title NIL  
Priority Notices NIL  
Notations on Plan NIL

### Registrar-General's Notes

PLAN FOR LEASE PURPOSES VIDE G272/2005

### Administrative Interests

SIGNIFICANT ENVIRONMENTAL BENEFIT 2007\_2065



Product	Register Search (CT 5835/102)
Date/Time	06/12/2019 12:05PM
Customer Reference	190474
Order ID	20191206004902



20 10 0 20 CHAINS

FOR METRIC CONVERSION	
1 LINK	= 0.201168 METRES
1 CHAIN	= 100 LINKS
1 ACRE	= 0.404686 HECTARES
1 ROOD	= 1011.7 m <sup>2</sup>
1 PERCH	= 25.29 m <sup>2</sup>



Product	Title Details
Date/Time	06/12/2019 12:05PM
Customer Reference	190474
Order ID	20191206004902

## Certificate of Title

Title Reference	CT 5835/102
Status	CURRENT
Easement	NO
Owner Number	90006261
Address for Notices	PO BOX 1 NOARLUNGA CENTRE SA 5168
Area	32.5HA (APPROXIMATE)

## Estate Type

FEE SIMPLE

## Registered Proprietor

CITY OF ONKAPARINGA  
OF PO BOX 1 NOARLUNGA CENTRE SA 5168

## Description of Land

SECTION 642  
HUNDRED OF NOARLUNGA  
IN THE AREA NAMED MORPHETT VALE

## Last Sale Details

There are no sales details recorded for this property

## Constraints

### Encumbrances

NIL

### Stoppers

NIL

### Conditions

PUBLIC PARK PURSUANT TO THE PUBLIC PARKS ACT, 1943

## Valuation Numbers

Valuation Number	Status	Property Location Address
8684166111	CURRENT	216 STATES ROAD, MORPHETT VALE, SA 5162
8684166162	CURRENT	216 STATES ROAD, MORPHETT VALE, SA 5162
8684166242	CURRENT	Lot 642 STATES ROAD, MORPHETT VALE, SA 5162
8684166269	CURRENT	Lot 642 STATES ROAD, MORPHETT VALE, SA 5162
8684166314	CURRENT	Lot 642 STATES ROAD, MORPHETT VALE, SA 5162



Product  
Date/Time  
Customer Reference  
Order ID

Title Details  
06/12/2019 12:05PM  
190474  
20191206004902

Valuation Number	Status	Property Location Address
8684166410	CURRENT	216 STATES ROAD, MORPHETT VALE, SA 5162
8684166568	CURRENT	216 STATES ROAD, MORPHETT VALE, SA 5162
868416671*	CURRENT	216 STATES ROAD, MORPHETT VALE, SA 5162

## Notations

### Dealings Affecting Title

NIL

### Notations on Plan

NIL

### Registrar-General's Notes

PLAN FOR LEASE PURPOSES VIDE G272/2005

### Administrative Interests

SIGNIFICANT ENVIRONMENTAL BENEFIT 2007\_2065

## APPENDIX 3

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**CITY OF ONKAPARINGA**  
**("Council")**

**and**

**Southern Table Tennis Association Incorporated**  
**("Lessee")**

**LEASE**

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**LEASE**

**BETWEEN:** CITY OF ONKAPARINGA of PO Box 1 Noarlunga Centre South Australia 5168 (together with its successors and assigns, and which in this Agreement is called "Council")

**AND:** Southern Table Tennis Association Incorporated, States Road, Morphett Vale (together with its administrators and assigns, and which in this Agreement is called "the Lessee")

**BACKGROUND:**


- A. Council has the care and control and management of *[or is the Registered Proprietor of]* the Land identified in Item 7 of the Schedule ("Council Land").
- B. The Lessee has requested a lease to use the facilities located on Council Land.
- C. Council has agreed to grant to the Lessee a lease of those areas marked on the attached plan, including any structures, improvements, fixtures and fittings erected or installed on it which are identified as leased on that plan annexed to this Lease as Annexure 1 and in Item 8 of the Schedule and which together in this Lease are called the "Premises".
- D. Prior to the granting of this Lease, Council has complied with the requirements of section 202 of the Local Government Act 1999.
- E. The Lessee and Council wish to record the other terms of the Lease in this document.

**THE PARTIES AGREE** as follows:1. **ACKNOWLEDGEMENT AS TO BACKGROUND**

The parties agree that the preceding statements are accurate and form part of this Lease.

2. **AIMS AND OBJECTIVES**

- 2.1 The parties agree that the aims and objectives for the Premises are that the Premises will be operated and managed consistently by the Lessee generally with the object of:
  - 2.1.1 maximising broad community use and acceptance of the Premises;
  - 2.1.2 maximising customer satisfaction with the Premises;
  - 2.1.3 optimising cultural and community involvement in the Premises;
  - 2.1.4 maximising the efficiency of operations of the Premises;
  - 2.1.5 ensuring that the Premises operates as an integrated entity;
  - 2.1.6 minimising the costs of operating the Premises; and
  - 2.1.7 forward planning for the trends and activities that may evolve from time to time.

Download SA - Stamp Duty - ABN 19 040 349 865	
RevNetID/PRA Bundle No.: 111024102	
Consideration/Value/Security: \$ 0.00	
SA Proportion (if applicable): \$	
SD: \$ 0.00	LTD Fees: \$ 0.00
Int: \$	Tax: \$
Signature: 	Date: 24/5/06

- 2.2 The parties will regularly liaise and consult with each other and generally perform their obligations under this Lease, with a view to ensuring that the Premises at all times continues to meet and fulfil the aims and objectives.

### **3. GRANT OF LEASE**

Council grants to the Lessee, and the Lessee accepts, a lease of the Premises for the term set out in Item 1 of the Schedule, commencing on the date set out in Item 2 and subject to all the following terms and obligations.

### **4. THE LESSEE'S OBLIGATIONS**

The Lessee agrees with Council as follows:

#### **4.1 Rent (Service fee)**

- 4.1.1 The Lessee will pay the rent (service fee) set out in Item 3 of the Schedule to Council at the times specified in Item 3.
- 4.1.2 The rent (service fee) will be reviewed each year on the Rent Review Date as set out in Item 4 of the Schedule.
- 4.1.3 Council and the Lessee will seek to agree the renewed rent (service fee) on or by the Rent Review Date.
- 4.1.4 If the renewed rent cannot be agreed between Council and the Lessee the rent will be varied by the variation expressed as a percentage in the Consumer Price Index for Adelaide (all groups) over the twelve months prior to the Rent Review Date.

#### **4.2 Rates and Taxes**

The Lessee will pay, on time and in full, all Council rates and taxes (excluding state land tax), assessments and charges in relation to the Premises which are now, or may at some time during the Term, be charged, levied or payable by either Council or any occupier of the Premises - refer Item 12 of the Schedule.

#### **4.3 Utilities**

The Lessee will pay all service fees and charges for telephone, electricity, gas, water and sewerage levied against the owner or occupier of the Premises.

#### **4.4 Use of Premises**

The Lessee will not use or allow the Premises to be used for any purpose or activity other than that set out in Item 5 of the Schedule.

#### **4.5 Legislation**

The Lessee will comply (at its own cost and expense in all things) with the provisions of all acts, regulations, by-laws and all directions and orders of any local government or semi-government authority in relation to the Premises.

**4.6 Alcohol, Gaming and Smoking**

- 4.6.1 Alcohol or other prohibited substances may be sold or consumed or used on or in the vicinity of the Premises only in accordance with Council's written consent and at all times in accordance with the provisions of the Liquor Licensing Act.
- 4.6.2 The Lessee cannot install gaming machines on the Premises without first obtaining Council's written consent. Council will be entitled to withhold its consent for any reason.
- 4.6.3 The Lessee, the Lessee's visitors, invitees, agents, employees and contractors will at all times abide by Council's "Smoking" policy, amended, varied or replaced from time to time.

**4.7 Maintenance and Repair**

- 4.7.1 Council shall at its own cost in all things undertake the preventative and cyclic maintenance ("Council's Maintenance") identified in Council's Maintenance Schedule attached hereto as Annexure 3 (as applicable).
- 4.7.2 The Lessee must notify Council as soon as it becomes aware of any defects in the Premises or any plant and equipment owned by the Council situated at or on the Premises.
- 4.7.3 Subject to Clauses 4.7.1 and 4.7.4, the Lessee must at its own cost in all things:
  - 4.7.3.1 keep the Premises in good repair (with fair wear and tear and damage by storm, fire, tempest, act of god, war, riot, civil commotion and earthquake excepted);
  - 4.7.3.2 supply and replace, fit or install any items which are reasonably necessary to maintain and preserve the condition of the Premises and the Lessee must continue to maintain those items during the term;
  - 4.7.3.3 maintain any vegetation or garden on the Premises in an attractive state;
  - 4.7.3.4 maintain all plumbing and drainage on the Premises in good working order and keep it free from all blockages;
  - 4.7.3.5 install and maintain fire fighting equipment at the Premises to a level acceptable to Council or the local fire fighting authority;
  - 4.7.3.6 keep the Premises in a clean and sanitary condition, free from dirt, rubbish and vermin;
  - 4.7.3.7 remove all graffiti on any part of the Premises in line with Councils' Graffiti Management Policy
  - 4.7.3.8 undertake all specific maintenance set out in Annexure 3 ("the Lessee's Maintenance").

4.7.4 The Lessee's obligations pursuant to Clause 4.7.3 are subject to Council not assuming responsibility for that maintenance, HOWEVER Council will not at any time assume responsibility for the items specified in Annexure 3.

4.7.5 For the purposes of this Clause 4.7, Council shall be taken to have assumed responsibility for the maintenance of the Premises (other than the Lessee's Maintenance as specified in Annexure 3):

4.7.5.1 if a service fee is set out in Item 3 of the Schedule, then as of the date of this Lease; or

4.7.5.2 if during the term of this Lease Council gives notice in writing to the Lessee electing to assume responsibility for the maintenance of the Premises, then from that date specified in that notice.

4.7.6 If Council assumes responsibility for the maintenance of the Premises pursuant to Clause 4.7.5:

4.7.6.1 Council will keep the Premises in good repair for the duration of this Lease (other than maintenance which comprises the Lessee's Maintenance as specified in Annexure 3); and

4.7.6.2 the Lessee will pay a Service Fee as set out in Item 3 of the Schedule or as reasonably nominated in the notice given to the Lessee pursuant to Clause 4.7.5.2 ("the Service Fee").

4.7.7 The Lessee hereby releases and indemnifies Council for actions, claims, demands, losses, damages, costs and expenses for which Council is or may be, or becomes liable in respect of or arising from any defects to the Premises unless Council has unreasonably failed to respond to notice of those defects given by the Lessee pursuant to Clause 4.7.2.

4.7.8 Notwithstanding anything else in this Lease, if there is any plant and equipment owned by Council situated at or on the Premises, the Lessee must:

4.7.8.1 maintain and repair such plant and equipment in a manner and to a standard reasonably required by Council; and

4.7.8.2 replace such plant and equipment as and when deemed necessary by the Council; and

the Lessee acknowledges and agrees that at the termination or earlier determination of the Lease, it shall not be entitled to remove any part of such plant and equipment.

#### **4.8 Entry by Council**

4.8.1 Provided that the Lessee is given reasonable notice, the Lessee will allow Council to come onto the Premises for the purpose of inspecting its condition and state of repair and/or for the purpose of carrying out repairs or undertaking maintenance works.

4.8.2 If Council finds that any part of the Premises needs repairing and for which the Lessee is responsible, then Council may notify the Lessee in writing.

4.8.3 If the Lessee has not carried out the work required by the written notice, to a reasonably acceptable standard within the time set out in the notice, which unless in the case of an emergency will not be less than one month, then Council may come onto the Premises at a reasonable hour to carry out the repairs. The cost of the repairs and any other reasonable expenses incurred by Council will be recoverable from the Lessee.

4.8.4 In the case of an emergency no notice need be given by Council.

#### **4.9 Erection/Demolition of Buildings**

4.9.1 The Lessee will not make any structural changes to the Premises such as erecting or demolishing any buildings, unless written consent is first obtained from Council.

4.9.2 Any approved alterations to the building, including the installations of either temporary or permanent partitions, must be carried out in accordance with all planning and building approvals, at an acceptable level of workmanship and to the satisfaction of Council.

#### **4.10 Signs**

The Lessee must obtain Council's written consent before it puts up, attaches or erects any signs on the exterior of the Premises. Council may not unreasonably withhold consent.

#### **4.11 Painting**

4.11.1 On the date set out in Item 6 of the Schedule the Lessee will arrange for the painting or other treatment of all internal parts of the Premises, which had been painted or treated on the Commencement Date or during the term of the Lease. The Lessee will use good quality materials and provide coverage to the satisfaction of the Council.

4.11.2 The cost of complying with the obligations contained in subclause 4.11.1 will be met by the Lessee.

4.11.3 If no date is recorded in Item 6 of the Schedule then the Lessee will not be obliged to comply with this Clause.

#### **4.12 Offensive Activities**

The Lessee must not create a nuisance or disturbance either for Council or for the occupiers of adjoining lands, including domestic premises, nor will it carry on any offensive or dangerous trade or business from the Premises.

#### **4.13 Offences**

The Lessee will not carry on any activity or do anything or fail to do something, which is or may become an offence under any Act or regulation or by-law.

#### **4.14 Assignment**

- 4.14.1 The Lessee is not permitted to transfer, assign, sublet or otherwise give up possession of the Premises unless it has received Council's written consent. Council agrees that it will not unreasonably withhold its consent.
- 4.14.2 The Lessee will be responsible to satisfy Council that any proposed new Lessee will be a suitable body to use and occupy the Premises.
- 4.14.3 If Council gives consent to a sublease, then the sublessee is bound to comply with the terms and conditions detailed in this Agreement in the same manner as the Lessee is required to comply.

#### **4.15 Surrender**

- 4.15.1 Upon the expiration or earlier termination of the Lease, the Lessee will peacefully and quietly surrender and give up possession of the Premises.
- 4.15.2 The Lessee will leave the Premises in good order and cleanliness.
- 4.15.3 Council may request the Lessee to remove all the Lessee's fixtures and fittings and in doing so cause no damage to the Premises. The Lessee will be responsible for repairing at its own cost any damage caused in removing its fixtures and fittings.
- 4.15.4 Any reasonable costs incurred by Council in repairing any damage caused by the Lessee in surrendering the Premises may be recovered from the Lessee.

#### **4.16 Indemnity**

The Lessee will indemnify and hold harmless Council from and against all actions, claims, demands, losses, damages, costs and expenses for which Council is or may be, or becomes liable in respect of or arising from:

- 4.16.1 the negligent use, misuse, waste or abuse by the Lessee of the water, gas, electricity, oil and other services and facilities of the Premises;
- 4.16.2 overflow or leakage or escape of water (including rain water) fire, gas, electricity, or other harmful agent in or from the Premises, but having origin within the Premises, or caused or contributed to by any act or omission by the Lessee;
- 4.16.3 loss, damage or injury from any cause whatsoever to property, or persons, caused or contributed to by the use of the Premises by the Lessee;
- 4.16.4 loss, damage or injury from any cause whatsoever to property or persons inside or outside the Premises caused or contributed to by the neglect or default of the Lessee;
- 4.16.5 loss, damage or injury from any cause whatsoever to property or persons inside or outside the Premises caused or contributed to by the Lessee's neglect or default to observe or perform any of the covenants, conditions, regulations and restrictions required to be complied with or adhered to by the Lessee in accordance with this Lease.

In this Clause 4.17 the term "the Lessee" will include the Lessee's servants, agents, customers, contractors or other persons claiming through or under the Lessee.

**4.17 Public Liability Insurance**

4.17.1 The Lessee will take out and during the term continue to maintain a public risk insurance policy.

4.17.2 The policy will be in respect of injury, loss or damage occurring on the Premises and it will note Council's rights and interest as Lessor and also the indemnities provided by the Lessee in favour of Council.

4.17.3 The Policy must carry an endorsement from the insurer that the insurer will inform Council if the policy is allowed to lapse or is otherwise cancelled.

4.17.4 The cover will be for a minimum amount of the amount set out in Item 11 of the Schedule per claim or any other amount which Council advises the Lessee.

4.17.5 On the Commencement Date and on the anniversary of that date during the Term the Lessee must provide Council with a copy of the Insurance Policy and receipt acknowledging payment of the annual premium.

**4.18 Contents Insurance**

The Lessee must obtain insurance for its own contents, which are located on the Premises.

**4.19 Breach of Insurance Conditions**

The Lessee and Council are not to do anything or fail to do something, which has the effect of invalidating the insurance policy or increasing the rate of the premium.

**4.20 Release**

4.20.1 The Lessee agrees to occupy, use and keep the Premises at the Lessee's risk.

4.20.2 The Lessee agrees to release Council and its agents, servants, employees and contractors from all claims and demands of every kind resulting from any accident, damage or injury occurring on the Premises except if such accident damage or injury is caused by the negligence of Council or its agents, servants, employees and contractors.

4.20.3 The Lessee agrees that Council will have no responsibility or liability for any loss or damage to the Lessee's fixtures or fittings or personal property.

#### 4.21 Professional Management

The Lessee will operate and manage the Premises in a professional and competent manner in accordance with good commercial practice. In particular, the Lessee is required to:

- 4.21.1 at all times have and make available in that regard appropriately skilled, trained and qualified personnel and such other resources as may be necessary from time to time for the proper and efficient operation and management of the Premises as required under this Lease;
- 4.21.2 continuously meet or exceed the Key Performance Indicators;
- 4.21.3 will ensure the orderly conduct of any of its members or invitees on the Premises;
- 4.21.4 meet all of its obligations under this Lease; and
- 4.21.5 comply at all times and in all respects with all Applicable Legislation and will use its best endeavours to ensure that no conduct, activities or other events occur, and that circumstances do not arise which make it likely that any conduct, activities or events may occur which are in breach of any Applicable Legislation.

#### 4.22 No Agency

The Lessee will operate and manage the Premises on its own behalf and not as agent for Council and:

- 4.22.1 will not represent that it acts as agent for Council or has any rights or authority other than as granted to it under this Lease;
- 4.22.2 will not pledge the credit of Council or grant or purport to grant any security over the Centre or any of the Plant and Equipment to any party; and
- 4.22.3 hereby indemnifies Council for all liability, which Council may incur, or loss or damage it may suffer as a consequence of the Lessee acting in breach of its obligations under this Clause 4.22.

#### 4.23 Key Performance Indicators

- 4.23.1 The Lessee must comply with the Key Performance Indicators set out in Annexure 4.
- 4.23.2 The Lessee and Council will meet annually to discuss the Lessee's compliance with the Key Performance Indicators.
- 4.23.3 Council may by written notice provide specific directions ("Direction") to the Lessee regarding the Lessee's compliance with the Key Performance Indicators. If Council provides a Direction to the Lessee the Lessee must comply with the Direction in the manner and within the timeframe specified in the Direction. If the Lessee does not comply with the Direction the Lessee is in breach of this Lease.

#### **4.24 Reporting Requirements**

No later than 30 days following its Annual General Meeting the Lessee will submit to Council an annual report in respect to the Premises for the year ended. The annual report must address the following issues:

- 4.24.1 a set of audited financial statements including a statement of financial position and a statement of financial performance in respect of the operations of the Lessee in respect of the Premises during the financial year just ended which statements have been prepared in accordance with normal accounting standards;
- 4.24.2 details of elected Board persons including Lessee representatives; and
- 4.24.3 a certificate of currency of contents insurance and public liability.

#### **4.25 Advertising and Sponsorship**

The Lessee will actively promote the Premises and all programs and activities conducted therein to the public and otherwise as may be proposed or required in the Key Performance Indicators or any Direction from Council.

### **5. COUNCIL'S OBLIGATIONS**

#### **5.1 Occupation and Use**

Council agrees with the Lessee that while the Lessee pays the rent and adheres to its obligations, which are contained in this Agreement, then the Lessee may use the Premises for the purposes set out in Item 5 of the Schedule.

#### **5.2 Maintenance**

Council shall maintain the Premises as set out in Clause 4.7, if applicable.

### **6. MUTUAL OBLIGATIONS**

Council and the Lessee mutually agree as follows:

#### **6.1 Special Conditions**

- 6.1.1 To comply with any special conditions that are set out in Item 13 of the Schedule.
- 6.1.2 Where any special conditions are inconsistent with the other terms and conditions of this Lease then the special conditions will prevail.

#### **6.2 Ownership of Improvements**

- 6.2.1 That unless the Lessee obtains Council's written acknowledgment, then, irrespective of whether Council or the Lessee purchased them, all structures, improvements, fixtures and fittings located on the Premises at any time during the term will become the property of, and belong to Council.
- 6.2.2 Subclause 6.2.1 is subject to Council's right in Clause 4.15.3 to require the Lessee to remove its fixtures and fittings upon surrendering this Lease.

**6.3 Property Insurance**

- 6.3.1 Council will take out and maintain an insurance policy in the joint names of Council and the Lessee in respect of the Premises covering such damage for which a prudent landlord would insure.
- 6.3.2 The Lessee will if requested by Council pay Council upon demand the premium paid in respect of the policy.
- 6.3.3 The Lessee will also at Council's request pay Council an amount equal to any excess or similar payment paid or payable by Council in respect of any claim made under the policy.
- 6.3.4 The Lessee will reimburse Council upon request by Council the cost of rectifying any damage to the Premises if that cost is less than the amount of any excess.

**6.4 Default**

If:

- 6.4.1 the Lessee fails to pay the rent or any other money which is due to Council for a period of fourteen (14) days from the due date for payment; or
- 6.4.2 the Lessee commits any breach of this Lease which, is either not capable of being completely put right, or is not put right within fourteen (14) days from the date of Council's notice to the Lessee, identifying the breach and requiring it to be put right then Council will be entitled to terminate this Lease and may enter into possession of the Premises. The right to terminate the Lease and enter into possession will not reduce Council's rights to take any other action for any of the Lessee's previous breaches.

**6.5 Default Interest**

- 6.5.1 Council will be entitled to charge the Lessee interest at the rate, which would be charged by Council's bank on Council's overdraft accounts plus two (2) per centum per annum.
- 6.5.2 Interest may accrue on any monies due but unpaid by the Lessee, calculated from the due date for payment until the money has been paid in full.

## **6.6 Termination or Reduction of Rent after Damage**

If the whole or any part of the Premises is destroyed or damaged thus making them substantially unfit for the Lessee's use and occupation or so that the Lessee is deprived of substantial use of the Premises then:

- 6.6.1 the rent and other payments due under this Lease, or a proportionate part of them, will be reduced. The reduction will depend upon the nature and extent of the damage sustained and will continue until the Premises is rebuilt, reinstated or made fit for the Lessee's occupation and use or until the Lease is terminated in accordance with the provisions of this Clause 6.6. Where there is any dispute about the amount by which the rent or other payments should be reduced then either party may instruct an independent licensed valuer to determine the amount of the reduction. The licensed valuer's costs shall be shared equally by the parties;
- 6.6.2 Council may advise the Lessee that because of the extent of the damage Council will not rebuild the Premises and the Lease is accordingly terminated without Council being required to pay any compensation to the Lessee;
- 6.6.3 if after six (6) months the Premises have not been substantially reinstated by Council, this Lease may be terminated by either party notice in writing to the other;
- 6.6.4 any such termination will not reduce the rights of either party in respect of any previous breaches of this Lease;
- 6.6.5 Council is under no obligation to rebuild the Premises or to reinstate or make them fit for occupation.

## **6.7 Council's Works**

Council and any persons authorised by Council may carry out any building additions and/or alterations to the Premises (however not altering the size, location and amenities of the Premises). Council will use its best endeavours to cause as little disturbance as possible to the Lessee.

## **6.8 Resumption**

If after Council receives notice of any proposed resumption or acquisition of the Premises by any Government (whether Federal State or Local) or other authority, or if the control of the Premises is otherwise taken away from Council, Council will be entitled to terminate this Lease and neither party will be permitted to bring any claim or action against the other except for any previous breaches of this Lease.

## **6.9 Extension of the Lease**

- 6.9.1 The Lessee can seek an extension of this Lease for a further term as set out in Item 9 of the Schedule.
- 6.9.2 The Lessee will only be entitled to an extension if:

6.9.2.1 the Lessee makes its request for an extension in writing to Council;

6.9.2.2 the Lessee must give the written request to Council not less than three (3) and not more than six (6) months before the expiration of the initial Term of the Lease;

6.9.2.3 the Lessee is not in breach of the Lease Agreement either at the time it gives Council its written request for an extension or at any time up to the expiration of the Term of the Lease; and

6.9.2.4 the Lessee has not committed any frequent and/or substantial breaches of the Lease Agreement during the term of the Lease.

6.9.3 The extended term will be on the same terms and conditions as this Lease Agreement but will not include this Clause 6.9 granting a right of extension.

6.9.4 The rent payable from the commencement of the extended term will be calculated in the same manner as set out in Clause 4.1 of this Agreement.

#### **6.10 Holding Over**

6.10.1 If the Lessee continues to occupy the Premises after the expiry of the term, or after the Lease is terminated then the Lessee will be a monthly tenant occupying the Premises on the terms and conditions contained in this Lease.

6.10.2 Either party may give the other one (1) month's notice to terminate the Lease.

#### **6.11 Waiver**

The failure or omission by Council to take any action for breach of any of the terms of this Lease will not stop Council from taking action in relation to any other breaches of the same or any other term or condition of the Lease.

#### **6.12 Notice**

Any notice, which is required to be given by either party, must be in writing and must be delivered to the other party at the address, which appears in the Schedule, or other place previously nominated. Notices to Council must be addressed to the Chief Executive Officer.

#### **6.13 Liability**

Where the Lessee is made up of two or more persons, then the liability of those persons for the performance and observation of the terms, covenants, conditions and agreements of this Lease will be joint and several.

#### **6.14 Severance**

If any term of this Lease is invalid, unlawful or not applicable, then it will be deleted from the Lease without affecting any other of the parties' obligations under this Lease.

**6.15 Entire Agreement**

The terms contained in this Lease comprise the whole of the agreement between the parties. It is expressly agreed and declared by the parties that no further or other terms exist between the parties with respect to the Premises or the Lease.

**6.16 No Warranty**

6.16.1 The Lessee specifically acknowledges that before signing this Lease it was given no warranty in respect of the suitability of the Premises (whether structural or otherwise) for the use by the Lessee.

6.16.2 Nor was any warranty given in respect of the fittings, fixtures, facilities and amenities contained on the Premises.

**6.17 Conditional Lease**

This Lease is subject to the Lessee obtaining at its own expense any necessary approvals or consents.

**6.18 Disclosure Statement**

At the time when the Lessee first entered into negotiations for this Lease it was given for its consideration the Disclosure Statement a copy of which is annexed to this Lease.

**6.19 Costs**

6.19.1 The Lessee will pay stamp duty costs in stamping this Lease.

6.19.2 The Lessee will pay all of Council's costs, which result from any threatened or actual breach of the Lease by the Lessee.

**6.20 Interpretation**

In this Lease, unless the context otherwise requires:

6.20.1 reference to any legislation includes subordinate legislation, and all amending or substituting legislation;

6.20.2 words in the singular are capable of including the plural and vice versa, and words importing one gender are to be read as including the other genders where appropriate;

6.20.3 any reference to a natural person will also apply to a body corporate and vice versa;

6.20.4 clause headings and the index of contents are provided for convenience of reference only and do not affect the construction or interpretation of this Lease;

6.20.5 any reference to the Term of this Lease includes any extension of it;

6.20.6 all monies payable by the Lessee to Council under this Lease will be recoverable as a debt or at Council's option in the same manner as rent in arrears;

- 6.20.7 the terms, covenants, conditions and agreements in this Lease are in addition to and without prejudice to those implied by the Real Property Act, 1886 and the Law of Property Act, 1936 except where they are altered or modified in the Lease;
- 6.20.8 "Council" includes its servants, agents and workers;
- 6.20.9 the "Premises" includes all the fixtures and fittings located on the Premises at the Commencement Date;
- 6.20.10 "shared" in relation to any cost, means shared on an equal basis.

**6.21 GST**

- 6.21.1 All amounts payable pursuant to this Lease are expressed as exclusive of GST in this Lease. To the extent that any amount constitutes consideration for any Supply made under or in accordance with this Lease that amount shall be increased by the GST imposed on or in respect of that Supply.
- 6.21.2 For the purposes of this clause:
  - 6.21.2.1 "GST" means any goods and/or services tax, value added tax or other government tax or impost;
  - 6.21.2.2 "Supply" means taxable supplies as defined in or under any Act imposing GST.

The parties acknowledge the preceding clauses by their execution.

THE COMMON SEAL of THE CITY )  
OF ONKAPARINGA was affixed to give )  
effect to a resolution of Council, in the )  
presence of: )



..... )  
[Redacted Signature] )  
..... ) Mayor

..... )  
[Redacted Signature] ) Chief Executive Officer

SIGNED by [Redacted Signature] )  
for and on behalf of the Southern )  
Table Tennis Assoc. Inc. )

..... )  
[Redacted Signature] )

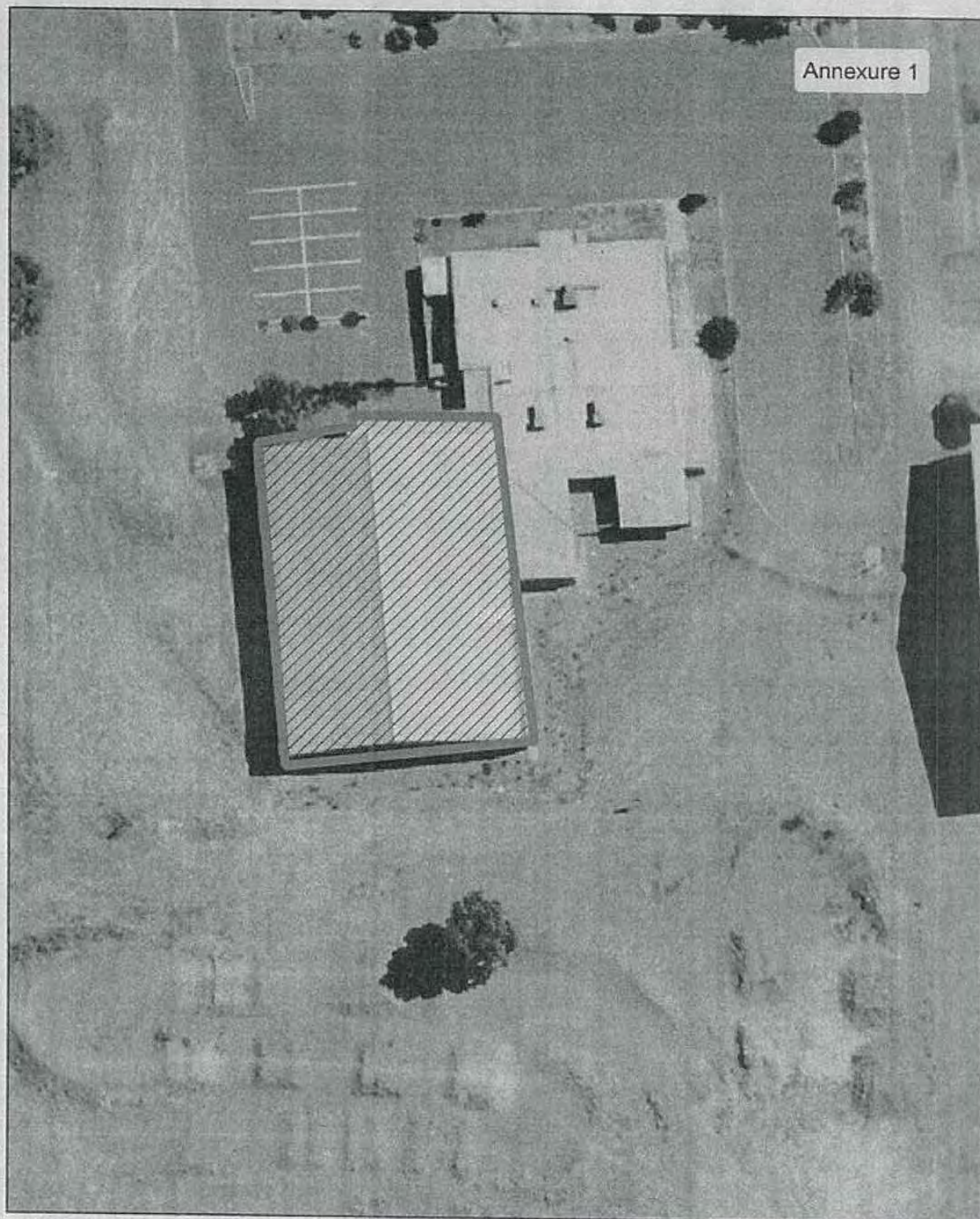
in the presence of:

..... )  
[Redacted Signature] )

### LEASE SCHEDULE

<b>ITEM 1</b> The Term	Five (5) years
<b>ITEM 2</b> The Commencement Date	The first day of July 2005
<b>ITEM 3</b> Service Fee	<p>██████ per annum (exclusive of GST) payable in advance annually. The first payment is due on the Commencement Date.</p> <p>If this Lease is renewed in accordance with Clause 6.9, ██████ per annum (exclusive of GST) payable in advance.</p>
<b>ITEM 4</b> Service Fee Review Date	On the anniversary of the Commencement Date of this Lease in each year.
<b>ITEM 5</b> Use of Premises	The Premises is to be used in accordance with Council's Generic Management Plan for General Community Areas.
<b>ITEM 6</b> Date for Internal Painting	The Premises will be repainted no later than 30 June 2008.
<b>ITEM 7</b> The Land	CT 5835/102 States Road, Morphett Vale As detailed in Item 8
<b>ITEM 8</b> The Premises	Refer Annexure 1
<b>ITEM 9</b> Period of Extension	One (1) of Five (5) years
<b>ITEM 10</b> Date the Lease is made	The    day of
<b>ITEM 11</b> Insurance Coverage	██
<b>ITEM 12</b> Council Rates	Not Applicable
<b>ITEM 13</b> Special Conditions	Annexures 3 & 4

Annexure 1



Leased Premises  
Southern Table Tennis  
Association Incorporated

0 5 10 20 30 40 Meters



Produced by the Administration Team, Organisation Services

**Disclosure Statement****Disclosure Statement Under Section 12 of  
Retail and Commercial Leases Act 1995****Information for Lessees**

Please read the following information carefully.

**What is a lease?**

A lease is a very important document. It is a legally binding contract between the lessor (landlord) and the lessee (tenant). It sets out the rights and obligations of the lessor and the lessee.

A document that binds the lessee to enter into a lease or to take a shop on lease for a renewed term should be treated as if it were the lease.

**What should I look for in a lease?**

The main features to consider are:

- the term of the lease;
- whether there is an option to renew or extend the lease (and the method of exercising any such option);
- the rent and the basis for rent reviews;
- the amounts that the lessee will have to pay in addition to rent *eg* fit out costs, maintenance and repair costs and shared operating expenses;
- the consequences of breaching a term of the lease.

Make sure you read the whole document and understand the obligations it will place on you, especially the extra charges in addition to rent that you will have to pay.

**What information is the lessor required to give me?**

The lessor must give you a copy of the proposed lease and this disclosure statement. The disclosure statement must contain the matters set out in section 12 of the *Retail and Commercial Leases Act 1995*.

**What should I do before signing a lease or other binding document?**

Do not sign until you understand exactly what your obligations under the lease will be.

**Before signing a lease or other binding document, you should obtain independent legal and financial advice.**

- You should discuss the lease (or any agreement for lease) and the disclosure statement with your own lawyer or leasing adviser.
- You should seek advice about the financial commitments under the lease from your own accountant or recognised financial or business adviser.
- You should also seek advice from an association representing the interests of lessees.

**Before signing a lease or other binding document, oral representations made by the lessor or the lessor's agent on which you have relied should be reduced to writing and signed by or on behalf of the lessor.**

**Before signing a lease or other binding document, the lessee should sign an acknowledgment of receipt of the disclosure statement.**

---

**Acknowledgment of Receipt of Disclosure Statement**

I received a disclosure statement under Section 12 of the *Retail and Commercial Leases Act 1995*

On: 29 July 2005 (lessee to insert date received here)

From: City of Onkaparinga of PO Box 1 Noarlunga Centre SA 5168

relating to: States Road, Morphett Vale

Lessee:

Southern Table Tennis Association Incorporated

States Road, Morphett Vale

..... [signature] (.....)

29/7/05  
..... (date)

## Disclosure Statement

### Shop Details

Shop to be leased: **States Road, Morphett Vale**

Lettable area of shop: Refer to Item 8 of the Lease Schedule

The shop may be used only for the following purposes: Refer to Item 5 of the Lease Schedule

- ☐ The shop is in a retail shopping centre within the meaning of the *Retail Shop and Commercial Leases Act 1995*. See Appendix B for details.
- ☒ The shop is not in a retail shopping centre within the meaning of the *Retail Shop and Commercial Leases Act 1995*.

### Lessor Details

- ☒ The lessor is the owner of the shop.
- ☐ The lessor leases the shop. The following rights and obligations of the lessor under the lessor's lease are relevant to the proposed lease:

.....

### Term of Lease and Renewal or Extension

**Note:** Part 4A of the *Retail and Commercial Leases Act 1995* contains provisions that govern the term and renewal of certain leases. In some circumstances, Division 3 of Part 4A provides a preferential right of renewal of a lease of a shop in a shopping centre entered into on or after 6 October 1997.

Term of lease: Five (5) years commencing on 1 July 2005 and expiring on 30 June 2010.

- ☐ There is no right to renew or extend the term of the lease.
- ☒ The lessee has a right to renew or extend the term of the lease one (1) term of five (5) years

### Lessee's Access to Shop

The lessee will have access to the shop during the following hours that fall outside trading hours:

#### All Hours

The shop will be available for occupation by the lessee on:

**1 July 2005**

### **Legal Consequences of Breach of Lease**

The legal consequences of breach of a term of the lease are set out in clauses of the lease.

The consequences of early termination of the lease by the lessee are as follows:

Depending upon the nature of the early termination by the Lessee, the Lessor may do any one or more of the following:

- Sue the Lessee for damages, with or without accepting the termination;
- Accept the Lessee's termination and re-enter the premises (whether or not damages are claimed);
- Require the Lessee to pay default interest on unpaid money (including unpaid rent).

The consequences of other breaches are as follows:

In addition to the consequences relating to early termination of the Lease by the Lessee, the Lessor may do any one or more of the following:

- Distrain for unpaid rent (enter the premises and seize and sell the Lessee's goods and chattels);
- Terminate the Lease;
- Re-enter the premises;
- Remedy the breach itself and recover the cost of doing so from the Lessee;
- Obtain specific performance (a compulsory performance) of the Lessee's obligations under the Lease;
- Obtain an injunction (compulsory restraint) against that or any other breaches by the Lessee.


### **Monetary Obligations of Lessee**

The lessee's obligations to pay rent, capital expenditure, outgoings and other monetary amounts are set out in Appendix A.

**Important Notice  
Exclusion of Warranty of Fitness for Purpose**

Retail and Commercial Leases Act 1995: Section 18  
Retail and Commercial Leases Regulations 1995: Regulation 7

The Lessor does not warrant that the premises that you are about to lease will, for the duration of your lease, be structurally suitable for the type of business that you intend to carry on.

Date: .....  *CEO to sign*

Lessor: ..... *CEO*

## APPENDIX A: Monetary Obligations of Lessee

### PART 1 – RENT (Service Fee)

The base rent payable for the shop under the lease is in Item 3.

The base rent may be changed on the following basis:

**The rent may be reviewed and increased by the change in the Consumer Price Index for the preceding twelve months.**

The following rent calculated on the following basis is also payable under the lease:

Nil

### PART 2 - CAPITAL EXPENDITURE

The lessee will be liable for the following kinds of capital expenditures:

- ☒ Make good damage to the premises arising when the lessee is in possession or entitled to possession of the premises – refer Annexure 3
- ☐ Fitting or refitting the shop – refer Lease terms and conditions;
- ☐ Providing fixtures, plant or equipment – refer Lease terms and conditions;
  - ☐ contributions to a sinking fund to cover major items of repair or maintenance - see attachment marked “.....”.

### PART 3 - OUTGOINGS

The lessee will be liable to pay or reimburse the following categories of outgoing:

Category of Outgoings	Estimate of Lessee's Annual Liability
Local government rates and charges	Not applicable – Lessor
Electricity	Based on consumption
Gas and oil	Based on consumption
Water and sewerage rates and charges	Based on consumption
Sewerage disposal and sullage	Based on usage
Energy management systems	Not applicable - Lessor
Air conditioning/ventilation	Not applicable - Lessor
Emergency evacuation procedures	Based on contractors cost
Fire protection	Maintenance schedules Annexure 3
Security	Monitor/maintenance and replacement costs
Lifts and escalators	Not applicable
Public address/music	Maintenance/replacement cost
Signs	Based on supplier costs
Public telephones	Based on usage
Insurance	Based on insurer costs
Pest control	Based on contractors costs
Car parking	Refer Maintenance schedule Annexure 3
Gardening	Refer Maintenance schedule Annexure 3
Cleaning	Refer Maintenance schedule Annexure 3
Audit fees	Based on Auditors cost
Maintenance and repairs	Refer Maintenance schedule Annexure 3
Trade waste – maintenance	Based on contractors cost

- ☒ The lessee is liable for the full amount of the outgoings.
- ☐ The lessee is liable for a proportion of the outgoings calculated according to the following formula:  
.....
- ☒ The amount the lessee is required to pay towards outgoings does not include a margin of profit for the lessor.
- ☐ The amount the lessee is required to pay towards outgoings includes a margin of profit for the lessor as follows:

#### **PART 4 - OTHER MONETARY OBLIGATIONS**

- ☐ The lessee will not be liable for any other kinds of monetary obligations.
- ☒ The lessee will also be liable for the following kinds of monetary obligations:
  - (a) utilities by consumption;
  - (b) GST;
  - (c) public liability and contents insurance for the Lessee's fixtures and fittings and stock;
  - (d) Maintenance and repair – in accordance with the provisions of Annexure 3
  - (e) Building insurance

Annexure 3

## MAINTENANCE RESPONSIBILITIES

		Council			Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
External Building Components							
Structure & sub-structure	Annual maintenance inspection	audit/Visual check for movement, cracks, dampness or other irregularities. Undertake repairs as required.	Annually	Property Management			
External walls	Annual inspection	audit/Visual check for movement, cracks, dampness or other irregularities. Undertake repairs as required.	Annually	Property Management	Monitor Graffiti & task within Council standards	Notify Graffiti Hotline and Police in the event of a major attack. Register with Council's Graffiti Management Program	As required
External/internal windows	Replace broken glass	Council responsible for the cost of replacement of broken windows resulting from break-in, attempted break-in or vandalism.	Ongoing	Property Management	Cleaning	Clean all windows (including screens) on a periodic basis	Quarterly
	Annual inspection	audit/Visual inspection for deterioration and/or damage. Physical test for operation. Repair/replace as required.	Ongoing	Property Management	Replace broken glass	Lessee responsible for the cost of replacement of broken windows resulting from misuse or negligent use. Council to organise.	As required
Roof – framing & cladding	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required.	Annually	Property Management	Monitor Leaks	Notify Council if leaks appear	Annually
Roof – gutters & downpipes	Cleaning of gutters	As required.	Annually	Property Management	Monitor condition & cleaning requirement	Visual inspection for integrity, damage & cleaning requirement.	As required
	Painting	As scheduled in budget.	As required	Property Management			
	Annual inspection	audit/Visual inspection for integrity, damage & cleaning requirement. Repair/replace as required.	Annually	Property Management			
External doors	Key provision	Council to provide the standard key set (including spares). The cost of replacing keys is to be borne by the Committee.	As required	Property Maintenance	Key replacement	Lessee to pay for key cutting required as a result of lost/damaged keys.	As required
	Lock maintenance and replacement	Lock management is the sole responsibility of Council.	As required	Property Maintenance	Door operation (Hinges)	Committee to lubricate hinges as required.	As required

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required.	Annually	Property Management	Door operation (General)	Ongoing monitoring of operating condition & locking integrity. Notify Council immediately in the event of any failure.	Annually
External painting	Re-paint	Council will undertake re-painting in line with budget allocations & portfolio priorities.	As required	Property Management	Monitor Graffiti & Notify Graffiti Hotline and Police in the event of a major attack. Register with Council's Graffiti Management Program		As required
Internal Building Components							
Internal walls – solid and/or gyprock	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required in accordance with Clause 4.7.	Annually	Property Management/Maintenance	Manage against damage	Ensure that activities/programs are undertaken in a suitable environment so as to minimise potential damage.	As required
	Lock & key issues	See under External Doors.	As required	Property Maintenance	Lock & key issues	See under "External Doors".	As required
Internal doors – include operable walls	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required.	Annually	Property Management/Maintenance			Annually
Internal ceiling	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required.	As required	Property Management/Maintenance			Annually
Floor finishes	Annual inspection	audit/Inspect in order to assess integrity & replacement requirement.	Annually	Property Management	Monitor for trip/slip hazards	On-going monitoring of potential slip/trip hazards during daily operation. Notify Asset Planner immediately in the event of potential risk.	As required
	Minimise risk	Repair trip areas etc. Replace where necessary.	As required	Property Management	Cleaning (including stain removal) and/or polishing	To be undertaken as part of a formal cleaning regime.	As required
					Strip back & re-seal hard floors	Strip back & re-seal of hard floors eg. wood or parquet	As required
Ceiling finishes	Painting	Council will undertake re-painting in line with budget allocations & portfolio priorities.	As required	Property Management	Internal painting	undertake re-painting in accordance with Clause 4.11.1 and Item 6.	As required
					Cleaning	Where nature of finish permits, wash marks off walls.	As required
Internal fittings & built-in joinery inc. domestic stoves	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required.	As required	Property Management/Maintenance			

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
Security system					Security system	Monitor, maintain, repair & replace security system	As required
Grounds Maintenance							
Garden Beds				Parks & Recreation	Garden beds	General garden maintenance including watering, weeding, trimming etc. to all shrubbery and garden beds. Removal of cuttings and pruning	As required
Lawns				Parks & Recreation	Lawn mowing & edging	Lawn mowing and edging. To be undertaken fortnightly/outside playing fields.	As required
Irrigation system	Annual audit inspection	Repair/replace as required.	As required	Parks & Recreation			
Tree management	Trimming/Removal including fallen branches	Trim or remove trees as required.	As required	Parks & Recreation	Regular inspection	Monitor aesthetics and stability, especially with respect to potential personal injury or building damage. Notify Council of issues.	As required
Fencing (including gates)	Site perimeter and internal (playground) fencing	Maintain structural integrity and locking functions	As required	Parks & Recreation		Minor repairs and painting	As required
Drains management	Annual audit inspection	Visual inspection for blockages, integrity & damage. Repair/replace as required.	As required	Infrastructure	Regular inspection	Keep free of tree/garden debris & litter	Weekly
Roads, paths, paved areas & car parks	Remedial	Undertake repairs as required in order to maintain integrity & minimise public risk.	As required	Infrastructure	Identify trip hazards	Monitor condition of paths & paved areas and notify Council of potential trip hazards.	As required
	Line marking	Re-mark as required.	As required	Infrastructure	Keep clean	Keep free of rubbish and tree/garden debris.	As required
External building signage	General management	Update details, remove graffiti, repair or replace as required.	As required	Infrastructure		Lessee to report any damage to Council's Customer Service Centre. In the case of graffiti, notify Graffiti Hotline and Police in the event of major attack. Register with Council's Graffiti Management Program	As required
General Maintenance							
Pest Control	Pest Control	Eradication of pests & vermin when efforts of Committee have failed.		Property Management/Maintenance	Pest Control	Eradication of domestic pests & vermin eg. mice, cockroaches, black ants	As required

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
		Treatment of pests such as termites.		Property Management/Maintenance			
					All	The Lessee must give the Council prompt notice of any hazards, or which could harm the property or any person.	As required
Air Conditioning Maintenance							
Air conditioning ventilation systems	Annual maintenance contract	Includes cleaning and general maintenance.	As required	Property Management			
	Repairs/replace	As required	As required	Property Management			
Plumbing Maintenance							
Hot water service	Repairs/replace	Repair or replace as required	As required	Property Maintenance	Relief Valve		As required
General plumbing (water & sewer)	Toilet fittings, sinks, drains, pipes etc.	Unblock, repair or replace.	As required	Property Maintenance		Keep relief valve clear Keep clean, in good repair and free from blockages.	As required
					Toilet fittings, sinks, drains, pipes etc.		
OHS&W and Other Legislative Requirements							
Gas Appliances	OHS&W	Maintenance, service and repair	Annual	Property Management			
Fire & Life Safety Equipment	OHS&W	Maintenance, service and repair	Biannual or as required by the relevant code of practice and Australian standard	Property Management			Ongoing
Electrical distribution fixed equipment (RCD's)	OHS&W	Test residual current devices	As required	Property Management	Manage against tampering	Ensure that fire safety equipment is not moved or tampered with	
Portable electrical equipment				Property Management	OHS&W	Test and tag portable electrical equipment	As required
air conditioning equipment	OHS&W	Maintenance, service and repair	OHS&W Div 2.6	Property Management			
Roof water drainage systems	OHS&W	Maintenance, service and repair	As required	Property Management			

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
Asbestos Management	OHS&W	Provide and maintain asbestos register for the building	Annual required by Part 4	Property Management			
Electrical Maintenance							
Lighting					Tubes and bulbs	Inspection for integrity and damage by lessee.	As required
	Replacement of fluorescent tubes & bulbs above 3.0 metres	Lessee to notify Council of replacement requirement	As required	Property Maintenance	Tubes and bulbs	Replacement of standard fluorescent tubes and bulbs under 3.0 metres	As required
Emergency evacuation procedures				Property Management	OHS&W	Lessee to establish and maintain emergency procedures to suit the particular use of building	As required
Trade Waste grease arrestors				Property Management	SA Water	Pump out and clean grease arrestor	As required by SA Water
Essential Safety Provisions (inc all building fire safety equipment, exit lighting and emergency egress points)							
Essential Safety Provisions (ESPs)	All ESPs	Council to coordinate testing of all ESPs pursuant to the Development Act 1993.		Property Management			
ESPs include: fire extinguishers, fire indicator panel, fire blankets, fire hose reels, smoke detectors, exit lighting, emergency lighting, emergency egress points, fire and life safety, penetrations through fire rated barriers, fire sprinklers, hydrants etc		A Form 3 certificate (as required pursuant to Regulation 76 of the Development Act 1993) will be completed by a certified contractor annually as proof that the required testing and maintenance has been carried out.	Biannually	Property Management	Exit lighting, emergency exit doors, emergency egress points & paths of travel to exit doors	Notify council if an exit light is damaged. Ongoing monitoring of operating condition & locking integrity. Notify Council immediately in the event of any failure. Ensure egress points are kept clear at all times i.e. no furniture or stored items blocking egress.	Ongoing
Grounds Maintenance – Specific Fixtures							
Practice Nets	Cricket, Soccer, Baseball & Softball	Major repair costs to be shared between stakeholders.	As required	Parks & Recreation		Lessee to monitor condition and report to Council's Parks and Recreation Department. Repairs and general upkeep to be the responsibility of the Lessee	
Cricket Pitches	Cricket Pitch	Major repair costs to be shared.	As required	Parks & Recreation	Cricket Pitch	Lessee to monitor condition and report to	As required

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
Ovals*						Council's Parks and Recreation Department. Repairs and general upkeep to be the responsibility of the Lessee	
Other Lighting	Light poles, light globes & light heads			Parks & Recreation	Light poles, light globes & light heads	Lessee to monitor condition of light globes & poles and report defects to Council. Replacement / upgrade of equipment (excluding globes) to be shared costs.	As required
		Replacement costs to be shared	As required	Parks & Recreation		Replacement costs of light globes & hire of a cherry picker is the responsibility of Lessee. (Council can provide labour for fitting.)	
Fencing around oval	Steel railing & post.		As required	Parks & Recreation	Steel railing & post.	Lessee to report to Council regarding any major damage or repairs	As required
	Wooden railing & Posts		As required	Parks & Recreation	Wooden railing & Posts	Minor repairs & painting are the responsibility of the Lessee.	
Fencing around Complex Perimeter	Cyclone fencing or any fencing between ovals or grounds			Parks & Recreation	Perimeter Fencing	Lessee to report to Council regarding any major damage or repairs	As required
						Minor repairs & paintings are Lessee responsibilities.	As required
Goal Posts				Parks & Recreation	Goal Posts	Lessee is responsible for repair and replacement.	As required
Tennis/Netball Courts	General maintenance	In accordance with the Tennis/Netball Recoating Program	As required	Parks & Recreation	General Maintenance	In accordance with the Tennis/Netball Recoating Program	
				Recreation	Footing	In accordance with the Tennis/Netball Recoating Program	
						In accordance with the Tennis/Netball Recoating Program	
Fencing around Tennis/Netball Courts	Cyclone fencing		As required	Recreation		Lessee to report to Council regarding any major damage. Lessee is responsible for minor maintenance	Annually
Tennis Net Posts	Net posts		As required	Recreation		Lessee responsible for replacement and all maintenance	Annually



Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
Tennis Nets	Nets		As required	Recreation		Lessee to report to Council regarding any major damage. Lessee is responsible for net maintenance and replacement.	Annually
Lawn/grounds/surrounds	Between ovals grounds, practice nets and driveways		As required	Property Maintenance		Lessee to report to Council regarding any major damage. Lessee is responsible for maintenance and upkeep	As required
Playground - Installed by Lessee	Equipment, soft fall & fencing			Parks		Lessee to report to Council and maintain	As required
Playground - Council approved & installed		Council responsible for maintenance.		Parks		Lessee to report to Council any damage	As required
Playing Field Fencing – (specific sports)				Parks	Field Fencing	Lessee to report to Council any major damage. Lessee responsible for repairs & ongoing maintenance.	As required
Coaches / Players Box				Recreation	Coaches / players box	Lessee to report to Council any major damage. Repairs and replacement Lessee responsibility	As required
Scoreboards			As required	Recreation	Scoreboard	Painting repairs/replacement are the Lessee's responsibility	
Irrigation Systems	Watering systems on turf playing surfaces	Lessee to report to Council regarding any damage.	As required	Parks		Lessee to report to Council	Ongoing
Seating & Benches	Seating & benches	Lessee to report to Council regarding any major damage.		Parks		Lessee to report to Council	Ongoing
		Council responsible for maintenance.	As required				
Turf maintenance/playing Surface	Surface	As per ground maintenance model.	As required	Parks		Lessee to report to Council regarding any major damage	
Car Parking	Surface	Day to day maintenance.		Infrastructure			
	Lighting/signage/line marking	Replacement/upgrading based on priorities of Audit.	As required				
Lawn Bowls	Surface	Replacement synthetic - shared costs		Parks & Recreation			
		Minor irrigation responses shared					

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
Building internals	Cleaning			Property Management	Coordinate cleaning	Ensure that the property is cleaned regularly (at least once a week) and thoroughly by competent cleaners and ensure that at all times the Property is kept in a clean, neat and tidy condition appropriate for a community facility.	Weekly
Building externals				Parks		Ensure that the site is kept free from litter	As required
Insurance							
Building insurance Lease clause 6.3				Insurance & Management coordinator	Risk Building Insurance	Reimbursement Council	Annually
Public Liability 4.17				Insurance & Management coordinator	Risk Public Liability	Lessee responsibility	
Contents ins 4.18				Insurance & Management coordinator	Risk Contents Insurance	Lessee responsibility	Annually
Incident reports				Insurance & Management coordinator	Risk Incident reports	The Lessee shall provide a report within 48 hours to Council of any incident/injury to a member of the public/volunteer/contractor.	
Key Performance Indicators							
Business Plan				Recreation	Business Plan	Develop 5 year plan	5 yearly
Audited statement				Recreation	Audited statement	Provide Council each September	Annually
Partnerships				Recreation	Partnerships	Annual review on 31 March	Annually

## Annexure 4

### KEY PERFORMANCE INDICATORS

Objective	Action	Outcome	Measure	Target	Timeframe
1. Development of a five year strategic business plan	To include the management committee's: <ul style="list-style-type: none"> <li>• mission;</li> <li>• vision;</li> <li>• membership;</li> <li>• volunteer strategy;</li> <li>• risk management plan;</li> <li>• marketing and sponsorship plan;</li> <li>• financial forecasts; and</li> <li>• strategic directions.</li> </ul>	Five Year Strategic Plan is prepared and presented to Council recreation officers.	Plan received by Council recreation officers.	To achieve the actions outlined in the plan within set timeframes	Completed plan within 18 months of lease date
2. Development of a sound annual financial management process	<ul style="list-style-type: none"> <li>• Operational income is managed appropriately to cover operational costs of the facility; and</li> <li>• audited financial statements are produced.</li> </ul>	Annual balanced or surplus financial statement submitted to Council officers within the set timeframe.	<ul style="list-style-type: none"> <li>• No annual operating deficit; and</li> <li>• comply with appropriate accounting standards</li> </ul>	To ensure that the facility remains financially viable.	Audited statement provided to Council recreation officers each September
3. Management committee responsibilities to facility user groups	To include: <ul style="list-style-type: none"> <li>• implementation of sustainable methods to appropriately address changing needs of user groups; and</li> <li>• meet the needs of user groups' affiliated bodies regarding competition requirements where possible.</li> </ul>	Positive partnerships established between management, user groups and Council.	<ul style="list-style-type: none"> <li>• Methods and partnerships established; and</li> <li>• all groups have a facility which complies with the relevant the standards for their codes.</li> </ul>	To ensure broad and equitable access to users and aim to ensure optimal usage of the site's facilities.	Annual review by 31 March each year

## APPENDIX 4

**AGENDA**

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**CITY OF ONKAPARINGA  
("Council")**

**and**

**South Coast Sports and Social Club Incorporated  
("Lessee")**

**LEASE**

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**LEASE**

**BETWEEN:** **CITY OF ONKAPARINGA** of PO Box 1 Noarlunga Centre South Australia 5168 (together with its successors and assigns, and which in this Agreement is called "Council")

**AND:** South Coast Sports and Social Club Incorporated, States Road, Morphett Vale (together with its administrators and assigns, and which in this Agreement is called "the Lessee")

**BACKGROUND:**

- A. Council has the care and control and management of [or is the Registered Proprietor of] the Land identified in Item 7 of the Schedule ("Council Land")
- B. The Lessee has requested a lease to use the facilities located on Council Land.
- C. Council has agreed to grant to the Lessee a lease of those areas marked on the attached plan, including any structures, improvements, fixtures and fittings erected or installed on it which are identified as leased on that plan annexed to this Lease as Annexure 1 and in Item 8 of the Schedule and which together in this Lease are called the "Premises".
- D. Prior to the granting of this Lease, Council has complied with the requirements of section 202 of the Local Government Act 1999.
- E. The Lessee and Council wish to record the other terms of the Lease in this document.

**THE PARTIES AGREE** as follows:

**1. ACKNOWLEDGEMENT AS TO BACKGROUND**

The parties agree that the preceding statements are accurate and form part of this Lease.

**2. AIMS AND OBJECTIVES**

- 2.1 The parties agree that the aims and objectives for the Premises are that the Premises will be operated and managed consistently by the Lessee generally with the object of:
  - 2.1.1 maximising broad community use and acceptance of the Premises;
  - 2.1.2 maximising customer satisfaction with the Premises;
  - 2.1.3 optimising cultural and community involvement in the Premises;
  - 2.1.4 maximising the efficiency of operations of the Premises;
  - 2.1.5 ensuring that the Premises operates as an integrated entity;
  - 2.1.6 minimising the costs of operating the Premises; and
  - 2.1.7 forward planning for the trends and activities that may evolve from time to time.

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 Consid/Val/Sec\$ 0.00  
 SA Proportion \$ 0.00  
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 Pen/Add Tax \$ 0.00  
 Date 24/05/2006

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- 2.2 The parties will regularly liaise and consult with each other and generally perform their obligations under this Lease, with a view to ensuring that the Premises at all times continues to meet and fulfil the aims and objectives.

### **3. GRANT OF LEASE**

Council grants to the Lessee, and the Lessee accepts, a lease of the Premises for the term set out in Item 1 of the Schedule, commencing on the date set out in Item 2 and subject to all the following terms and obligations.

### **4. THE LESSEE'S OBLIGATIONS**

The Lessee agrees with Council as follows:

#### **4.1 Rent (Service fee)**

- 4.1.1 The Lessee will pay the rent (service fee) set out in Item 3 of the Schedule to Council at the times specified in Item 3.
- 4.1.2 The rent (service fee) will be reviewed each year on the Rent Review Date as set out in Item 4 of the Schedule.
- 4.1.3 Council and the Lessee will seek to agree the renewed rent (service fee) on or by the Rent Review Date.
- 4.1.4 If the renewed rent cannot be agreed between Council and the Lessee the rent will be varied by the variation expressed as a percentage in the Consumer Price Index for Adelaide (all groups) over the twelve months prior to the Rent Review Date.

#### **4.2 Rates and Taxes**

The Lessee will pay, on time and in full, all Council rates and taxes (excluding state land tax), assessments and charges in relation to the Premises which are now, or may at some time during the Term, be charged, levied or payable by either Council or any occupier of the Premises - refer Item 12 of the Schedule.

#### **4.3 Utilities**

The Lessee will pay all service fees and charges for telephone, electricity, gas, water and sewerage levied against the owner or occupier of the Premises.

#### **4.4 Use of Premises**

The Lessee will not use or allow the Premises to be used for any purpose or activity other than that set out in Item 5 of the Schedule.

#### **4.5 Legislation**

The Lessee will comply (at its own cost and expense in all things) with the provisions of all acts, regulations, by-laws and all directions and orders of any local government or semi-government authority in relation to the Premises.

**4.6 Alcohol, Gaming and Smoking**

- 4.6.1 Alcohol or other prohibited substances may be sold or consumed or used on or in the vicinity of the Premises only in accordance with Council's written consent and at all times in accordance with the provisions of the Liquor Licensing Act.
- 4.6.2 The Lessee cannot install gaming machines on the Premises without first obtaining Council's written consent. Council will be entitled to withhold its consent for any reason.
- 4.6.3 The Lessee, the Lessee's visitors, invitees, agents, employees and contractors will at all times abide by Council's "Smoking" policy, amended, varied or replaced from time to time.

**4.7 Maintenance and Repair**

- 4.7.1 Council shall at its own cost in all things undertake the preventative and cyclic maintenance ("Council's Maintenance") identified in Council's Maintenance Schedule attached hereto as Annexure 3 (as applicable).
- 4.7.2 The Lessee must notify Council as soon as it becomes aware of any defects in the Premises or any plant and equipment owned by the Council situated at or on the Premises.
- 4.7.3 Subject to Clauses 4.7.1 and 4.7.4, the Lessee must at its own cost in all things:
  - 4.7.3.1 keep the Premises in good repair (with fair wear and tear and damage by storm, fire, tempest, act of god, war, riot, civil commotion and earthquake excepted);
  - 4.7.3.2 supply and replace, fit or install any items which are reasonably necessary to maintain and preserve the condition of the Premises and the Lessee must continue to maintain those items during the term;
  - 4.7.3.3 maintain any vegetation or garden on the Premises in an attractive state;
  - 4.7.3.4 maintain all plumbing and drainage on the Premises in good working order and keep it free from all blockages;
  - 4.7.3.5 install and maintain fire fighting equipment at the Premises to a level acceptable to Council or the local fire fighting authority;
  - 4.7.3.6 keep the Premises in a clean and sanitary condition, free from dirt, rubbish and vermin;
  - 4.7.3.7 remove all graffiti on any part of the Premises in line with Councils' Graffiti Management Policy
  - 4.7.3.8 undertake all specific maintenance set out in Annexure 3 ("the Lessee's Maintenance").

4.7.4 The Lessee's obligations pursuant to Clause 4.7.3 are subject to Council not assuming responsibility for that maintenance, HOWEVER Council will not at any time assume responsibility for the items specified in Annexure 3.

4.7.5 For the purposes of this Clause 4.7, Council shall be taken to have assumed responsibility for the maintenance of the Premises (other than the Lessee's Maintenance as specified in Annexure 3):

4.7.5.1 if a service fee is set out in Item 3 of the Schedule, then as of the date of this Lease; or

4.7.5.2 if during the term of this Lease Council gives notice in writing to the Lessee electing to assume responsibility for the maintenance of the Premises, then from that date specified in that notice.

4.7.6 If Council assumes responsibility for the maintenance of the Premises pursuant to Clause 4.7.5:

4.7.6.1 Council will keep the Premises in good repair for the duration of this Lease (other than maintenance which comprises the Lessee's Maintenance as specified in Annexure 3); and

4.7.6.2 the Lessee will pay a Service Fee as set out in Item 3 of the Schedule or as reasonably nominated in the notice given to the Lessee pursuant to Clause 4.7.5.2 ("the Service Fee").

4.7.7 The Lessee hereby releases and indemnifies Council for actions, claims, demands, losses, damages, costs and expenses for which Council is or may be, or becomes liable in respect of or arising from any defects to the Premises unless Council has unreasonably failed to respond to notice of those defects given by the Lessee pursuant to Clause 4.7.2.

4.7.8 Notwithstanding anything else in this Lease, if there is any plant and equipment owned by Council situated at or on the Premises, the Lessee must:

4.7.8.1 maintain and repair such plant and equipment in a manner and to a standard reasonably required by Council; and

4.7.8.2 replace such plant and equipment as and when deemed necessary by the Council; and

the Lessee acknowledges and agrees that at the termination or earlier determination of the Lease, it shall not be entitled to remove any part of such plant and equipment.

#### 4.8 Entry by Council

4.8.1 Provided that the Lessee is given reasonable notice, the Lessee will allow Council to come onto the Premises for the purpose of inspecting its condition and state of repair and/or for the purpose of carrying out repairs or undertaking maintenance works.

4.8.2 If Council finds that any part of the Premises needs repairing and for which the Lessee is responsible, then Council may notify the Lessee in writing.

4.8.3 If the Lessee has not carried out the work required by the written notice, to a reasonably acceptable standard within the time set out in the notice, which unless in the case of an emergency will not be less than one month, then Council may come onto the Premises at a reasonable hour to carry out the repairs. The cost of the repairs and any other reasonable expenses incurred by Council will be recoverable from the Lessee.

4.8.4 In the case of an emergency no notice need be given by Council.

#### **4.9 Erection/Demolition of Buildings**

4.9.1 The Lessee will not make any structural changes to the Premises such as erecting or demolishing any buildings, unless written consent is first obtained from Council.

4.9.2 Any approved alterations to the building, including the installations of either temporary or permanent partitions, must be carried out in accordance with all planning and building approvals, at an acceptable level of workmanship and to the satisfaction of Council.

#### **4.10 Signs**

The Lessee must obtain Council's written consent before it puts up, attaches or erects any signs on the exterior of the Premises. Council may not unreasonably withhold consent.

#### **4.11 Painting**

4.11.1 On the date set out in Item 6 of the Schedule the Lessee will arrange for the painting or other treatment of all internal parts of the Premises, which had been painted or treated on the Commencement Date or during the term of the Lease. The Lessee will use good quality materials and provide coverage to the satisfaction of the Council.

4.11.2 The cost of complying with the obligations contained in subclause 4.11.1 will be met by the Lessee.

4.11.3 If no date is recorded in Item 6 of the Schedule then the Lessee will not be obliged to comply with this Clause.

#### **4.12 Offensive Activities**

The Lessee must not create a nuisance or disturbance either for Council or for the occupiers of adjoining lands, including domestic premises, nor will it carry on any offensive or dangerous trade or business from the Premises.

#### **4.13 Offences**

The Lessee will not carry on any activity or do anything or fail to do something, which is or may become an offence under any Act or regulation or by-law.

**4.14 Assignment**

- 4.14.1 The Lessee is not permitted to transfer, assign, sublet or otherwise give up possession of the Premises unless it has received Council's written consent. Council agrees that it will not unreasonably withhold its consent.
- 4.14.2 The Lessee will be responsible to satisfy Council that any proposed new Lessee will be a suitable body to use and occupy the Premises.
- 4.14.3 If Council gives consent to a sublease, then the sublessee is bound to comply with the terms and conditions detailed in this Agreement in the same manner as the Lessee is required to comply.

**4.15 Surrender**

- 4.15.1 Upon the expiration or earlier termination of the Lease, the Lessee will peacefully and quietly surrender and give up possession of the Premises.
- 4.15.2 The Lessee will leave the Premises in good order and cleanliness.
- 4.15.3 Council may request the Lessee to remove all the Lessee's fixtures and fittings and in doing so cause no damage to the Premises. The Lessee will be responsible for repairing at its own cost any damage caused in removing its fixtures and fittings.
- 4.15.4 Any reasonable costs incurred by Council in repairing any damage caused by the Lessee in surrendering the Premises may be recovered from the Lessee.

**4.16 Indemnity**

The Lessee will indemnify and hold harmless Council from and against all actions, claims, demands, losses, damages, costs and expenses for which Council is or may be, or becomes liable in respect of or arising from:

- 4.16.1 the negligent use, misuse, waste or abuse by the Lessee of the water, gas, electricity, oil and other services and facilities of the Premises;
- 4.16.2 overflow or leakage or escape of water (including rain water) fire, gas, electricity, or other harmful agent in or from the Premises, but having origin within the Premises, or caused or contributed to by any act or omission by the Lessee;
- 4.16.3 loss, damage or injury from any cause whatsoever to property, or persons, caused or contributed to by the use of the Premises by the Lessee;
- 4.16.4 loss, damage or injury from any cause whatsoever to property or persons inside or outside the Premises caused or contributed to by the neglect or default of the Lessee;
- 4.16.5 loss, damage or injury from any cause whatsoever to property or persons inside or outside the Premises caused or contributed to by the Lessee's neglect or default to observe or perform any of the covenants, conditions, regulations and restrictions required to be complied with or adhered to by the Lessee in accordance with this Lease.

In this Clause 4.17 the term "the Lessee" will include the Lessee's servants, agents, customers, contractors or other persons claiming through or under the Lessee.

**4.17 Public Liability Insurance**

- 4.17.1 The Lessee will take out and during the term continue to maintain a public risk insurance policy.
- 4.17.2 The policy will be in respect of injury, loss or damage occurring on the Premises and it will note Council's rights and interest as Lessor and also the indemnities provided by the Lessee in favour of Council.
- 4.17.3 The Policy must carry an endorsement from the insurer that the insurer will inform Council if the policy is allowed to lapse or is otherwise cancelled.
- 4.17.4 The cover will be for a minimum amount of the amount set out in Item 11 of the Schedule per claim or any other amount which Council advises the Lessee.
- 4.17.5 On the Commencement Date and on the anniversary of that date during the Term the Lessee must provide Council with a copy of the Insurance Policy and receipt acknowledging payment of the annual premium.

**4.18 Contents Insurance**

The Lessee must obtain insurance for its own contents, which are located on the Premises.

**4.19 Breach of Insurance Conditions**

The Lessee and Council are not to do anything or fail to do something, which has the effect of invalidating the insurance policy or increasing the rate of the premium.

**4.20 Release**

- 4.20.1 The Lessee agrees to occupy, use and keep the Premises at the Lessee's risk.
- 4.20.2 The Lessee agrees to release Council and its agents, servants, employees and contractors from all claims and demands of every kind resulting from any accident, damage or injury occurring on the Premises except if such accident damage or injury is caused by the negligence of Council or its agents, servants, employees and contractors.
- 4.20.3 The Lessee agrees that Council will have no responsibility or liability for any loss or damage to the Lessee's fixtures or fittings or personal property.

#### **4.21 Professional Management**

The Lessee will operate and manage the Premises in a professional and competent manner in accordance with good commercial practice. In particular, the Lessee is required to:

- 4.21.1 at all times have and make available in that regard appropriately skilled, trained and qualified personnel and such other resources as may be necessary from time to time for the proper and efficient operation and management of the Premises as required under this Lease;
- 4.21.2 continuously meet or exceed the Key Performance Indicators;
- 4.21.3 will ensure the orderly conduct of any of its members or invitees on the Premises;
- 4.21.4 meet all of its obligations under this Lease; and
- 4.21.5 comply at all times and in all respects with all Applicable Legislation and will use its best endeavours to ensure that no conduct, activities or other events occur, and that circumstances do not arise which make it likely that any conduct, activities or events may occur which are in breach of any Applicable Legislation.

#### **4.22 No Agency**

The Lessee will operate and manage the Premises on its own behalf and not as agent for Council and:

- 4.22.1 will not represent that it acts as agent for Council or has any rights or authority other than as granted to it under this Lease;
- 4.22.2 will not pledge the credit of Council or grant or purport to grant any security over the Centre or any of the Plant and Equipment to any party; and
- 4.22.3 hereby indemnifies Council for all liability, which Council may incur, or loss or damage it may suffer as a consequence of the Lessee acting in breach of its obligations under this Clause 4.22.

#### **4.23 Key Performance Indicators**

- 4.23.1 The Lessee must comply with the Key Performance Indicators set out in Annexure 4.
- 4.23.2 The Lessee and Council will meet annually to discuss the Lessee's compliance with the Key Performance Indicators.
- 4.23.3 Council may by written notice provide specific directions ("Direction") to the Lessee regarding the Lessee's compliance with the Key Performance Indicators. If Council provides a Direction to the Lessee the Lessee must comply with the Direction in the manner and within the timeframe specified in the Direction. If the Lessee does not comply with the Direction the Lessee is in breach of this Lease.

#### **4.24 Reporting Requirements**

No later than 30 days following its Annual General Meeting the Lessee will submit to Council an annual report in respect to the Premises for the year ended. The annual report must address the following issues:

- 4.24.1 a set of audited financial statements including a statement of financial position and a statement of financial performance in respect of the operations of the Lessee in respect of the Premises during the financial year just ended which statements have been prepared in accordance with normal accounting standards;
- 4.24.2 details of elected Board persons including Lessee representatives; and
- 4.24.3 a certificate of currency of contents insurance and public liability.

#### **4.25 Advertising and Sponsorship**

The Lessee will actively promote the Premises and all programs and activities conducted therein to the public and otherwise as may be proposed or required in the Key Performance Indicators or any Direction from Council.

### **5. COUNCIL'S OBLIGATIONS**

#### **5.1 Occupation and Use**

Council agrees with the Lessee that while the Lessee pays the rent and adheres to its obligations, which are contained in this Agreement, then the Lessee may use the Premises for the purposes set out in Item 5 of the Schedule.

#### **5.2 Maintenance**

Council shall maintain the Premises as set out in Clause 4.7, if applicable.

### **6. MUTUAL OBLIGATIONS**

Council and the Lessee mutually agree as follows:

#### **6.1 Special Conditions**

- 6.1.1 To comply with any special conditions that are set out in Item 13 of the Schedule.
- 6.1.2 Where any special conditions are inconsistent with the other terms and conditions of this Lease then the special conditions will prevail.

#### **6.2 Ownership of Improvements**

- 6.2.1 That unless the Lessee obtains Council's written acknowledgment, then, irrespective of whether Council or the Lessee purchased them, all structures, improvements, fixtures and fittings located on the Premises at any time during the term will become the property of, and belong to Council.
- 6.2.2 Subclause 6.2.1 is subject to Council's right in Clause 4.15.3 to require the Lessee to remove its fixtures and fittings upon surrendering this Lease.

**6.3 Property Insurance**

- 6.3.1 Council will take out and maintain an insurance policy in the joint names of Council and the Lessee in respect of the Premises covering such damage for which a prudent landlord would insure.
- 6.3.2 The Lessee will if requested by Council pay Council upon demand the premium paid in respect of the policy.
- 6.3.3 The Lessee will also at Council's request pay Council an amount equal to any excess or similar payment paid or payable by Council in respect of any claim made under the policy.
- 6.3.4 The Lessee will reimburse Council upon request by Council the cost of rectifying any damage to the Premises if that cost is less than the amount of any excess.

**6.4 Default**

If:

- 6.4.1 the Lessee fails to pay the rent or any other money which is due to Council for a period of fourteen (14) days from the due date for payment; or
- 6.4.2 the Lessee commits any breach of this Lease which, is either not capable of being completely put right, or is not put right within fourteen (14) days from the date of Council's notice to the Lessee, identifying the breach and requiring it to be put right then Council will be entitled to terminate this Lease and may enter into possession of the Premises. The right to terminate the Lease and enter into possession will not reduce Council's rights to take any other action for any of the Lessee's previous breaches.

**6.5 Default Interest**

- 6.5.1 Council will be entitled to charge the Lessee interest at the rate, which would be charged by Council's bank on Council's overdraft accounts plus two (2) per centum per annum.
- 6.5.2 Interest may accrue on any monies due but unpaid by the Lessee, calculated from the due date for payment until the money has been paid in full.

## **6.6 Termination or Reduction of Rent after Damage**

If the whole or any part of the Premises is destroyed or damaged thus making them substantially unfit for the Lessee's use and occupation or so that the Lessee is deprived of substantial use of the Premises then:

- 6.6.1 the rent and other payments due under this Lease, or a proportionate part of them, will be reduced. The reduction will depend upon the nature and extent of the damage sustained and will continue until the Premises is rebuilt, reinstated or made fit for the Lessee's occupation and use or until the Lease is terminated in accordance with the provisions of this Clause 6.6. Where there is any dispute about the amount by which the rent or other payments should be reduced then either party may instruct an independent licensed valuer to determine the amount of the reduction. The licensed valuer's costs shall be shared equally by the parties;
- 6.6.2 Council may advise the Lessee that because of the extent of the damage Council will not rebuild the Premises and the Lease is accordingly terminated without Council being required to pay any compensation to the Lessee;
- 6.6.3 if after six (6) months the Premises have not been substantially reinstated by Council, this Lease may be terminated by either party notice in writing to the other;
- 6.6.4 any such termination will not reduce the rights of either party in respect of any previous breaches of this Lease;
- 6.6.5 Council is under no obligation to rebuild the Premises or to reinstate or make them fit for occupation.

## **6.7 Council's Works**

Council and any persons authorised by Council may carry out any building additions and/or alterations to the Premises (however not altering the size, location and amenities of the Premises). Council will use its best endeavours to cause as little disturbance as possible to the Lessee.

## **6.8 Resumption**

If after Council receives notice of any proposed resumption or acquisition of the Premises by any Government (whether Federal State or Local) or other authority, or if the control of the Premises is otherwise taken away from Council, Council will be entitled to terminate this Lease and neither party will be permitted to bring any claim or action against the other except for any previous breaches of this Lease.

## **6.9 Extension of the Lease**

- 6.9.1 The Lessee can seek an extension of this Lease for a further term as set out in Item 9 of the Schedule.
- 6.9.2 The Lessee will only be entitled to an extension if:

- 6.9.2.1 the Lessee makes its request for an extension in writing to Council;
- 6.9.2.2 the Lessee must give the written request to Council not less than three (3) and not more than six (6) months before the expiration of the initial Term of the Lease;
- 6.9.2.3 the Lessee is not in breach of the Lease Agreement either at the time it gives Council its written request for an extension or at any time up to the expiration of the Term of the Lease; and
- 6.9.2.4 the Lessee has not committed any frequent and/or substantial breaches of the Lease Agreement during the term of the Lease.

6.9.3 The extended term will be on the same terms and conditions as this Lease Agreement but will not include this Clause 6.9 granting a right of extension.

6.9.4 The rent payable from the commencement of the extended term will be calculated in the same manner as set out in Clause 4.1 of this Agreement.

#### **6.10 Holding Over**

6.10.1 If the Lessee continues to occupy the Premises after the expiry of the term, or after the Lease is terminated then the Lessee will be a monthly tenant occupying the Premises on the terms and conditions contained in this Lease.

6.10.2 Either party may give the other one (1) month's notice to terminate the Lease.

#### **6.11 Waiver**

The failure or omission by Council to take any action for breach of any of the terms of this Lease will not stop Council from taking action in relation to any other breaches of the same or any other term or condition of the Lease.

#### **6.12 Notice**

Any notice, which is required to be given by either party, must be in writing and must be delivered to the other party at the address, which appears in the Schedule, or other place previously nominated. Notices to Council must be addressed to the Chief Executive Officer.

#### **6.13 Liability**

Where the Lessee is made up of two or more persons, then the liability of those persons for the performance and observation of the terms, covenants, conditions and agreements of this Lease will be joint and several.

#### **6.14 Severance**

If any term of this Lease is invalid, unlawful or not applicable, then it will be deleted from the Lease without affecting any other of the parties' obligations under this Lease.

**6.15 Entire Agreement**

The terms contained in this Lease comprise the whole of the agreement between the parties. It is expressly agreed and declared by the parties that no further or other terms exist between the parties with respect to the Premises or the Lease.

**6.16 No Warranty**

6.16.1 The Lessee specifically acknowledges that before signing this Lease it was given no warranty in respect of the suitability of the Premises (whether structural or otherwise) for the use by the Lessee.

6.16.2 Nor was any warranty given in respect of the fittings, fixtures, facilities and amenities contained on the Premises.

**6.17 Conditional Lease**

This Lease is subject to the Lessee obtaining at its own expense any necessary approvals or consents.

**6.18 Disclosure Statement**

At the time when the Lessee first entered into negotiations for this Lease it was given for its consideration the Disclosure Statement a copy of which is annexed to this Lease.

**6.19 Costs**

6.19.1 The Lessee will pay stamp duty costs in stamping this Lease.

6.19.2 The Lessee will pay all of Council's costs, which result from any threatened or actual breach of the Lease by the Lessee.

**6.20 Interpretation**

In this Lease, unless the context otherwise requires:

6.20.1 reference to any legislation includes subordinate legislation, and all amending or substituting legislation;

6.20.2 words in the singular are capable of including the plural and vice versa, and words importing one gender are to be read as including the other genders where appropriate;

6.20.3 any reference to a natural person will also apply to a body corporate and vice versa;

6.20.4 clause headings and the index of contents are provided for convenience of reference only and do not affect the construction or interpretation of this Lease;

6.20.5 any reference to the Term of this Lease includes any extension of it;

6.20.6 all monies payable by the Lessee to Council under this Lease will be recoverable as a debt or at Council's option in the same manner as rent in arrears;

6.20.7 the terms, covenants, conditions and agreements in this Lease are in addition to and without prejudice to those implied by the Real Property Act, 1886 and the Law of Property Act, 1936 except where they are altered or modified in the Lease;

6.20.8 "Council" includes its servants, agents and workers;

6.20.9 the "Premises" includes all the fixtures and fittings located on the Premises at the Commencement Date;

6.20.10 "shared" in relation to any cost, means shared on an equal basis.

**6.21 GST**

6.21.1 All amounts payable pursuant to this Lease are expressed as exclusive of GST in this Lease. To the extent that any amount constitutes consideration for any Supply made under or in accordance with this Lease that amount shall be increased by the GST imposed on or in respect of that Supply.

6.21.2 For the purposes of this clause:

6.21.2.1 "GST" means any goods and/or services tax, value added tax or other government tax or impost;

6.21.2.2 "Supply" means taxable supplies as defined in or under any Act imposing GST.

The parties acknowledge the preceding clauses by their execution.

THE COMMON SEAL of THE CITY )  
OF ONKAPARINGA was affixed to give )  
effect to a resolution of Council, in the )  
presence of: )



..... Mayor

..... Chief Executive Officer

SIGNED by ..... )

for and on behalf of the South Coast )

Sports and Social Club Inc. )

in the presence of:

.....

### LEASE SCHEDULE

<b>ITEM 1</b> The Term	Five (5) years
<b>ITEM 2</b> The Commencement Date	The first day of July 2005
<b>ITEM 3</b> Service Fee	<p>██████ per annum (exclusive of GST) payable in advance annually. The first payment is due on the Commencement Date.</p> <p>If this Lease is renewed in accordance with Clause 6.9, ██████ per annum (exclusive of GST) payable in advance.</p>
<b>ITEM 4</b> Service Fee Review Date	On the anniversary of the Commencement Date of this Lease in each year.
<b>ITEM 5</b> Use of Premises	The Premises is to be used in accordance with Council's Generic Management Plan for General Community Areas.
<b>ITEM 6</b> Date for Internal Painting	The Premises will be repainted no later than 30 June 2008.
<b>ITEM 7</b> The Land	CT 5835/102 States Road, Morphett Vale As detailed in Item 8
<b>ITEM 8</b> The Premises	Refer Annexure 1
<b>ITEM 9</b> Period of Extension	One (1) of Five (5) years
<b>ITEM 10</b> Date the Lease is made	The    day of
<b>ITEM 11</b> Insurance Coverage	██
<b>ITEM 12</b> Council Rates	Not Applicable
<b>ITEM 13</b> Special Conditions	Annexures 3 & 4



## Leased Premises South Coast Sports and Social Club Incorporated

0 5 10 20 30 40 Meters



Produced by the Administration Team, Organisation Services

**Disclosure Statement****Disclosure Statement Under Section 12 of  
Retail and Commercial Leases Act 1995****Information for Lessees**

Please read the following information carefully.

**What is a lease?**

A lease is a very important document. It is a legally binding contract between the lessor (landlord) and the lessee (tenant). It sets out the rights and obligations of the lessor and the lessee.

A document that binds the lessee to enter into a lease or to take a shop on lease for a renewed term should be treated as if it were the lease.

**What should I look for in a lease?**

The main features to consider are:

- the term of the lease;
- whether there is an option to renew or extend the lease (and the method of exercising any such option);
- the rent and the basis for rent reviews;
- the amounts that the lessee will have to pay in addition to rent *eg* fit out costs, maintenance and repair costs and shared operating expenses;
- the consequences of breaching a term of the lease.

Make sure you read the whole document and understand the obligations it will place on you, especially the extra charges in addition to rent that you will have to pay.

**What information is the lessor required to give me?**

The lessor must give you a copy of the proposed lease and this disclosure statement. The disclosure statement must contain the matters set out in section 12 of the *Retail and Commercial Leases Act 1995*.

**What should I do before signing a lease or other binding document?**

Do not sign until you understand exactly what your obligations under the lease will be.

**Before signing a lease or other binding document, you should obtain independent legal and financial advice.**

- You should discuss the lease (or any agreement for lease) and the disclosure statement with your own lawyer or leasing adviser.
- You should seek advice about the financial commitments under the lease from your own accountant or recognised financial or business adviser.
- You should also seek advice from an association representing the interests of lessees.

**Before signing a lease or other binding document, oral representations made by the lessor or the lessor's agent on which you have relied should be reduced to writing and signed by or on behalf of the lessor.**

**Before signing a lease or other binding document, the lessee should sign an acknowledgment of receipt of the disclosure statement.**

---

**Acknowledgment of Receipt of Disclosure Statement**

I received a disclosure statement under Section 12 of the *Retail and Commercial Leases Act 1995*

On: (lessee to insert date received here)

From: City of Onkaparinga of PO Box 1 Noarlunga Centre SA 5168

relating to: States Road, Morphett Vale

Lessee:

**South Coast Sports and Social Club Incorporated**

**States Road, Morphett Vale**

..... [signature] .....

2 August 2005

..... (date) .....

## Disclosure Statement

### Shop Details

Shop to be leased: **States Road, Morphett Vale**

Lettable area of shop: Refer to Item 8 of the Lease Schedule

The shop may be used only for the following purposes: Refer to Item 5 of the Lease Schedule

- ☐ The shop is in a retail shopping centre within the meaning of the *Retail Shop and Commercial Leases Act 1995*. See Appendix B for details.
- ☒ The shop is not in a retail shopping centre within the meaning of the *Retail Shop and Commercial Leases Act 1995*.

### Lessor Details

- ☒ The lessor is the owner of the shop.
- ☐ The lessor leases the shop. The following rights and obligations of the lessor under the lessor's lease are relevant to the proposed lease:  
.....

### Term of Lease and Renewal or Extension

**Note:** Part 4A of the *Retail and Commercial Leases Act 1995* contains provisions that govern the term and renewal of certain leases. In some circumstances, Division 3 of Part 4A provides a preferential right of renewal of a lease of a shop in a shopping centre entered into on or after 6 October 1997.

Term of lease: Five (5) years commencing on 1 July 2005 and expiring on 30 June 2010.

- ☐ There is no right to renew or extend the term of the lease.
- ☒ The lessee has a right to renew or extend the term of the lease one (1) term of five (5) years

### Lessee's Access to Shop

The lessee will have access to the shop during the following hours that fall outside trading hours:

**All Hours**

The shop will be available for occupation by the lessee on:

**1 July 2005**

### **Legal Consequences of Breach of Lease**

The legal consequences of breach of a term of the lease are set out in clauses of the lease.

The consequences of early termination of the lease by the lessee are as follows:

**Depending upon the nature of the early termination by the Lessee, the Lessor may do any one or more of the following:**

- Sue the Lessee for damages, with or without accepting the termination;
- Accept the Lessee's termination and re-enter the premises (whether or not damages are claimed);
- Require the Lessee to pay default interest on unpaid money (including unpaid rent).

The consequences of other breaches are as follows:

**In addition to the consequences relating to early termination of the Lease by the Lessee, the Lessor may do any one or more of the following:**

- Distrain for unpaid rent (enter the premises and seize and sell the Lessee's goods and chattels);
- Terminate the Lease;
- Re-enter the premises;
- Remedy the breach itself and recover the cost of doing so from the Lessee;
- Obtain specific performance (a compulsory performance) of the Lessee's obligations under the Lease;
- Obtain an injunction (compulsory restraint) against that or any other breaches by the Lessee.

### **Monetary Obligations of Lessee**

The lessee's obligations to pay rent, capital expenditure, outgoings and other monetary amounts are set out in Appendix A.

**Important Notice  
Exclusion of Warranty of Fitness for Purpose**

Retail and Commercial Leases Act 1995: Section 18  
Retail and Commercial Leases Regulations 1995: Regulation 7

The Lessor does not warrant that the premises that you are about to lease will, for the duration of your lease, be structurally suitable for the type of business that you intend to carry on.

Date: .....  .....

Lessor: .....  ..... *CEO* .....

CEO TO SIGN

## APPENDIX A: Monetary Obligations of Lessee

### PART 1 – RENT (Service Fee)

The base rent payable for the shop under the lease is in Item 3.

The base rent may be changed on the following basis:

**The rent may be reviewed and increased by the change in the Consumer Price Index for the preceding twelve months.**

The following rent calculated on the following basis is also payable under the lease:

Nil

### PART 2 - CAPITAL EXPENDITURE

The lessee will be liable for the following kinds of capital expenditures:

- ☒ Make good damage to the premises arising when the lessee is in possession or entitled to possession of the premises – refer Annexure 3
- ☐ Fitting or refitting the shop – refer Lease terms and conditions;
- ☐ Providing fixtures, plant or equipment – refer Lease terms and conditions;
  - ☐ contributions to a sinking fund to cover major items of repair or maintenance - see attachment marked “.....”.

### PART 3 - OUTGOINGS

The lessee will be liable to pay or reimburse the following categories of outgoing:

Category of Outgoings	Estimate of Lessee's Annual Liability
Local government rates and charges	Not applicable – Lessor
Electricity	Based on consumption
Gas and oil	Based on consumption
Water and sewerage rates and charges	Based on consumption
Sewerage disposal and sullage	Based on usage
Energy management systems	Not applicable - Lessor
Air conditioning/ventilation	Not applicable - Lessor
Emergency evacuation procedures	Based on contractors cost
Fire protection	Maintenance schedules Annexure 3
Security	Monitor/maintenance and replacement costs
Lifts and escalators	Not applicable
Public address/music	Maintenance/replacement cost
Signs	Based on supplier costs
Public telephones	Based on usage
Insurance	Based on insurer costs
Pest control	Based on contractors costs
Car parking	Refer Maintenance schedule Annexure 3
Gardening	Refer Maintenance schedule Annexure 3
Cleaning	Refer Maintenance schedule Annexure 3
Audit fees	Based on Auditors cost
Maintenance and repairs	Refer Maintenance schedule Annexure 3
Trade waste – maintenance	Based on contractors cost

- ☒ The lessee is liable for the full amount of the outgoings.
- ☐ The lessee is liable for a proportion of the outgoings calculated according to the following formula:  
.....
- ☒ The amount the lessee is required to pay towards outgoings does not include a margin of profit for the lessor.
- ☐ The amount the lessee is required to pay towards outgoings includes a margin of profit for the lessor as follows:

**PART 4 - OTHER MONETARY OBLIGATIONS**

- ☐ The lessee will not be liable for any other kinds of monetary obligations.
- ☒ The lessee will also be liable for the following kinds of monetary obligations:
  - (a) utilities by consumption;
  - (b) GST;
  - (c) public liability and contents insurance for the Lessee's fixtures and fittings and stock;
  - (d) Maintenance and repair – in accordance with the provisions of Annexure 3
  - (e) Building insurance

## Annexure 3

## MAINTENANCE RESPONSIBILITIES

Asset	Council				Lessee		
	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
External Building Components							
Structure & sub-structure	Annual maintenance inspection	audit/Visual check for movement, cracks, dampness or other irregularities. Undertake repairs as required.	Annually	Property Management			
External walls	Annual inspection	audit/Visual check for movement, cracks, dampness or other irregularities. Undertake repairs as required.	Annually	Property Management	Monitor Graffiti & Notify Council's Graffiti Management Program	Notify Graffiti Hotline and Police in the event of a major attack. Register with Council's Graffiti Management Program	As required
External/internal windows	Replace broken glass	Council responsible for the cost of replacement of broken windows resulting from break-in, attempted break-in or vandalism.	Ongoing	Property Management	Cleaning	Clean all windows (including screens) on a periodic basis	Quarterly
	Annual inspection	audit/Visual inspection for deterioration and/or damage. Physical test for operation. Repair/replace as required.	Ongoing	Property Management	Replace broken glass	Lessee responsible for the cost of replacement of broken windows resulting from misuse or negligent use. Council to organise.	As required
Roof – framing & cladding	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required.	Annually	Property Management	Monitor Leaks	Notify Council if leaks appear	Annually
Roof – gutters & downpipes	Cleaning of gutters	As required.	Annually	Property Management	Monitor condition & cleaning requirement	Visual inspection for integrity, damage & cleaning requirement.	As required
	Painting	As scheduled in budget.	As required	Property Management			
	Annual inspection	audit/Visual inspection for integrity, damage & cleaning requirement. Repair/replace as required.	Annually	Property Management			
External doors	Key provision	Council to provide the standard key set (including spares). The cost of replacing keys is to be borne by the Committee.	As required	Property Maintenance	Key replacement	Lessee to pay for key cutting required as a result of lost/damaged keys.	As required
	Lock maintenance and replacement	Lock management is the sole responsibility of Council.	As required	Property Maintenance	Door operation (Hinges)	Committee to lubricate hinges as required.	As required



Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required.	Annually	Property Management	Door operation (General)	Ongoing monitoring of operating condition & locking integrity. Notify Council immediately in the event of any failure.	Annually
External painting	Re-paint	Council will undertake re-painting in line with budget allocations & portfolio priorities.	As required	Property Management	Monitor Graffiti standards	& Notify Graffiti Hotline and Police in the event of major attack. Register with Council's Graffiti Management Program	As required
Internal Building Components							
Internal walls – solid and/or gyprock	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required in accordance with Clause 4.7.	Annually	Property Management/Maintenance	Manage against damage	Ensure that activities/programs are undertaken in a suitable environment so as to minimise potential damage.	As required
	Lock & key issues	See under External Doors.	As required	Property Maintenance	Lock & key issues	See under "External Doors".	As required
Internal doors – include operable walls	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required.	Annually	Property Management/Maintenance			Annually
Internal ceiling	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required.	As required	Property Management/Maintenance			Annually
Floor finishes	Annual inspection	audit/Inspect in order to assess integrity & replacement requirement.	Annually	Property Management	Monitor for trip/slip hazards	On-going monitoring of potential slip/trip hazards during daily operation. Notify Asset Planner immediately in the event of potential risk.	As required
	Minimise risk	Repair trip areas etc. Replace where necessary.	As required	Property Management	Cleaning (including stain removal) and/or polishing	To be undertaken as part of a formal cleaning regime.	As required
					Strip back & re-seal hard floors	Strip back & re-seal of hard floors eg. wood or parquet	As required
Ceiling finishes	Painting	Council will undertake re-painting in line with budget allocations & portfolio priorities.	As required	Property Management	Internal painting	undertake re-painting in accordance with Clause 4.11.1 and Item 6.	As required
					Cleaning	Where nature of finish permits, wash marks off walls.	As required
Internal fittings & built-in joinery inc. domestic stoves	Annual inspection	audit/Visual inspection for integrity & damage. Repair/replace as required.	As required	Property Management/Maintenance			

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
Security system					Security system	Monitor, maintain, repair & replace security system	As required
Grounds Maintenance							
Garden Beds				Parks & Recreation	Garden beds	General garden maintenance including watering, weeding, trimming etc. to all shrubbery and garden beds. Removal of cuttings and pruning	As required
Lawns				Parks & Recreation	Lawn mowing & edging	Lawn mowing and edging. To be undertaken fortnightly/outside playing fields.	As required
Irrigation system	Annual audit inspection	Repair/replace as required.	As required	Parks & Recreation			
Tree management	Trimming/Removal including fallen branches	Trim or remove trees as required.	As required	Parks & Recreation	Regular inspection	Monitor aesthetics and stability, especially with respect to potential personal injury or building damage. Notify Council of issues.	As required
Fencing (including gates)	Site perimeter and internal (playground) fencing	Maintain structural integrity and locking functions	As required	Parks & Recreation		Minor repairs and painting	As required
Drains management	Annual audit inspection	Visual inspection for blockages, integrity & damage. Repair/replace as required.	As required	Infrastructure	Regular inspection	Keep free of tree/garden debris & litter	Weekly
Roads, paths, paved areas & car parks	Remedial	Undertake repairs as required in order to maintain integrity & minimise public risk.	As required	Infrastructure	Identify trip hazards	Monitor condition of paths & paved areas and notify Council of potential trip hazards.	As required
	Line marking	Re-mark as required.	As required	Infrastructure	Keep clean	Keep free of rubbish and tree/garden debris.	As required
External building signage	General management	Update details, remove graffiti, repair or replace as required.	As required	Infrastructure		Lessee to report any damage to Council's Customer Service Centre. In the case of graffiti, notify Graffiti Hotline and Police in the event of major attack. Register with Council's Graffiti Management Program	As required
General Maintenance							
Pest Control	Pest Control	Eradication of pests & vermin when efforts of Committee have failed.		Property Management/Maintenance	Pest Control	Eradication of domestic pests & vermin eg. mice, cockroaches, black ants	As required

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
		Treatment of pests such as termites.		Property Management/Maintenance			
					All	The Lessee must give the Council prompt notice of any hazards, or which could harm the property or any person.	As required
Air Conditioning Maintenance							
Air conditioning ventilation systems	Annual maintenance contract	Includes cleaning and general maintenance.	As required	Property Management			
	Repairs/replace	As required	As required	Property Management			
Plumbing Maintenance							
Hot water service	Repairs/replace	Repair or replace as required	As required	Property Maintenance	Relief Valve		As required
General plumbing (water & sewer)	Toilet fittings, sinks, drains, pipes etc.	Unblock, repair or replace.	As required	Property Maintenance		Keep relief valve clear Keep clean, in good repair and free from blockages.	As required
					Toilet fittings, sinks, drains, pipes etc.		
OHS&W and Other Legislative Requirements							
Gas Appliances	OHS&W	Maintenance, service and repair	Annual	Property Management			
Fire & Life Safety Equipment	OHS&W	Maintenance, service and repair	Biannual or as required by the relevant code of practice and Australian standard	Property Management			Ongoing
					Manage tampering against	Ensure that fire safety equipment is not moved or tampered with	
Electrical distribution fixed equipment (RCD's)	OHS&W	Test residual current devices	As required	Property Management			
Portable electrical equipment				Property Management	OHS&W	Test and tag portable electrical equipment	As required
air conditioning equipment	OHS&W	Maintenance, service and repair	OHS&W Div 2.6	Property Management			
Roof water drainage systems	OHS&W	Maintenance, service and repair	As required	Property Management			

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
Asbestos Management	OHS&W	Provide and maintain asbestos register for the building	Annual required Part 4	Property Management			
Electrical Maintenance							
Lighting	Replacement of fluorescent tubes & bulbs above 3.0 metres	Lessee to notify Council of replacement requirement	As required	Property Maintenance	Tubes and bulbs	Inspection for integrity and damage by lessee.	As required
					Tubes and bulbs	Replacement of standard fluorescent tubes and bulbs under 3.0 metres	As required
Emergency evacuation procedures				Property Management	OHS&W	Lessee to establish and maintain emergency procedures to suit the particular use of building	As required
Trade Waste grease arrestors				Property Management	SA Water	Pump out and clean grease arrestor	As required by SA Water
Essential Safety Provisions (inc all building fire safety equipment, exit lighting and emergency egress points)							
Essential Safety Provisions (ESPs)	All ESPs	Council to coordinate testing of all ESPs pursuant to the Development Act 1993.		Property Management			
ESPs include: fire extinguishers, fire indicator panel, fire blankets, fire hose reels, smoke detectors, exit lighting, emergency lighting, emergency egress points, fire and life safety, penetrations through fire rated barriers, fire sprinklers, hydrants etc		A Form 3 certificate (as required pursuant to Regulation 76 of the Development Act 1993) will be completed by a certified contractor annually as proof that the required testing and maintenance has been carried out.	Biannually	Property Management	Exit lighting, emergency exit doors, emergency egress points & paths of travel to exit doors	Notify council if an exit light is damaged. Ongoing monitoring of operating condition & locking integrity. Notify Council immediately in the event of any failure. Ensure egress points are kept clear at all times i.e. no furniture or stored items blocking egress.	Ongoing
Grounds Maintenance – Specific Fixtures							
Practice Nets	Cricket, Soccer, Baseball & Softball	Major repair costs to be shared between stakeholders.	As required	Parks & Recreation		Lessee to monitor condition and report to Council's Parks and Recreation Department. Repairs and general upkeep to be the responsibility of the Lessee	
Cricket Pitches	on Cricket Pitch	Major repair costs to be shared.	As required	Parks & Recreation	Cricket Pitch	Lessee to monitor condition and report to	As required

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
Ovals*						Council's Parks and Recreation Department. Repairs and general upkeep to be the responsibility of the Lessee	
Other Lighting	Light poles, light globes & light heads			Parks & Recreation	Light poles, light globes & light heads	Lessee to monitor condition of light globes & poles and report defects to Council. Replacement / upgrade of equipment (excluding globes) to be shared costs.	As required
		Replacement costs to be shared	As required	Parks & Recreation		Replacement costs of light globes & hire of a cherry picker is the responsibility of Lessee. (Council can provide labour for fitting.)	
Fencing around oval	Steel railing & post.		As required	Parks & Recreation	Steel railing & post.	Lessee to report to Council regarding any major damage or repairs	As required
	Wooden railing & Posts		As required	Parks & Recreation	Wooden railing & Posts	Minor repairs & painting are the responsibility of the Lessee.	
Fencing around Complex Perimeter	Cyclone fencing or any fencing between ovals or grounds			Parks & Recreation	Perimeter Fencing	Lessee to report to Council regarding any major damage or repairs	As required
						Minor repairs & paintings are Lessee responsibilities.	As required
Goal Posts				Parks & Recreation	Goal Posts	Lessee is responsible for repair and replacement.	As required
Tennis/Netball Courts	General maintenance	In accordance with the Tennis/Netball Recoating Program	As required	Parks & Recreation	General Maintenance	In accordance with the Tennis/Netball Recoating Program	
				Recreation	Footing	In accordance with the Tennis/Netball Recoating Program	
						In accordance with the Tennis/Netball Recoating Program	
Fencing around Tennis/Netball Courts	Cyclone fencing		As required	Recreation		Lessee to report to Council regarding any major damage. Lessee is responsible for minor maintenance	Annually
Tennis Net Posts	Net posts		As required	Recreation		Lessee responsible for replacement and all maintenance	Annually



Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
Tennis Nets	Nets		As required	Recreation		Lessee to report to Council regarding any major damage. Lessee is responsible for net maintenance and replacement.	Annually
Lawn/grounds/surrounds	Between ovals grounds, practice nets and driveways		As required	Property Maintenance		Lessee to report to Council regarding any major damage. Lessee is responsible for maintenance and upkeep	As required
Playground - Installed by Lessee	Equipment, soft fall & fencing			Parks		Lessee to report to Council and maintain	As required
Playground - Council approved & installed		Council responsible for maintenance.		Parks		Lessee to report to Council any damage	As required
Playing Field Fencing - (specific sports)				Parks	Field Fencing	Lessee to report to Council any major damage. Lessee responsible for repairs & ongoing maintenance.	As required
Coaches / Players Box				Recreation	Coaches / players box	Lessee to report to Council any major damage. Repairs and replacement Lessee responsibility	As required
Scoreboards			As required	Recreation	Scoreboard	Painting repairs/replacement are the Lessee's responsibility	
Irrigation Systems	Watering systems on turf playing surfaces	Lessee to report to Council regarding any damage.	As required	Parks		Lessee to report to Council	Ongoing
Seating & Benches	Seating & benches	Lessee to report to Council regarding any major damage.		Parks		Lessee to report to Council	Ongoing
		Council responsible for maintenance.	As required				
Turf maintenance/playing Surface	Surface	As per ground maintenance model.	As required	Parks		Lessee to report to Council regarding any major damage	
Car Parking	Surface	Day to day maintenance.		Infrastructure			
	Lighting/signage/line marking	Replacement/upgrading based on priorities of Audit.	As required				
Lawn Bowls	Surface	Replacement synthetic - shared costs		Parks & Recreation			
		Minor irrigation responses shared					

Annexure 3

Council					Lessee		
Asset	What	Task Description	Frequency	Council Department	What	Task Description	Frequency
Building Internals	Cleaning			Property Management	Coordinate cleaning	Ensure that the property is cleaned regularly (at least once a week) and thoroughly by competent cleaners and ensure that at all times the Property is kept in a clean, neat and tidy condition appropriate for a community facility.	Weekly
Building externals				Parks		Ensure that the site is kept free from litter	As required
<b>Insurance</b>							
Building Insurance Lease clause 6.3				Insurance & Risk Management coordinator	Building Insurance	Reimbursement Council	Annually
Public Liability 4.17				Insurance & Risk Management coordinator	Public Liability	Lessee responsibility	
Contents Ins 4.18				Insurance & Risk Management coordinator	Contents Insurance	Lessee responsibility	Annually
Incident reports				Insurance & Risk Management coordinator	Incident reports/injuries	The Lessee shall provide a report within 48 hours to Council of any incident/injury to a member of the public/volunteer/contractor.	
<b>Key Performance Indicators</b>							
Business Plan				Recreation	Business Plan	Develop 5 year plan	5 yearly
Audited statement				Recreation	Audited statement	Provide Council each September	Annually
Partnerships				Recreation	Partnerships	Annual review on 31 March	Annually

### Annexure 4

### KEY PERFORMANCE INDICATORS

Objective	Action	Outcome	Measure	Target	Timeframe
1. Development of a five year strategic business plan	To include the management committee's: <ul style="list-style-type: none"> <li>• mission;</li> <li>• vision;</li> <li>• membership;</li> <li>• volunteer strategy;</li> <li>• risk management plan;</li> <li>• marketing and sponsorship plan;</li> <li>• financial forecasts; and</li> <li>• strategic directions.</li> </ul>	Five Year Strategic Plan is prepared and presented to Council recreation officers.	Plan received by Council recreation officers.	To achieve the actions outlined in the plan within set timeframes	Completed plan within 18 months of lease date
2. Development of a sound annual financial management process	<ul style="list-style-type: none"> <li>• Operational income is managed appropriately to cover operational costs of the facility; and</li> <li>• audited financial statements are produced.</li> </ul>	Annual balanced or surplus financial statement submitted to Council officers within the set timeframe.	<ul style="list-style-type: none"> <li>• No annual operating deficit; and</li> <li>• comply with appropriate accounting standards</li> </ul>	To ensure that the facility remains financially viable.	Audited statement provided to Council recreation officers each September
3. Management committee responsibilities to facility user groups	To include: <ul style="list-style-type: none"> <li>• implementation of sustainable methods to appropriately address changing needs of user groups; and</li> <li>• meet the needs of user groups' affiliated bodies regarding competition requirements where possible.</li> </ul>	Positive partnerships established between management, user groups and Council.	<ul style="list-style-type: none"> <li>• Methods and partnerships established; and</li> <li>• all groups have a facility which complies with the relevant the standards for their codes.</li> </ul>	To ensure broad and equitable access to users and aim to ensure optimal usage of the site's facilities.	Annual review by 31 March each year

## APPENDIX 5



Our Ref:

24 June 2015

Dear Lease Holder

### **Proposed changes to council's current leasing practices**

Reflecting the changing environment we operate within and its impact on our local communities, Council is committed to reforming its leasing practices to ensure that we achieve a fair and equitable outcome for all leaseholders across the City.

In response to feedback that we have received from leaseholders in recent times, the proposed changes to council's leasing practices aim to address the way we lease and sublet community facilities, our management of ovals/pitches, the rent we charge, the subsidy we provide, water costs (where the facility has an oval/pitch) and our role in assisting leaseholder development and improved leaseholder performance.

Our review of council's leasing practices has been largely dependent on the outcomes and recommendations of recent studies and reviews which focus on adapting and tailoring council's facilities to accommodate changing community needs over the next 5 to 20 years. These major research projects have brought together various council departments to share their experiences and expertise in pursuing the common goal of developing consistent and equitable leasing practices which can be applied across the City.

The dependency on these studies (and other key inputs) has meant that we were unable to finalise the proposed changes to leaseholders well before the expiry of their current leases with council, which are due to expire on 30 June 2015. With due regard for the importance of engaging with our leaseholders, we are proposing to extend the terms of your existing lease on a month-by-month basis.

Once Council has approved its release, we will provide you with the proposed changes to leasing practices and the opportunity to provide comments and feedback. Your response will be taken into consideration before the proposed changes are considered by Council for endorsement. Once approved, we will progressively review and finalise all our leases based on outcomes from the engagement process with the aim of having all new lease arrangements agreed and finalised within the next 6-12 months.



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While you can expect there to be changes to council's current leasing practices and to the terms of your current lease, we are confident that our review of council's leasing practices will respond to the feedback of key stakeholders and our communities. If you have any queries concerning your lease or the development of our leasing review, please do not hesitate to contact our Leasing Officer, [REDACTED] on [REDACTED] or via email at [petkap@onkaparinga.sa.gov.au](mailto:petkap@onkaparinga.sa.gov.au).

Yours sincerely

[REDACTED]

**Manager Property and Commercial (Acting)**

ONKAPARINGA



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## APPENDIX 6



## APPENDIX 7

Your Ref:

Our Ref:

30 May 2017

South Coast Sports and Social Club Inc.  
Attention: [REDACTED] - Secretary  
[REDACTED]  
MORPHETT VALE SA 5162

Dear [REDACTED]

**Use of the courtyard area**

As you are aware we have been following up on the request to assist the South Coast Sports and Social Club (SCS&SC) and the Southern Table Tennis Club (STTC) to overcome the reported incompatible uses of the courtyard area.

We understand that your negotiations with STTC and Clubs SA have failed to find a solution that is acceptable to both clubs.

Given the need for STTC to access their facility through the courtyard and the requirements of our no smoking procedure we will be declaring the courtyard a non-smoking area to ensure the health, safety and comfort of all users of the facility. The smoke free entry area will ensure the STTC and SCS&SC are compliant and supportive of:

- State government STARCLUB program and provision of child safe environments
- Encouraging the promotion of a positive drug and alcohol free junior sport environment
- Table Tennis SA's smoke free policy
- Achieving City of Onkaparinga objective of healthy active lifestyles.

Through our involvement in considering the smoking issue we have also become aware that the SCS&SC have a liquor licence over the courtyard area that is not a part of your leased area. It is not our practice to support liquor licences in this situation and consequently we are unable to support your recent application for an extension of your liquor licence over this non leased area, however we do support your liquor licence application for an extension over your leased facility. As the SCS&SC do not have a lease over the courtyard area we also request that SCS&SC make application to Consumer and Business Services seeking the realignment of the liquor licence to be consistent with the areas of the building that you hold a lease over.

We will also be communicating with STTC in relation to the future operation of the courtyard as a non-smoking area and the requirement for them to ensure this is



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complied with by club members and visitors. Our maintenance staff will be undertaking the line marking and signing the smoke free area in the near future.

We understand that the outcome of a non-smoking courtyard area causes some issues for the SCS&SC to determine a new smoking area. However, we trust that SCS&SC will understand and be supportive of the decision that has been made to ensure the safety and welfare of the users of both the SCS&SC and STTC.

For any further information please contact [REDACTED] Team Leader Recreation on [REDACTED]

Yours sincerely,



**Manager Property and Commercial**

Cc [REDACTED] Chief Executive Officer Clubs SA

## APPENDIX 8

Our Ref: GC2017-08

18 October 2017

South Coast Sports and Social Club Inc.  
Attn: Secretary, [REDACTED]

**MORPHETT VALE SA 5162**

Dear [REDACTED]

**Request for internal review**

I refer to your request for an internal review under section 270 of the *Local Government Act 1999* regarding a number of interrelated issues in respect to decisions of council outlined in council's letter dated 30 May 2017, and the South Coast Sports and Social Club (SCSSC) and the Sothorn Table Tennis Club (STTC).

Our last advice to you on the 22 August 2017 advised that the matter would be considered by an internal Review Panel (the Panel) and we would let you know the outcome once that process was complete. The Panel comprised two Directors not directly involved in making the decisions which are the subject of this review.

Council has now completed its review which has involved searching council's corporate record systems for relevant documentation, seeking a response from the relevant departments that made the decisions as well as consideration of the information you provided with your application. In assessing the information, the review panel has also taken into account the nature of the assertions made in your application and their seriousness.

Please note the review has focused on:

- whether council's decision to enforce the 'no smoking' area is correct and reasonable
- whether council's decision that the liquor licence for the courtyard be rescinded is reasonable
- whether a council officer failed to follow council's complaint process following receipt of an email dated 28 May 2017.

**Findings**

The findings of the Panel can be summarised as follows:

- council stepped in and made a decision only after options were exhausted from each club's perspective and each have not supported the other's proposals.
- the decision to ensure the shared use courtyard is a no smoking area is considered to be **reasonable** as it is in accordance with the lessee's lease, specifically section 4.6.3 and meets community expectations in relation to passive smoking and healthy active lifestyles.
- the intention to ensure the shared use courtyard is excluded from the liquor licence arrangements is **confirmed**. The Panel recommends this issue should be subject to further discussion with council to consider an alternate licensed location for the club.



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- the failure to follow council's complaint process in relation to the email received on 28 May 2017 is **acknowledged**. The officer has been reminded of requirements of the complaint procedure and no further action is contemplated.

### **Detailed Findings**

#### **Options proposed by clubs and outcome**

Based on the information available six options have been considered in an attempt to resolve the issue of smoking in the courtyard. The clubs for a range of purported reasons were not able to agree on any one of them. Options were:

1. relocating the STTC entrance to the western side of their building
2. constructing a dividing wall within the courtyard area to create separate STTC and SCSSC access areas
3. relocating the smoking area to the eastern side of the Sports club building (including a pergola)
4. permitting smoking in the rear courtyard
5. relocating the licensed area to, and allow smoking in, the front verandah area of the Sports club building
6. permitting STTC users to use the Sports club front entrance to access their stadium.

Option 1 was not supported by the STTC as it reduced the number of tables available for players and was impracticable from their perspective.

Option 2 Both clubs proposed the construction of a dividing wall (option 2) to basically divide the courtyard in two. The STTC in or around December 2016 and the SCSSC in April 2017. The Table Tennis club did not support this option when put forward in April 2017.

Council also identified a number of issues for this option:

- the wall would not likely be an effective barrier and passive smoking would remain a concern
- there is at least one air-conditioner intake in this area which could draw smoke into the building
- the wall abuts the canteen window which if open would allow smoke to enter
- an emergency fire door would need to be reconfigured
- the permanent BBQ and seating paid for by TTC would be located in the SCSSC area

Option 3 Council officers discussed this option at a site meeting with SCSSC noting it would require building alteration and funding by the club. The club indicated it was not in a position to consider funding additions or alterations at this time. Council also has concerns that:

- providing essentially a 'smoking facility' was inconsistent with council's community guidelines which aim to avoid duplication of facilities
- spending capital works money for this purpose may not be supported by the community or be consistent with encouraging healthy active lifestyles.

Option 4 The STTC is encouraging its users to use the rear courtyard for smoking. Council officers discussed this option at a site meeting with SCSSC who did not support this option as it was too far from the bar area. Council has also identified there may be an air-conditioner intake which could draw smoke into the building.

Option 5 Council officers discussed this option at a site meeting with SCSSC, however, it was not supported by the club for reasons of safety and proximity to the car park. Council's view is that this option has some merit and could be explored further subject to an assessment by council's Community Asset team of any infrastructure requirements

and consideration by the Property Transactions team in relation to amending the lease boundary to include the front of the building (verandah) and adjusting the liquor licence.

Option 6 was not supported by the STTC as their users would have to walk through the licensed bar area to reach the stadium and did not believe that was appropriate for underage players.

### 1. Shared use courtyard to be no smoking zone

You have expressed concern with council's interpretation and application of its 'no smoking' procedure to the shared courtyard on the basis that they are lessees not employees. Council sees this differently and maintains its view that:

- the courtyard is the primary access point for entrance to the Table Tennis Club for players and spectators and allowing smoking in this area presents a passive smoking risk.
- there is an increasing expectation within the community that venues will be smoke-free and recreational and sporting clubs have a significant role in promoting healthy lifestyles.
- the procedure states it applies to all council buildings and the lessees occupy a council owned building therefore the procedure is relevant in this matter.
- clause 4.6.3 of the lease agreement requires lessees to comply with council's procedure.
- clause 4.5 of the lease agreement requires lessees to comply with applicable laws.

It should be noted that council adopted a facilitation/ liaison role in this matter to work with the clubs to assist them in resolving the issue. We did this by providing information and suggesting the services of relevant peak bodies such as Good Sports and Clubs SA to assist in negotiating an acceptable outcome. As such it was the respective lessee Committees responsibility to consider and work through any options put forward.

Council clearly indicated throughout this period that it would only step in and make the decision if the lessees could not negotiate a resolution.

Line marking and signage will be undertaken by council at a time to be determined as outlined in its letter to the lessees dated 30 May 2017.

Furthermore, in council's view, the subject area falls within the definition of a 'shared area' under the *Tobacco Products Regulations Act 1997*, being an area that is used by patrons and visitors of both clubs. Please see definition below;

#### 4—Interpretation

*(1) In this Act, unless the contrary intention appears—*

*public area or public place means an area or place that the public, or a section of the public, is entitled to use or that is open to, or used by, the public or a section of the public (whether access is unrestricted or subject to payment of money, membership of a body or otherwise);*

*shared area means an area in multi-unit premises the use of which is shared by persons from various parts of the premises that are in separate ownership or occupation;*

## 2. Lease arrangements

Early lease arrangements (c1990s) show a Joint Management Committee with representation from each club met quarterly to oversee the use of and activities conducted under the lease. Building extensions were proposed around 1995 for toilet and shower facilities which were subsequently approved. In 2005, following consultation with the respective clubs council issued separate leases to each club. These leases were renewed in 2010 after both clubs requested to take up their right of renewal under the lease arrangements.

There is no evidence to suggest there was any disagreement in relation to the lease boundaries. It is also understood that the clubs continued to operate as a Joint Management Committee.

The Panel accepts that the lease boundaries appear to be inaccurate based on the information put before them. However, the Panel noted that all parties signed the lease agreements in 2010 on the basis of the boundaries attached to those leases.

In light of the fact the courtyard was not identified in the lease, I have requested that the responsible council sections update council's lease boundary records for each club to address the anomaly identified during this process and, if required, make any adjustments to future lease charges (positive or negative) and lease agreement, as appropriate.

## 3. Liquor licence

Under the *Liquor Licensing Act 1997* if a club wishes to sell liquor an application must be made to Consumer and Business Services (CBS) as the licensing authority. A club licence must satisfy the licensing authority that it is entitled to 'exclusive possession' of the licensed premises at all times when it is authorised to sell liquor.

The shared courtyard does not meet this criterion because a) it is not within the lessee's lease boundary and b) it is the main entry point for Table Tennis players and spectators throughout the week.

A detailed search of council's records found correspondence to the South Coast Social Club Inc dated December 2001 in which conditional approval was given for extending the liquor licence to include the courtyard and verandah area. No evidence could be found to show that the relevant lease or lease boundary were updated to reflect this change. This clarifies when and how the current liquor licence was approved for 'Area 2' (the shared courtyard), however, it calls into question whether that decision was the correct one at the time.

The Panel accepts that the liquor licence and the lease boundaries are different. However, we do not agree with your view that the decision may potentially affect the club financially. We maintain our position that the liquor licence should be amended to align with the executed lease agreement which does not include the courtyard area.

## 4. Code of Conduct – conduct of officer

For completeness I confirm that this matter has been assessed and dealt with internally in line with our internal procedures. Please note any allegation of misconduct is treated seriously and sensitively with due regard to procedural fairness and confidentiality and I do not intend to disclose further details of this part of the review.

The Panel noted the fact that your concerns had been escalated to the Mayor and that the timing of this internal escalation may have contributed to the lack of an acknowledgement by the officer.

**Conclusion**

In conclusion the Panel has undertaken a comprehensive review of the decisions, considered all the relevant evidence and taken into account the information you provided to the review. The Panel has formed the view that council's decisions to ensure the shared use courtyard is declared no smoking and to address the liquor licence variance are **upheld**.

On balance and on the information available, I consider that council decisions in this matter have been reasonable and lawful. I understand this may not be the outcome you want, however, I am satisfied that the decisions made were the correct decisions.

Please feel free to contact [REDACTED] Team Leader Corporate Governance (ph: 8384 0666) if you have any questions regarding this review or its outcome. You may also wish to contact the OmbudsmanSA office if you have concerns regarding the sufficiency of this review (ph: 8226 8699).

Yours sincerely,


**Chief Executive Officer (Acting)**

## APPENDIX 9



01 December 2017

Secretary  
Southern Table Tennis Club

Dear [REDACTED]

**Implementation of smoke free courtyard**

Further to our previous correspondence regarding the request from South Coast Sport and Social Club to prohibit smoking in the non-leased shared use courtyard area and the recent review of council's decision, we advise that our decision has been upheld and the whole court yard area is now declared smoke free.

Council staff will soon be installing signage within the courtyard area and undertaking line marking in accordance with council's no smoking procedure to clearly identify the area as a no smoking zone.

Installation of no smoking signage and line marking is scheduled to commence on Tuesday 5 December 2017.

The signage and line marking is intended to remind club members and visitors that the area is smoke free. We request that you ensure your club members are informed of the no smoking status of the courtyard to ensure the health, safety and comfort of all users of this area.

In addition, the courtyard area will also have the existing liquor licence revoked so the consumption of alcohol in this area will not be permitted.

The smoke free status of the courtyard is effective immediately and we will advise you as soon as the Liquor Licensing Commission amends the liquor licence for this area.

Thank you for your support regarding this matter. Communication regarding the liquor licence should be directed to [REDACTED] Manager Property and Commercial and for any other queries please do not hesitate to contact me on 8384 0666 or [mail@onkaparinga.sa.gov.au](mailto:mail@onkaparinga.sa.gov.au)

Yours sincerely

[REDACTED]  
[REDACTED]  
**Manager Community Capacity**



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[www.onkaparingacity.com](http://www.onkaparingacity.com)

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Morphett Vale  
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Facsimile (08) 8382 8744

01 December 2017

Secretary  
South Coast Sports and Social Club  
MORPHETT VALE SA 5162

Dear

### Implementation of smoke free courtyard

Further to our previous correspondence regarding the request from South Coast Sport and Social Club to prohibit smoking in the non-leased shared use courtyard area and the recent review of council's decision, we advise that our decision has been upheld and the whole courtyard area is now declared smoke free.

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Thank you for your support regarding this matter. Communication regarding the liquor licence should be directed to Manager Property and Commercial and for any other queries please do not hesitate to contact me on 8384 0666 or [mail@onkaparinga.sa.gov.au](mailto:mail@onkaparinga.sa.gov.au)

Yours sincerely

Manager Community Capacity



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## APPENDIX 10



From the office of the Mayor  
City of Onkaparinga

19 September 2019

██████████  
Acting Secretary  
Southern Table Tennis Club Inc.  
[president@southerntabletennis.org.au](mailto:president@southerntabletennis.org.au)

Dear ██████████

### City of Onkaparinga - No Smoking Policy

I write in relation to our ongoing discussions regarding the Southern Table Tennis Club (STTC) leased occupation of Council's premises at Wilfred Taylor Reserve.

As you are aware, the *Tobacco Products Regulation Act 1997* (Act) regulates smoking in South Australia and section 46 of the Act states that 'smoking is banned in an enclosed public space, workplace or shared area'. A public space is defined as 'an area or place that the public, or a section of the public, is entitled to use or that is open to, or used by, the public or a section of the public (whether access is unrestricted or subject to payment of money, membership of a body or otherwise)'.

Council subsequently has an approved Policy which aims to ensure, as far as reasonably practicable, measures are taken to eliminate, minimise or control risks to health and safety of persons from exposure to second hand smoke and the adverse health effects of passive smoking. On this basis, Council's 'No Smoking Policy' provides that smoking is prohibited in a variety of areas including (but not limited to):-

1. Any and all Council buildings at all times and within five (5) metres of any entrance/exit of a council building, and
2. Five (5) metres from the intake area for building air conditioning systems.

Furthermore, Council's lease documentation also stipulates 'the Lessee, the Lessee's visitors, invitees, agents, employees and contractors will at all times abide by Council's 'Smoking' policy, amended, varied or replaced from time to time.'

A recent review of the white 'no smoking beyond this point' line in the carpark adjacent to your leased premises has identified it is not in keeping with Council's No Smoking Policy, and as such will be removed in the near future from the carpark surface. However the requirement for no smoking within five (5) metres of an entrance/exit of a council building and within five (5) metres of an intake area for building air conditioning systems continues to apply.

From the attached plan you will note that the no smoking area applies to the majority of the existing courtyard area, with the exception of the western end of the court yard in the grassed area.



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Document Set ID: 4995817  
Version: 1, Version Date: 19/09/2019

Please note, it is also the responsibility of STTC to identify suitable smoking areas for its patrons wishing to smoke outside of the no smoking areas. Any reported instances of smoking within the no smoking areas will be regarded as a breach of lease.

I acknowledge the smoking restrictions do not favour the preferences of some Club members and visitors, however Council must work with the whole community to ensure the health and safety of all is being considered and maintained. I trust the STTC will work alongside council to ensure this prominent social requirement is endorsed and adopted.

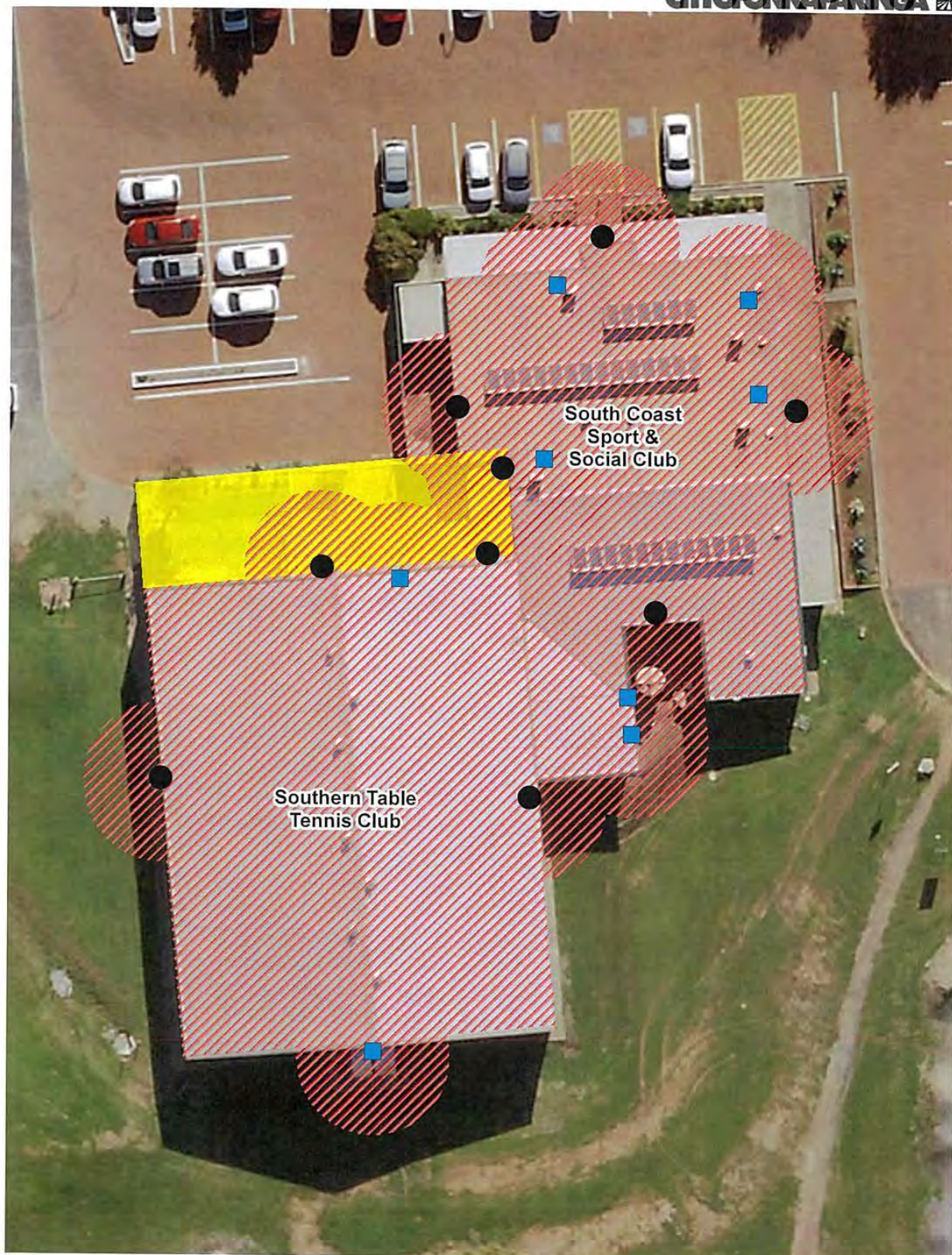
In regards to further discussions about accommodating the future growth of both clubs, the CEO and I are keen to coordinate a round table discussion with representatives of both clubs. Karen Carter will be in touch soon to make these arrangements.

Yours sincerely







**Mayor**

Encl Site plan defining no smoking areas and council's No Smoking policy



No Smoking Areas -  
South Coast Sports & Social Club and  
Southern Table Tennis Complex

Document Set ID: 4995817  
Version: 1, Version Date: 19/09/2019

-  No Smoking Areas
-  Courtyard Area (open space)
-  Entry / Exit Doorways
-  Air Conditioners

## APPENDIX 11

## Internal review of council decisions (s270) procedure

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**1 Administrative procedure purpose** *Legislative obligation s270(1)*

The purpose of this procedure is to specifically address the manner in which requests for a review of a decision of council pursuant to section 270 of the Local Government Act 1999 will be dealt with. The aim is to ensure a fair, consistent and structured process for any party dissatisfied with a decision which has been made by the Council, its employees or persons acting on behalf of the council.

We are an organisation committed to being a Council of excellence; reviewing service efficiency, effectiveness and compliance with laws and becoming an actively learning organisation. The Chief Executive Officer and Directors have made this commitment explicit through our organisational values and guide the behaviours of all staff.

It is acknowledged that any legislative requirement which affects Council will take precedence over Council's policies and procedures.

**2 Scope**

This procedure applies to all council officers who may be involved in, or receive, an application for review of a council decision. It will apply when matters have not been able to be resolved satisfactorily and commences at the point where:

- a formal request for the review of a decision is received, or
- informal processes have not achieved an acceptable outcome and it is escalated to a Tier 3 complaint.

This procedure is designed to ensure that:

- an unbiased assessment is undertaken
- decisions are based on sound evidence
- each applicant receives information about the outcome of the review.

This procedure will not apply when an alternative statutory process for review exists particularly if the applicant is already using that process.

**Definitions**

Alternative Dispute Resolution	means mediation, conciliation or neutral evaluation as set out in section 271 of the <i>Local Government Act 1999</i> .
Applicant	means the person lodging the request for review.
Business Day	means a day when the council is normally open for business, i.e. Monday to Friday, excluding public holidays.
Complainant	means the person lodging the request for review
Council	means the City of Onkaparinga
Decision	means a position adopted by Council or its employees. It will generally be reached after consideration of relevant information.
Decision-maker	means the individual or entity responsible for the decision under review.
Employee	means a person employed directly by the council in a full time, part time or casual capacity (whether that position is permanent or contractual) and persons providing services to, or on behalf of, the council even though they may be employed by another party.
Frivolous	means a complaint which:

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- cannot be successfully argued because it is based on inaccurate facts, an error in law or outdated practices, or
- has no reasonable prospect of success

Reviewer	means the individual or entity responsible for undertaking the review.
Trivial	means a complaint of little or no importance, where the Reviewer considers it unreasonable to dedicate resources to an investigation of the matter
Vexatious applicant	means Complainant who has consistently, over a period of time, complained about minor matters or the same matter, which have previously been dealt with and no new information has been provided by the applicant and/or is considered by the Reviewer to be mischievous, without sufficient grounds or serving only to cause annoyance or disrepute.

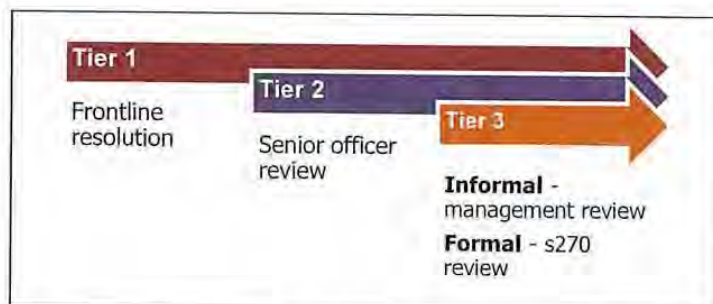
### 3 Key principles

Council will be guided by five policy principles which are fundamental to its complaint handling framework:

- **Fairness:** treating complainants fairly requires impartiality, confidentiality and transparency at all stages of the process
- **Accessibility:** to be accessible there must be broad public awareness about Council's policy and a range of contact options
- **Responsiveness:** this will be achieved by providing sufficient resources, well trained staff and review and improvement of the systems
- **Efficiency:** complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their level of complexity
- **Integration** of different areas of council where the complaint overlaps functional responsibilities.

### 4 Customer complaints

This procedure forms part of the council's Complaint handling procedure for employees. In summary, the council has a three-tier process for managing complaints.



#### ***Tier 1 Immediate response to resolve the complaint (managed by frontline officers)***

All officers are empowered to handle complaints in the first instance and it is preferable that they are dealt with promptly at the initial point of contact and at the appropriate officer level. Dealing with a complaint at this level can include referral to another officer, a Team Leader or a Manager.

#### ***Tier 2 Complaint escalated to a more senior officer (managed by T/L or manager)***

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A complaint will be directed to a more senior officer in the Council, where circumstances indicate that the complaint would be more appropriately handled at a higher level.

**Tier 3 Internal review of a Council decision** *(managed by Corporate Governance)*  
Internal review of a Council decision will be in accordance with this procedure. This procedure enables council to reconsider all the evidence relied on to make the original decision and additional available evidence if relevant. This procedure is generally a last resort in the complaint handling process.

## 5 Decisions subject to review

Decisions of the council, employees of the council; and other persons acting on behalf of the council, may be subject to review under this procedure. The nature of this review is a merits review which could lead to the original decision being affirmed, varied or revoked. Not all actions by a council, employees of a Council or other person acting on behalf of a Council will be a decision. For example, actions taken during the process of decision-making (ie investigations, requests for further information, internal consideration of the matter or referral of the matter to an external adviser) are not decisions.

A decision is made when a matter, issue or query is actually determined. Once a matter, issue or query is determined, the decision may be susceptible to review in accordance with this procedure.

Some decisions made by the council, a council employee or on behalf of the council are subject to review or appeal processes set out in legislation. This procedure cannot override or operate inconsistently with these statutory processes.

Consequently where legislation provides for the review of, or appeal from, a type of decision, a decision of that type will not be reviewed under this procedure.

### 5.1 Alternate procedures

Some complaints may be more properly dealt with by another process for example:

- complaints against an **Elected Member** - refer to Director Corporate and City Services
- complaints against the **Chief Executive Officer** – refer to the Mayor who will follow the relevant procedures and seek guidance, if appropriate, from the Director Corporate and City Services
- external review processes under the *Freedom of Information Act 1991*
- Insurance claims - refer to Corporate Governance
- Decisions made under legislation such as the *Development Act 1993* have their own prescribed appeal procedures
- Objections to valuations made by a council - refer to Valuer-General office
- Appeals against orders made pursuant to section 254 of the *Local Government Act 1999*
- Appeals against the issuing of litter abatement notices under the *Local Nuisance and Litter Control Act 2016*
- Appeals against destruction and control orders issued under the *Dog and Cat Management Act 1995*

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Where legislation specifically excludes a type of decision from review either expressly or by necessary implication, this procedure cannot operate inconsistently with that legislation. Similarly, a review under this procedure could not vary or revoke a decision which has operative effect under legislation from the time the decision is made. For example, some development approvals under the *Development Act* are intended to have operative effect from the time the decision is made and are not capable of being varied or revoked by council.

Where legislation specifically provides for an internal review process, that process will apply rather than the process set out in this procedure. For example, internal review of a determination under the *Freedom of Information Act* or withdrawal of an expiation notice issued by the Council under section 16 of the *Expiation of Offences Act*.

Notwithstanding the above, matters that fall outside statutory appeal procedures may be considered for review under section 270, based on the merits of the individual application.

Council prefers to work with its customers to resolve requests for review; however, an applicant retains the right to seek other forms of resolution, such as contacting the Ombudsman, the Office of Public Integrity or taking legal action. Note that as a general rule, the Ombudsman prefers that matters be addressed by council in the first instance, unless this is not appropriate in the circumstances.

## **6 Operating procedure** *Legislative obligation s270(2), (3)*

### **6.1 Informal process under complaint handling**

Issues can arise about a range of matters during the course of council's day to day activities. Most complaints are initially made verbally by telephone or face-to-face to a council officer and some are made in writing. Elected Members may also receive complaints.

All complaints will be referred to the relevant council officer in the first instance (informal approach). Prompt action will generally result in the matter being resolved satisfactorily following normal departmental complaints procedures.

If the matter is not resolved then a formal application addressed to the Chief Executive Officer should be lodged in writing or by using the application form available on council's website.

### **6.2 Applying for a review**

A person with a sufficient interest in a decision of the Council, a council employee or person acting on behalf of the council, may make a written application for a review of that decision for example, residents, ratepayers, members of a community group, users of council's facilities, and visitors to the area all have the right to lodge an application for review.

An application for review must be in writing and set out the reasons for applying for the review (that is, why the applicant believes that the decision is wrong). Although council can be expected to have information and material relevant to the matter

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under review, an application for review may also include new, relevant information or evidence to support the application.

This procedure does not negate an applicant's right to seek a review by the Ombudsman office, other legal appeal processes, or the Courts at any time during the complaint handling process.

There is no charge for making an application for review of a council decision.

### 6.3 Timeframe for lodging an application

Applications for the review of a decision must be lodged within six months of the decision in question being made. The Chief Executive Officer may choose to exercise their discretion and agree to accept an application outside of this time limit.

### 6.4 Applications for a review of the impact of rates or services charges

*Legislative obligation 270(2)(ca),*

If Council receives an application for a review of a decision concerning the financial impact of Council rates or services charges, these will be dealt with as a matter of priority. Where circumstances warrant, Council will consider financial relief or the granting of concessions in line with the provisions of the *Local Government Act 1999*.

The right of a council to recover rates is not suspended by an application for the provision of some form of relief or concession with respect to the payment of those rates (but a council may then, if appropriate in view of the outcome of the application, refund the whole or a part of any amount that has been paid).

*Legislative obligation s270 (9)*

### 6.5 Assisting with the application for review

It is essential that no one is excluded from lodging an application for review because of any difficulties they may have representing themselves. All officers are expected to offer assistance where appropriate and provide it on request, including assistance in documenting the reasons for the review in writing when circumstances warrant.

If necessary access to interpreters or advocates will be offered to ensure that an applicant is treated equitably.

### 6.6 Internal Review Contact Officer

An Internal Review Contact Officer (IRCO) will be assigned by the Chief Executive Officer from the Corporate Governance team to be the initial point of contact for applicants.

The IRCO will work in conjunction with an appropriately delegated officer to determine how the review will be handled.

The role of the IRCO is to:

- acknowledge receipt of an application within 5 business days and
- outline the timeframes involved and the action to be taken in the first instance
- seek further information as required

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- undertake a preliminary assessment to determine what actions have already been taken to try to resolve the matter
- consider if any alternative options are available to resolve the matter
- keep the applicant informed of progress
- maintain a register of all applications for review received and the outcomes of the applications
- report to Council at prescribed intervals on applications lodged for review.

#### 6.7 Internal review timeframes

Council will use its best endeavours to ensure that a review of the original decision will be completed in a timely manner. For complex cases appropriate enquiries, assessment of the evidence, the drafting of a response and decision-making may several months to complete.

If the decision is to be reviewed by an external assessor, a Panel, the Council or a committee there may also be delays caused by meeting cycle timelines.

The applicant will be kept informed of progress in writing either by email or letter.

#### 6.8 Council response to an application

The IRCO is responsible for:

- determining whether or not the decision is subject to review under this procedure
- working in conjunction with the appropriately delegated officer to determine how the review will be handled;
- advising the applicant of the process to be undertaken and the time of the next contact; and
- ensuring the application is properly lodged and assigned.

Council will use its best endeavours to ensure that a review of the decision will be completed within 21 business days. However if the decision is to be reviewed by the elected Council, a Council committee or an external investigator reporting to the elected Council or council committee, there may be delays caused by meeting cycle timelines. In more complex cases, a review may take longer.

The applicant will be kept informed of progress, either by email, letter or telephone.

#### 6.9 Refusing an application *Legislative obligation s270(4)*

The Council is entitled under the *Local Government Act* to refuse to consider an application for review if:

- the application is made by an employee of the Council and relates to an issue concerning his or her employment or
- the decision was made greater than six months previously or
- it appears that the application is frivolous or vexatious or
- the applicant does not have a sufficient interest in the matter.

Refusing an application for review will not be done lightly and reasons for the refusal will be documented.

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Where a matter has been referred to the Local Government Association Mutual Liability Scheme (LGAMLS) in respect to a claim or potential claim against the Council or in response to a threat of legal action against the Council, an application for review of a decision in connection with that claim or action (including the decision to refer the matter to the LGAMLS) will be vexatious.

## 7 Undertaking a review

Each internal review application received will be assessed to determine the appropriate referral for review. Matters may be referred by the Chief Executive Officer to the Council, a Director, a panel of Directors or for independent review or mediation.

At the conclusion of the process the applicant will be advised of the outcome and of any further action that may be taken or required. Applicants will also be advised of other options, if any, for review such as the Ombudsman, legal advice and or the court system.

### 7.1 Matters to be referred to Council *Legislative obligation s270(2)(c)*

The elected Council will be the reviewer:

- when the decision being reviewed was made by a Council committee or the CEO
- when the decision relates to civic and ceremonial matters; and
- in other circumstances as determined by the CEO or resolution of the council.

Where the decision is a decision of the elected Council, the reviewer will be an external person or body who will report the outcome of the review to the Council. The Council will consider the outcome of the review and determine whether to affirm, vary or revoke the reviewed decision.

### 7.2 Matters to be dealt with by a Director, Panel or independent assessor

In all other instances, a reviewer will be assigned by the Chief Executive Officer to determine the appropriate action including whether:

- any other specific statutory appeal mechanism exists
- an independent assessor or a Director or Panel review is appropriate.

### 7.3 Review of decision

Where the elected Council is not the reviewer, a review methodology to suit the nature of the internal review will be undertaken with the support of the Corporate Governance Team. When appropriate, council will include a Director not associated with the issue or an external person to assist with the review.

All the information and material that was before the original decision-maker and any additional relevant information or material provided by the applicant will be considered in the review. In effect the Reviewer will 'stand in the shoes' of the original decision maker and determine the decision appropriate on the basis of the relevant circumstances and available information and materials..

The basis of an assessment/ investigation will be the processes and procedures followed in making the initial decision and the merit of the decision itself. This

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means a Reviewer will also consider whether a different decision could have been more appropriate, based on the evidence.

Recommendations regarding whether the complaint should be upheld and what actions (if any) could be taken to resolve the situation will form part of any investigation.

#### **7.4 Providing 'procedural fairness'**

The Reviewer will observe the principles of procedural fairness (also called 'natural justice') when undertaking the review.

Procedural fairness involves:

- giving an applicant a right to put their case forward. This will generally involve giving an applicant the opportunity to provide all relevant documentary evidence, rather than an oral hearing
- ensuring the Review does not have a personal interest in the outcome (ie. must not have a bias or perceived bias) and
- acting only on proper evidence that is capable of proving the complaint on the 'balance of probabilities'.

#### **7.5 Providing reasons**

While there is no statutory requirement to give reasons for a decision, council will, where practicable, provide reasons for the decision.

Council will always give reasons to explain the outcome where:

- a decision is not in accordance with published policy
- a decision is likely to detrimentally affect rights or interests of individuals (or organisations) in a material way or
- conditions are attached to any approval, consent, permit, licence or other authorisation.

#### **7.6 Outcome of review**

Where the reviewer is the elected Council, the elected Council should determine whether to affirm, vary or revoke the original decision.

Where the reviewer is a Council employee, the employee may determine whether to affirm, vary or revoke the original decision if authority to make the decision has been delegated to that employee. If the reviewer does not have a delegation enabling the making of the decision, then the reviewer should report the outcome of the review to the elected Council (or delegate) for a determination as to whether the decision should be affirmed, varied or revoked.

Where the reviewer is an external person or body then the reviewer should report the outcome of the review to the elected Council for a determination as to whether the decision should be affirmed, varied or revoked. An external reviewer cannot vary or revoke a decision made by or on behalf of Council.

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### 7.7 Remedies

The remedy or response may be one, or a combination of actions. The chosen remedy will be proportionate and appropriate and take account of what the applicant is seeking as an outcome of the review.

If an apology is required it will be done promptly and the applicant advised that appropriate action will be taken to ensure the problem is not repeated.

Compensation will only be offered in cases where the loss or suffering is considered substantial. The Council itself and the CEO are the only people authorised to offer financial compensation and this will only occur after consultation with the Local Government Association Mutual Liability Scheme.

### 8 Confidentiality

The identity of applicant(s) will be made known only to those who need to know in the process of investigating and seeking to resolve the matter. The complaint will not be revealed or made public by the council, except where required by law.

All documentation in relation to the investigation will remain confidential and will not be released to the applicant or any other party unless required by law.

### 9 Reporting

All applications will be recorded in council's records management system in such a way that the information can also be analysed for improvement opportunities.

The following information about all applications for review will be recorded in a central register:

- the number of applications for review made
- the type of matters to which the applications relate
- the outcome of applications
- such other matters as may be prescribed by the regulations.

An information report will be submitted to Council annually through the ARVEC about section 270 applications received in each financial year.

The report may also contain information on how the outcomes have been used to improve council's customer service, policies, procedures and practices.

The information, as specified in section 270(8) of the *Local Government Act 1999*, will be included in Council's Annual Report.

### 10 Relevant legislation and references

*Local Government Act 1999*

*Complaint management framework* Ombudsman SA, March 2016

*Managing unreasonable conduct practice manual* Ombudsman NSW (as amended from time to time)

LGA Model Procedure review of a council decision (s270)

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# 11 Document control

<b>Author (to whom changes are to be recommended):</b>			
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<b>Stakeholders (audience – engagement groups):</b>			
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<b>Reviewed by:</b>			
<b>Position</b>		<b>Name</b>	<b>Date reviewed</b>
Manager, Governance		Desma Morris	01/08/2018
<b>Approved by (document owner):</b>			
<b>Position / Group</b>	<b>Name</b>	<b>Approval date</b>	<b>Approval ECM number</b>
Director Group	N/A	06/08/2018	N/A
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V 3.0	09/08/2018	Review every 3 years from Approval Risk calculation: Consequence rating- Minor Likelihood rating- Likely Overall risk rating- Medium	
<b>History:</b>			
<b>Date</b>	<b>Author</b>	<b>Version</b>	<b>Nature of change</b>
2008 10/05/2017 25/06/2018	Governance Corporate Governance Corporate Governance	V 1.0 V 2.0 V 3.0	First version Edits to reflect Ombudsman audit Legislative change – LG Act April 2018 and administrative update
<b>Related documents: (internal documents that need to be reviewed when this document is amended)</b>			
<b>Title of document</b>			<b>Document number</b>
N/A			N/A
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## APPENDIX 12

## Council No Smoking Policy

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## 1 Preamble

South Australia's *Tobacco Products Regulation Act 1997* bans smoking in all enclosed workplaces. The Council also has a primary duty of care under the *Work, Health and Safety Act 2012 (SA)* to provide and maintain a work environment without risks to health and safety. This policy provides the framework for the council's management of its legislative obligations to provide a safe work environment.

Tobacco smoking, including inhaling 'second hand' smoke, is a major health issue in Australia. Undiluted side stream smoke from second hand smoking carries many harmful and toxic compounds in far greater concentrations than the smoke inhaled by the smoker. Particles of side stream smoke are smaller than those of mainstream smoke and are inhaled more deeply into the lungs. Passive smoking results in an increased risk of serious and harmful health outcomes including bronchitis, pneumonia, asthma, lung cancer and cardiovascular disease.

## 2 Policy purpose

This policy aims to ensure, as far as reasonably practicable, measures are taken to eliminate, minimise or control risks to health and safety of persons from exposure to second-hand smoke and the adverse health effects of passive smoking.

## 3 Scope

All Council employees, including contractors, apprentices, trainees, labour hire workers and work experience students, volunteers, visitors, stakeholders, lessees, community groups and customers to Council's designated Workplaces are required to comply with this policy.

## 4 Definitions

<b>Enclosed</b>	An area is considered enclosed if it is fully or partially covered by a ceiling and has walls such that the total area of the ceiling and wall surfaces exceeds 70 percent of the total notional ceiling and wall area. Shade cloth and umbrellas are included when calculating ceiling or wall space of an area as they impede air flow.
<b>Workplace</b>	is a place of work where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work.
<b>Smoking</b>	to smoke, hold, or otherwise have control over an ignited tobacco product that includes cigarettes, pipes, cigars, e-cigarettes, vapes or any other device that may be used or is designed to be used to inhale a substance into the lungs.
<b>Ceiling</b>	includes any structure or device (whether fixed or movable) that prevents or impedes upward airflow
<b>Wall</b>	includes any structure or device (whether fixed or movable)

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that prevents or impedes lateral airflow

**Passive Smoking**

is the inhalation of second hand tobacco smoke, which is a combination of side-stream smoke from a burning cigarette and mainstream smoke exhaled by a smoker.

**Tobacco product**

Includes, a cigarette, cigar; cigarette or pipe tobacco, tobacco prepared for chewing or sucking; snuff; or any other product containing tobacco of a kind prescribed by regulation, or any product that does not contain tobacco but is designed for smoking; any product that does not contain tobacco but is designed for smoking, and includes any packet, carton, shipper or other device in which any of the above is contained.

Waterpipes or waterpipe products, including shisha and hookah products are considered to be tobacco products under the Act (including products that do not contain tobacco).

**5 Policy****5.1 Support to employees**

As part of the Council's Employee Well-being Program, which is aimed at encouraging employees to quit smoking whilst providing support on their journey towards a healthier lifestyle, a subsidy of up to \$75.00 for the purchase of nicotine patches or similar nicotine substitutes will be available to paid employees of the City of Onkaparinga.

There are various organisations that can assist people to quit smoking. Smokers can obtain more information from the Quitline SA website or call the free Quitline telephone counselling service on 137 848.

**5.2 Responsibilities**

A person conducting a business or undertaking (PCBU) must ensure that smoking in or around the Workplace does not create a risk to their own or anyone else's health and safety. It is the Council's responsibility as the PCBU to ensure that this risk is managed by identifying the hazards, assessing the risks and taking action to eliminate or control them.

Team leaders and supervisors are required to ensure that staff are aware of the requirements of this policy and that any lost time is recorded on timesheets in accordance with clause 5.6.

It is the responsibility of each Council employee, volunteer or contractor to request all visitors and members of the public for whom they have responsibility for while they are on Council property, to comply with this Policy.

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When hiring new employees, volunteers or contractors this policy must be explained as part of their on-boarding – refer to clause 6.2. Each person should understand that they will be expected to accept this No Smoking policy as a mandatory condition of their employment.

### 5.3 Prohibition

Under the *Tobacco Products Regulation Act 1997* smoking is banned in all enclosed public places, workplaces (including work vehicles) or shared areas.

In Workplaces under the control of the City of Onkaparinga smoking is prohibited in the following areas:

- Any and all Council buildings at all times and within five (5) metres of any entrance/exit of a Council building
- Five (5) metres from the intake area for building air conditioning systems
- Any and all Council vehicles at all times
- The northern side of the Noarlunga office building near the main customer and staff entrance
- Whilst attending any "on site" meeting/inspection/worksite outdoors
- In any type of evacuation area for staff following any type of evacuation of any building, whether in a real emergency or as part of a drill or exercise

### 5.4 Public areas

In South Australia, it is an offence under the *Tobacco Products Regulation Act 1997* to smoke in the following public areas:

- Any outdoor dining areas where people go to eat and/or drink
- Within ten (10) meters of children's public playground equipment - this includes playgrounds at public parks, swimming pools, schools, sporting venues, restaurants, hotels and businesses. Even where there are no signs, smoking is still prohibited. 'No Smoking' or 'Smoking Prohibited' signs may be erected or displayed in the vicinity of children's playground equipment to indicate that smoking is not permitted within ten (10) meters of the playground equipment.
- In any public transport waiting areas, including bus stops, train stations, and taxi stands
- At any declared smoke-free outdoor areas and events

All persons covered by this policy are required to abide by these restrictions whilst conducting council work or using council facilities. Failure to do so will be a breach of this policy.

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### 5.3 Vehicles

Vehicle users must not smoke in a council vehicle at any time – whether the vehicle is stationary or moving. Individuals who smoke in council vehicles will be subject to disciplinary action.

### 5.4 Environmental care

Persons who choose to smoke are required to dispose of their cigarette butts in an appropriate manner, using ash trays or disposal containers appropriately, ensuring that they fully extinguish their cigarette butts prior to disposal to avoid the risk of inadvertently starting a fire.

It is expected that staff will set an example to members of the public rather than littering and polluting the environment with tobacco related waste, including cigarette packets or filter paper.

### 5.6 Work breaks

While staff may go away from their main workplace to smoke during their normal hours of work, this must take place during their designated work breaks.

If a staff member takes additional time this should be kept to a minimum and must be mutually agreed with their supervisor/team leader. All additional break time must be accurately reflected on the employee's time sheet.

### 5.9 Breaches

Any breaches of this No Smoking policy will be investigated by the Council and employees may be subject to disciplinary action.

## 6 Relevant legislation and references

### 6.1 Legislation

- 6.1.1 [Tobacco Products Regulation Act 1997](#)
- 6.1.2 [Work, Health and Safety Act 2012 \(SA\)](#)
- 6.1.3 [Work, Health and Safety Regulations 2012 \(SA\)](#)

### 6.3 Guidelines

- 6.3.1 Department of Health [Tobacco Laws](#)

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**7 Further information**

This policy is available for inspection, during business hours at:  
City of Onkaparinga, Ramsay Place, NOARLUNGA CENTRE SA 5168.

It is also available for inspection, downloading or printing from our website  
[www.onkaparingacity.com.au](http://www.onkaparingacity.com.au).

**8 Document control**

<b>Author (to whom changes are to be recommended):</b>			
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Manager Culture & People		Jessica Tucker	23/11/2018
<b>Approved by (document owner):</b>			
<b>Position / Group</b>	<b>Name</b>	<b>Approval date</b>	<b>Approval ECM number</b>
Directors Group		6 June 2019	ECM 4985846
<b>Current version:</b>			
<b>Current version number</b>	<b>Release date</b>	<b>Review cycle</b>	
V 6.0	6 June 2019	Review every 4 years from the Approval date Risk calculation: Consequence rating- Low Likelihood rating- Low Overall risk rating- Low	

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History:			
Date	Author	Version	Nature of change
Sept 2004	Human Resources	V1.0	New document
June 2005		V1.1	Revision
June 2007		V1.2	Revision
June 2008		V1.3	Revision
June 2011		V1.4	Revision
Document location:			
Published location			Original in ECM
Onkanet			ECM 4895516

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From the office of the Mayor  
City of Onkaparinga

19 September 2019

██████████  
Acting Secretary  
Southern Table Tennis Club Inc.  
[president@southerntabletennis.org.au](mailto:president@southerntabletennis.org.au)

Dear ██████████

### City of Onkaparinga - No Smoking Policy

I write in relation to our ongoing discussions regarding the Southern Table Tennis Club (STTC) leased occupation of Council's premises at Wilfred Taylor Reserve.

As you are aware, the *Tobacco Products Regulation Act 1997* (Act) regulates smoking in South Australia and section 46 of the Act states that 'smoking is banned in an enclosed public space, workplace or shared area'. A public space is defined as 'an area or place that the public, or a section of the public, is entitled to use or that is open to, or used by, the public or a section of the public (whether access is unrestricted or subject to payment of money, membership of a body or otherwise)'.

Council subsequently has an approved Policy which aims to ensure, as far as reasonably practicable, measures are taken to eliminate, minimise or control risks to health and safety of persons from exposure to second hand smoke and the adverse health effects of passive smoking. On this basis, Council's 'No Smoking Policy' provides that smoking is prohibited in a variety of areas including (but not limited to):-

1. Any and all Council buildings at all times and within five (5) metres of any entrance/exit of a council building, and
2. Five (5) metres from the intake area for building air conditioning systems.

Furthermore, Council's lease documentation also stipulates 'the Lessee, the Lessee's visitors, invitees, agents, employees and contractors will at all times abide by Council's 'Smoking' policy, amended, varied or replaced from time to time.'

A recent review of the white 'no smoking beyond this point' line in the carpark adjacent to your leased premises has identified it is not in keeping with Council's No Smoking Policy, and as such will be removed in the near future from the carpark surface. However the requirement for no smoking within five (5) metres of an entrance/exit of a council building and within five (5) metres of an intake area for building air conditioning systems continues to apply.

From the attached plan you will note that the no smoking area applies to the majority of the existing courtyard area, with the exception of the western end of the court yard in the grassed area.



City of Onkaparinga  
PO Box 1  
Noarlunga Centre  
South Australia 5168  
[www.onkaparingacity.com](http://www.onkaparingacity.com)

Noarlunga office  
Ramsay Place  
Noarlunga Centre  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

Aberfoyle Park office  
The Hub  
Aberfoyle Park  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

Willunga office  
St Peters Terrace  
Willunga  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

Woodcroft office  
175 Bains Road  
Morphett Vale  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

Please note, it is also the responsibility of STTC to identify suitable smoking areas for its patrons wishing to smoke outside of the no smoking areas. Any reported instances of smoking within the no smoking areas will be regarded as a breach of lease.

I acknowledge the smoking restrictions do not favour the preferences of some Club members and visitors, however Council must work with the whole community to ensure the health and safety of all is being considered and maintained. I trust the STTC will work alongside council to ensure this prominent social requirement is endorsed and adopted.

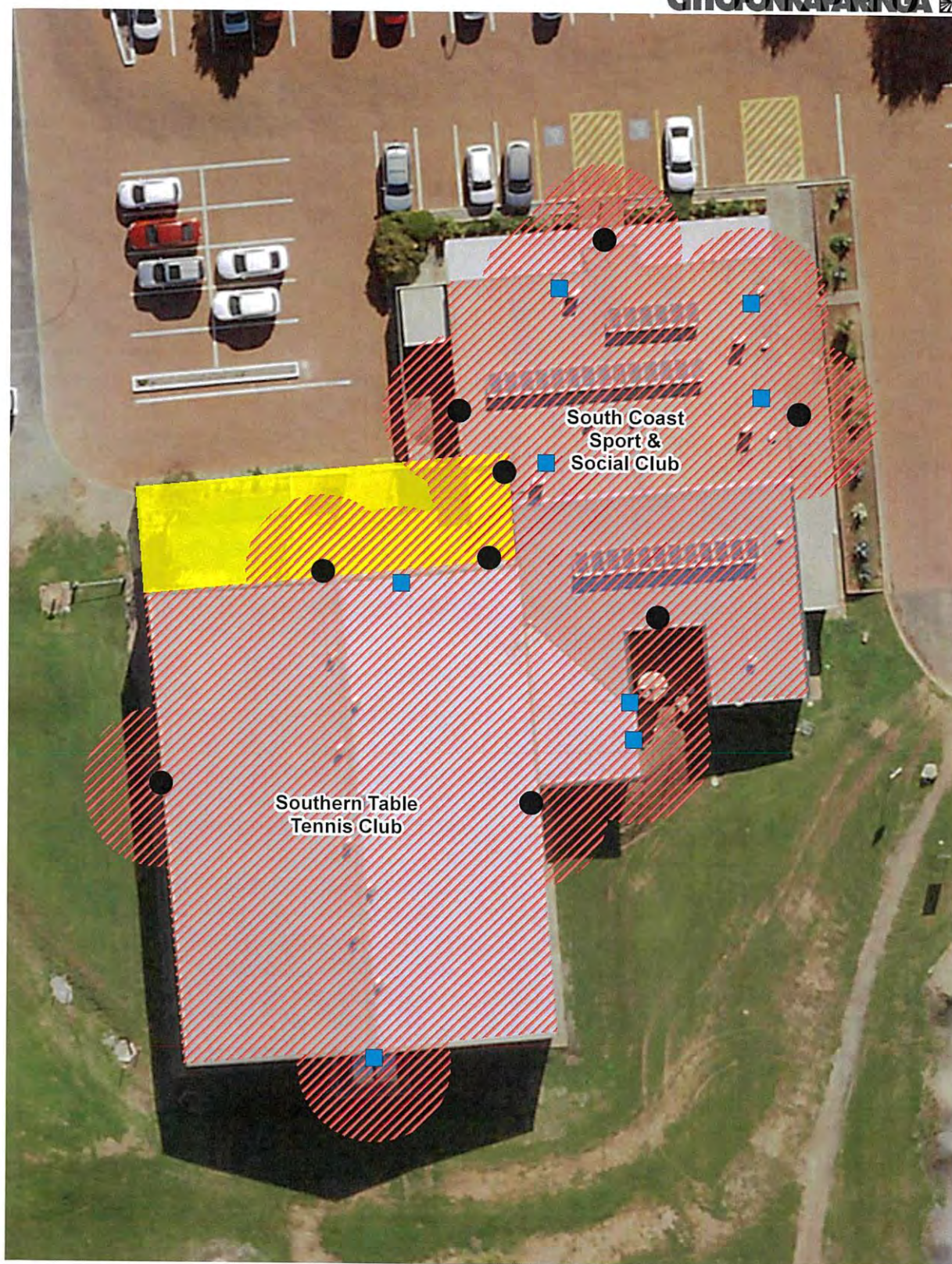
In regards to further discussions about accommodating the future growth of both clubs, the CEO and I are keen to coordinate a round table discussion with representatives of both clubs. Karen Carter will be in touch soon to make these arrangements.

Yours sincerely







**Mayor**

Encl Site plan defining no smoking areas and council's No Smoking policy



No Smoking Areas -  
South Coast Sports & Social Club and  
Southern Table Tennis Complex

Document Set ID: 4995817  
Version: 1, Version Date: 19/09/2019

-  No Smoking Areas
-  Courtyard Area (open space)
-  Entry / Exit Doorways
-  Air Conditioners

**Wilfred Taylor Reserve**

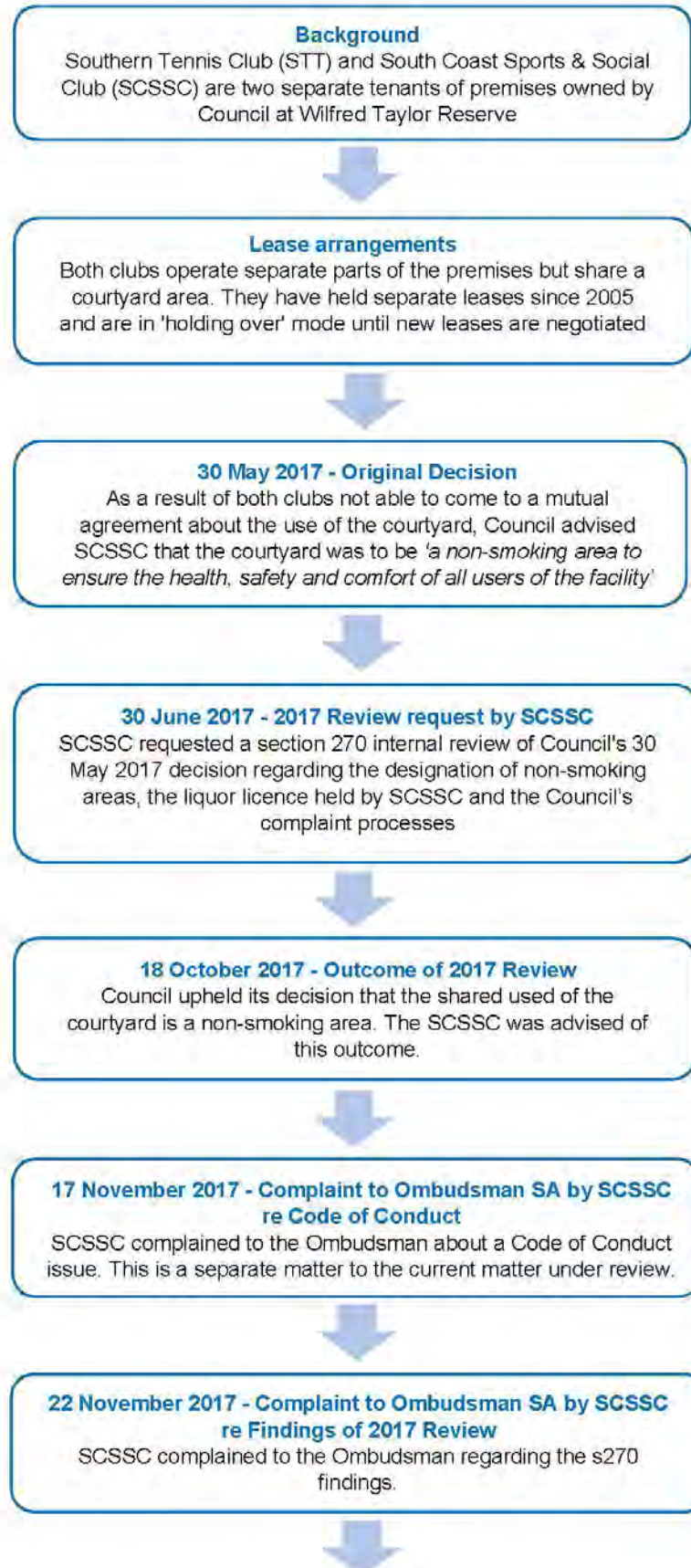


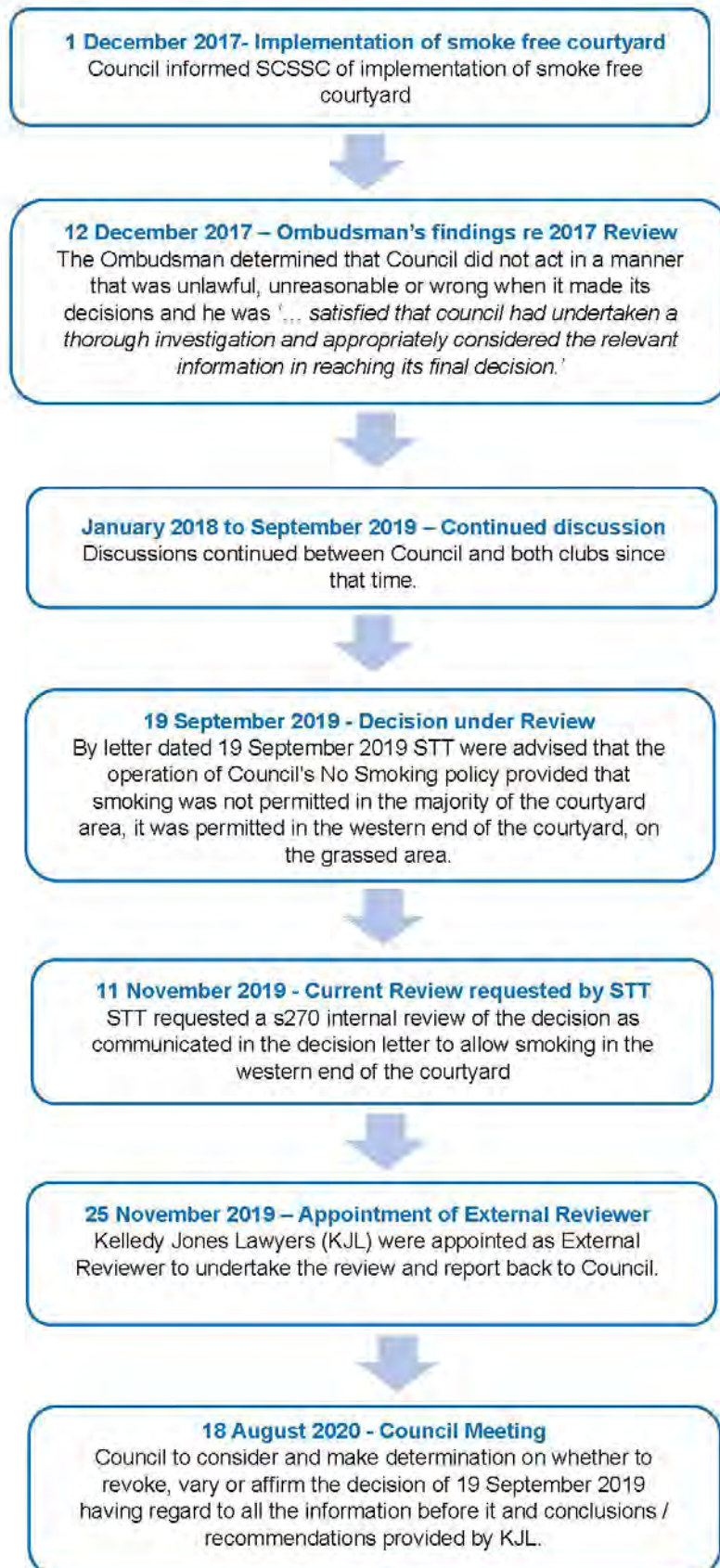


Photos taken by Council on 28 May 2020

**Attachment 5**

**Attachment 5: Chronology of previous Governance related Reviews**







Internal review of council decisions (s270)  
Administrative Procedure

**Internal review of council decisions (s270) procedure**

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**1 Administrative procedure purpose** *Legislative obligation s270(1)*

The purpose of this procedure is to specifically address the manner in which requests for a review of a decision of council pursuant to section 270 of the Local Government Act 1999 will be dealt with. The aim is to ensure a fair, consistent and structured process for any party dissatisfied with a decision which has been made by the Council, its employees or persons acting on behalf of the council.

We are an organisation committed to being a Council of excellence; reviewing service efficiency, effectiveness and compliance with laws and becoming an actively learning organisation. The Chief Executive Officer and Directors have made this commitment explicit through our organisational values and guide the behaviours of all staff.

It is acknowledged that any legislative requirement which affects Council will take precedence over Council's policies and procedures.

**2 Scope**

This procedure applies to all council officers who may be involved in, or receive, an application for review of a council decision. It will apply when matters have not been able to be resolved satisfactorily and commences at the point where:

- a formal request for the review of a decision is received, or
- informal processes have not achieved an acceptable outcome and it is escalated to a Tier 3 complaint.

This procedure is designed to ensure that:

- an unbiased assessment is undertaken
- decisions are based on sound evidence
- each applicant receives information about the outcome of the review.

This procedure will not apply when an alternative statutory process for review exists particularly if the applicant is already using that process.

**Definitions**

Alternative Dispute Resolution	means mediation, conciliation or neutral evaluation as set out in section 271 of the <i>Local Government Act 1999</i> .
Applicant	means the person lodging the request for review.
Business Day	means a day when the council is normally open for business, i.e. Monday to Friday, excluding public holidays.
Complainant	means the person lodging the request for review
Council	means the City of Onkaparinga
Decision	means a position adopted by Council or its employees. It will generally be reached after consideration of relevant information.
Decision-maker	means the individual or entity responsible for the decision under review.
Employee	means a person employed directly by the council in a full time, part time or casual capacity (whether that position is permanent or contractual) and persons providing services to, or on behalf of, the council even though they may be employed by another party.
Frivolous	means a complaint which:

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	<ul style="list-style-type: none"> <li>cannot be successfully argued because it is based on inaccurate facts, an error in law or outdated practices, or</li> <li>has no reasonable prospect of success</li> </ul>
Reviewer	means the individual or entity responsible for undertaking the review.
Trivial	means a complaint of little or no importance, where the Reviewer considers it unreasonable to dedicate resources to an investigation of the matter
Vexatious applicant	means Complainant who has consistently, over a period of time, complained about minor matters or the same matter, which have previously been dealt with and no new information has been provided by the applicant and/or is considered by the Reviewer to be mischievous, without sufficient grounds or serving only to cause annoyance or disrepute.

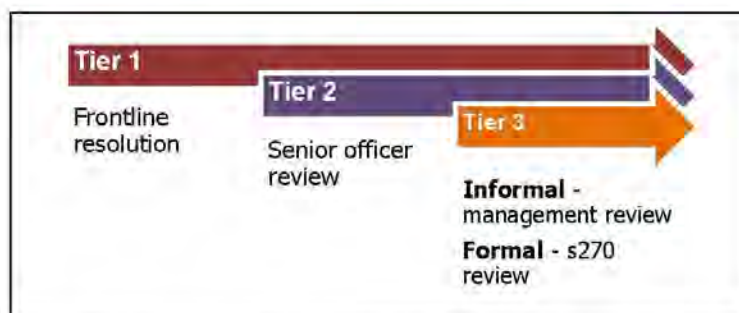
### 3 Key principles

Council will be guided by five policy principles which are fundamental to its complaint handling framework:

- **Fairness:** treating complainants fairly requires impartiality, confidentiality and transparency at all stages of the process
- **Accessibility:** to be accessible there must be broad public awareness about Council's policy and a range of contact options
- **Responsiveness:** this will be achieved by providing sufficient resources, well trained staff and review and improvement of the systems
- **Efficiency:** complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their level of complexity
- **Integration** of different areas of council where the complaint overlaps functional responsibilities.

### 4 Customer complaints

This procedure forms part of the council's Complaint handling procedure for employees. In summary, the council has a three-tier process for managing complaints.



#### ***Tier 1 Immediate response to resolve the complaint (managed by frontline officers)***

All officers are empowered to handle complaints in the first instance and it is preferable that they are dealt with promptly at the initial point of contact and at the appropriate officer level. Dealing with a complaint at this level can include referral to another officer, a Team Leader or a Manager.

#### ***Tier 2 Complaint escalated to a more senior officer (managed by T/L or manager)***

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A complaint will be directed to a more senior officer in the Council, where circumstances indicate that the complaint would be more appropriately handled at a higher level.

***Tier 3 Internal review of a Council decision (managed by Corporate Governance)***

Internal review of a Council decision will be in accordance with this procedure. This procedure enables council to reconsider all the evidence relied on to make the original decision and additional available evidence if relevant. This procedure is generally a last resort in the complaint handling process.

## **5 Decisions subject to review**

Decisions of the council, employees of the council; and other persons acting on behalf of the council, may be subject to review under this procedure. The nature of this review is a merits review which could lead to the original decision being affirmed, varied or revoked. Not all actions by a council, employees of a Council or other person acting on behalf of a Council will be a decision. For example, actions taken during the process of decision-making (ie investigations, requests for further information, internal consideration of the matter or referral of the matter to an external adviser) are not decisions.

A decision is made when a matter, issue or query is actually determined. Once a matter, issue or query is determined, the decision may be susceptible to review in accordance with this procedure.

Some decisions made by the council, a council employee or on behalf of the council are subject to review or appeal processes set out in legislation. This procedure cannot override or operate inconsistently with these statutory processes.

Consequently where legislation provides for the review of, or appeal from, a type of decision, a decision of that type will not be reviewed under this procedure.

### **5.1 Alternate procedures**

Some complaints may be more properly dealt with by another process for example:

- complaints against an **Elected Member** - refer to Director Corporate and City Services
- complaints against the **Chief Executive Officer** – refer to the Mayor who will follow the relevant procedures and seek guidance, if appropriate, from the Director Corporate and City Services
- external review processes under the *Freedom of Information Act 1991*
- Insurance claims - refer to Corporate Governance
- Decisions made under legislation such as the *Development Act 1993* have their own prescribed appeal procedures
- Objections to valuations made by a council - refer to Valuer-General office
- Appeals against orders made pursuant to section 254 of the *Local Government Act 1999*
- Appeals against the issuing of litter abatement notices under the *Local Nuisance and Litter Control Act 2016*
- Appeals against destruction and control orders issued under the *Dog and Cat Management Act 1995*

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Where legislation specifically excludes a type of decision from review either expressly or by necessary implication, this procedure cannot operate inconsistently with that legislation. Similarly, a review under this procedure could not vary or revoke a decision which has operative effect under legislation from the time the decision is made. For example, some development approvals under the *Development Act* are intended to have operative effect from the time the decision is made and are not capable of being varied or revoked by council.

Where legislation specifically provides for an internal review process, that process will apply rather than the process set out in this procedure. For example, internal review of a determination under the *Freedom of Information Act* or withdrawal of an expiation notice issued by the Council under section 16 of the *Expiation of Offences Act*.

Notwithstanding the above, matters that fall outside statutory appeal procedures may be considered for review under section 270, based on the merits of the individual application.

Council prefers to work with its customers to resolve requests for review; however, an applicant retains the right to seek other forms of resolution, such as contacting the Ombudsman, the Office of Public Integrity or taking legal action. Note that as a general rule, the Ombudsman prefers that matters be addressed by council in the first instance, unless this is not appropriate in the circumstances.

## **6 Operating procedure** *Legislative obligation s270(2), (3)*

### **6.1 Informal process under complaint handling**

Issues can arise about a range of matters during the course of council's day to day activities. Most complaints are initially made verbally by telephone or face-to-face to a council officer and some are made in writing. Elected Members may also receive complaints.

All complaints will be referred to the relevant council officer in the first instance (informal approach). Prompt action will generally result in the matter being resolved satisfactorily following normal departmental complaints procedures.

If the matter is not resolved then a formal application addressed to the Chief Executive Officer should be lodged in writing or by using the application form available on council's website.

### **6.2 Applying for a review**

A person with a sufficient interest in a decision of the Council, a council employee or person acting on behalf of the council, may make a written application for a review of that decision for example, residents, ratepayers, members of a community group, users of council's facilities, and visitors to the area all have the right to lodge an application for review.

An application for review must be in writing and set out the reasons for applying for the review (that is, why the applicant believes that the decision is wrong). Although council can be expected to have information and material relevant to the matter

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under review, an application for review may also include new, relevant information or evidence to support the application.

This procedure does not negate an applicant's right to seek a review by the Ombudsman office, other legal appeal processes, or the Courts at any time during the complaint handling process.

There is no charge for making an application for review of a council decision.

### 6.3 Timeframe for lodging an application

Applications for the review of a decision must be lodged within six months of the decision in question being made. The Chief Executive Officer may choose to exercise their discretion and agree to accept an application outside of this time limit.

### 6.4 Applications for a review of the impact of rates or services charges

*Legislative obligation: 270(2)(ca).*

If Council receives an application for a review of a decision concerning the financial impact of Council rates or services charges, these will be dealt with as a matter of priority. Where circumstances warrant, Council will consider financial relief or the granting of concessions in line with the provisions of the *Local Government Act 1999*.

The right of a council to recover rates is not suspended by an application for the provision of some form of relief or concession with respect to the payment of those rates (but a council may then, if appropriate in view of the outcome of the application, refund the whole or a part of any amount that has been paid).

*Legislative obligation: s270 (9)*

### 6.5 Assisting with the application for review

It is essential that no one is excluded from lodging an application for review because of any difficulties they may have representing themselves. All officers are expected to offer assistance where appropriate and provide it on request, including assistance in documenting the reasons for the review in writing when circumstances warrant.

If necessary access to interpreters or advocates will be offered to ensure that an applicant is treated equitably.

### 6.6 Internal Review Contact Officer

An Internal Review Contact Officer (IRCO) will be assigned by the Chief Executive Officer from the Corporate Governance team to be the initial point of contact for applicants.

The IRCO will work in conjunction with an appropriately delegated officer to determine how the review will be handled.

The role of the IRCO is to:

- acknowledge receipt of an application within 5 business days and
- outline the timeframes involved and the action to be taken in the first instance
- seek further information as required

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- undertake a preliminary assessment to determine what actions have already been taken to try to resolve the matter
- consider if any alternative options are available to resolve the matter
- keep the applicant informed of progress
- maintain a register of all applications for review received and the outcomes of the applications
- report to Council at prescribed intervals on applications lodged for review.

#### 6.7 Internal review timeframes

Council will use its best endeavours to ensure that a review of the original decision will be completed in a timely manner. For complex cases appropriate enquiries, assessment of the evidence, the drafting of a response and decision-making may several months to complete.

If the decision is to be reviewed by an external assessor, a Panel, the Council or a committee there may also be delays caused by meeting cycle timelines.

The applicant will be kept informed of progress in writing either by email or letter.

#### 6.8 Council response to an application

The IRCO is responsible for:

- determining whether or not the decision is subject to review under this procedure
- working in conjunction with the appropriately delegated officer to determine how the review will be handled;
- advising the applicant of the process to be undertaken and the time of the next contact; and
- ensuring the application is properly lodged and assigned.

Council will use its best endeavours to ensure that a review of the decision will be completed within 21 business days. However if the decision is to be reviewed by the elected Council, a Council committee or an external investigator reporting to the elected Council or council committee, there may be delays caused by meeting cycle timelines. In more complex cases, a review may take longer.

The applicant will be kept informed of progress, either by email, letter or telephone.

#### 6.9 Refusing an application Legislative obligation s270(4)

The Council is entitled under the *Local Government Act* to refuse to consider an application for review if:

- the application is made by an employee of the Council and relates to an issue concerning his or her employment or
- the decision was made greater than six months previously or
- it appears that the application is frivolous or vexatious or
- the applicant does not have a sufficient interest in the matter.

Refusing an application for review will not be done lightly and reasons for the refusal will be documented.

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Where a matter has been referred to the Local Government Association Mutual Liability Scheme (LGAMLS) in respect to a claim or potential claim against the Council or in response to a threat of legal action against the Council, an application for review of a decision in connection with that claim or action (including the decision to refer the matter to the LGAMLS) will be vexatious.

## 7 Undertaking a review

Each internal review application received will be assessed to determine the appropriate referral for review. Matters may be referred by the Chief Executive Officer to the Council, a Director, a panel of Directors or for independent review or mediation.

At the conclusion of the process the applicant will be advised of the outcome and of any further action that may be taken or required. Applicants will also be advised of other options, if any, for review such as the Ombudsman, legal advice and or the court system.

### 7.1 Matters to be referred to Council Legislative obligation s270(2)(c)

The elected Council will be the reviewer:

- when the decision being reviewed was made by a Council committee or the CEO
- when the decision relates to civic and ceremonial matters; and
- in other circumstances as determined by the CEO or resolution of the council.

Where the decision is a decision of the elected Council, the reviewer will be an external person or body who will report the outcome of the review to the Council. The Council will consider the outcome of the review and determine whether to affirm, vary or revoke the reviewed decision.

### 7.2 Matters to be dealt with by a Director, Panel or independent assessor

In all other instances, a reviewer will be assigned by the Chief Executive Officer to determine the appropriate action including whether:

- any other specific statutory appeal mechanism exists
- an independent assessor or a Director or Panel review is appropriate.

### 7.3 Review of decision

Where the elected Council is not the reviewer, a review methodology to suit the nature of the internal review will be undertaken with the support of the Corporate Governance Team. When appropriate, council will include a Director not associated with the issue or an external person to assist with the review.

All the information and material that was before the original decision-maker and any additional relevant information or material provided by the applicant will be considered in the review. In effect the Reviewer will 'stand in the shoes' of the original decision maker and determine the decision appropriate on the basis of the relevant circumstances and available information and materials..

The basis of an assessment/ investigation will be the processes and procedures followed in making the initial decision and the merit of the decision itself. This

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means a Reviewer will also consider whether a different decision could have been more appropriate, based on the evidence.

Recommendations regarding whether the complaint should be upheld and what actions (if any) could be taken to resolve the situation will form part of any investigation.

#### **7.4 Providing 'procedural fairness'**

The Reviewer will observe the principles of procedural fairness (also called 'natural justice') when undertaking the review.

Procedural fairness involves:

- giving an applicant a right to put their case forward. This will generally involve giving an applicant the opportunity to provide all relevant documentary evidence, rather than an oral hearing
- ensuring the Review does not have a personal interest in the outcome (ie. must not have a bias or perceived bias) and
- acting only on proper evidence that is capable of proving the complaint on the 'balance of probabilities'.

#### **7.5 Providing reasons**

While there is no statutory requirement to give reasons for a decision, council will, where practicable, provide reasons for the decision.

Council will always give reasons to explain the outcome where:

- a decision is not in accordance with published policy
- a decision is likely to detrimentally affect rights or interests of individuals (or organisations) in a material way or
- conditions are attached to any approval, consent, permit, licence or other authorisation.

#### **7.6 Outcome of review**

Where the reviewer is the elected Council, the elected Council should determine whether to affirm, vary or revoke the original decision.

Where the reviewer is a Council employee, the employee may determine whether to affirm, vary or revoke the original decision if authority to make the decision has been delegated to that employee. If the reviewer does not have a delegation enabling the making of the decision, then the reviewer should report the outcome of the review to the elected Council (or delegate) for a determination as to whether the decision should be affirmed, varied or revoked.

Where the reviewer is an external person or body then the reviewer should report the outcome of the review to the elected Council for a determination as to whether the decision should be affirmed, varied or revoked. An external reviewer cannot vary or revoke a decision made by or on behalf of Council.

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### 7.7 Remedies

The remedy or response may be one, or a combination of actions. The chosen remedy will be proportionate and appropriate and take account of what the applicant is seeking as an outcome of the review.

If an apology is required it will be done promptly and the applicant advised that appropriate action will be taken to ensure the problem is not repeated.

Compensation will only be offered in cases where the loss or suffering is considered substantial. The Council itself and the CEO are the only people authorised to offer financial compensation and this will only occur after consultation with the Local Government Association Mutual Liability Scheme.

### 8 Confidentiality

The identity of applicant(s) will be made known only to those who need to know in the process of investigating and seeking to resolve the matter. The complaint will not be revealed or made public by the council, except where required by law.

All documentation in relation to the investigation will remain confidential and will not be released to the applicant or any other party unless required by law.

### 9 Reporting

All applications will be recorded in council's records management system in such a way that the information can also be analysed for improvement opportunities.

The following information about all applications for review will be recorded in a central register:

- the number of applications for review made
- the type of matters to which the applications relate
- the outcome of applications
- such other matters as may be prescribed by the regulations.

An information report will be submitted to Council annually through the ARVEC about section 270 applications received in each financial year.

The report may also contain information on how the outcomes have been used to improve council's customer service, policies, procedures and practices.

The information, as specified in section 270(8) of the *Local Government Act 1999*, will be included in Council's Annual Report.

### 10 Relevant legislation and references

*Local Government Act 1999*

*Complaint management framework* Ombudsman SA, March 2016

*Managing unreasonable conduct practice manual* Ombudsman NSW (as amended from time to time)

LGA Model Procedure review of a council decision (s270)

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## 11 Document control

<b>Author (to whom changes are to be recommended):</b>			
<b>Position</b>		<b>Name</b>	
Team Leader Corporate Governance		Kathryn Brown	
<b>Stakeholders (audience – engagement groups):</b>			
N/A396			
<b>Reviewed by:</b>			
<b>Position</b>		<b>Name</b>	<b>Date reviewed</b>
Manager, Governance		Desma Morris	01/08/2018
<b>Approved by (document owner):</b>			
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V 3.0	09/08/2018	Review every 3 years from Approval Risk calculation: Consequence rating- Minor Likelihood rating- Likely Overall risk rating- Medium	
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<b>Date</b>	<b>Author</b>	<b>Version</b>	<b>Nature of change</b>
2008	Governance	V 1.0	First version
10/05/2017	Corporate Governance	V 2.0	Edits to reflect Ombudsman audit
25/06/2018	Corporate Governance	V 3.0	Legislative change – LG Act April 2018 and administrative update
<b>Related documents: (internal documents that need to be reviewed when this document is amended)</b>			
<b>Title of document</b>			<b>Document number</b>
N/A			N/A
<b>Document location:</b>			

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Internal review of council decisions (s270)  
Administrative Procedure

Published location	Original in ECM
Onkanet and public website	ECM 3960850

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## 9.2 COVID-19 Financial assistance for community owned sporting grounds

Report contact

Jade Bird, Manager Financial Services

Contact Number: 8384 0580

Approving officer

Anthony Spartalis, Chief Financial Officer

Meeting

Council

Date

18 August 2020

### 1. Purpose

To present Council with options available to provide a similar level of financial assistance to the three community owned sports grounds relating to COVID-19 relief, as that provided to council owned sports grounds.

### 2. Recommendations

That Council:

1. Notes the table at attachment 1 to the agenda report, showing the details of the financial support provided to each individual council owned sports facility for COVID-19 relief for the periods 1 April – 30 June 2020, and 1 July – 30 September 2020.
2. Authorises one of the following financial support options for the three community owned sporting clubs:

a. Option 1:

The provision of a credit (or refund if payment has already been received) for 50% of the 2019–20 costs charged by Council to the sporting clubs, being:

- Willunga Recreation Park – \$8,631 (excludes credit for rates for one property, as a 50% discretionary rebate is already received on this)
- McLaren Vale Sporting Complex – \$2,495
- Cherry Gardens Ironbank Recreation Ground – \$1,704

OR

b. Option 2:

Provision of a credit (or refund in payment has already been received) for 25% of the 2019–20 costs charged by Council to the community owned sporting clubs, being:

- Willunga Recreation Park – \$4,316 (excludes credit for rates for one property, as a 50% discretionary rebate is already received on this)
- McLaren Vale Sporting Complex – \$1,248
- Cherry Gardens Ironbank Recreation Ground – \$852

plus a \$5,000 supplementary cash payment for financial assistance to each club to be used towards other operating costs.

3. That Council notes that these amounts are unbudgeted, and would need to be funded through borrowings, unless budget savings could be identified.

4. That Council delegates to the Chief Executive Officer the authority to extend the relief options provided to clubs in council owned facilities and the three community owned sporting clubs the subject of this report for a period to be determined by the Chief Executive Officer, should COVID-19 restrictions still be in place as at 30 September 2020.

### 3. Executive summary

Following the resolutions of Council on 31 March 2020 and 19 May 2020 to provide financial support in response to COVID-19 restrictions, lease and associated costs for 54 sporting clubs using Council facilities were waived for the period 1 April – 30 September 2020, however, a similar level of support was not provided to community owned sporting clubs. These clubs, namely Willunga Recreation Park, McLaren Vale Sporting Complex and Cherry Gardens Ironbank Recreation Ground, have also seen their ability to generate revenue decline since March, while still incurring fixed operating costs. This exclusion was not intentional, and it is recommended that an equitable level of support now be provided to these clubs.

This report presents Council with two options for providing a similar level of assistance.

### 4. Background

Community Plan 2030	<b>people:</b> vibrant and resilient This report supports our vision to keep our communities active and healthy.
Policy and/or relevant legislation	Council's <a href="#">Sport and Active Recreation Strategic Management Plan 2014 – 2019</a> states that 'we will develop an equitable level of support for our community owned facilities'.
Who did we talk to/who will we be talking to	Feedback has been received from the community sporting clubs noted within this report regarding the impact COVID-19 has had.

### 5. Discussion

At the Council meeting on 21 July 2020, the following Notice of Motion from Cr Olsen was adopted:

1. That a report return to Council for the 18 August 2020 meeting that covers, but is not limited to :
  - A table providing the exact financial support and amount provided to each individual council owned sports facility as a result of COVID-19 – either already provided, or planned to provide in the future.
  - Options available to Council to be able to provide a similar financial support amount to the three community owned sports grounds (Cherry Gardens, McLaren Vale, Willunga).
2. That any fees or charges owing to Council (either due or overdue) from the three community owned sports grounds (Cherry Gardens, McLaren Vale, Willunga) be placed on hold with no financial penalty pending the result of the report returning from Council at the 18 August 2020 meeting.

3. That the Committees of the three community owned sports grounds (Cherry Gardens, McLaren Vale, Willunga) be notified immediately of this Motion and the pending report in August 2020.

The Committees of the three community owned sports grounds were subsequently advised of this Motion on 22 July 2020.

Following the resolution of Council on 31 March 2020 to waive lease and associated costs for community and sporting clubs using Council facilities for a period of three months between 1 April and June 30 2020, and the resolution on 19 May 2020 to extend the waiving of costs to 30 September 2020, a total of \$99,939 relating to lease fees and other associated costs for sporting clubs was waived for the period 1 April – 30 June 2020, and \$99,137 is anticipated to be waived for the period 1 July – 30 September 2020, for 54 sporting clubs. The latter costs are subject to minor adjustments pending final calculations of indexation increases for 2020–21. The details of the council owned sporting facilities and the waived costs are outlined in Attachment 1 to this report, but are summarised by category below table:

Service type	April – June 2020	July – Sept 2020
Acrylic Recoating Program	\$11,609	\$11,609
Annual Service Fee	\$30,894	\$30,092
Emergency Services Levy recharge	\$297	\$297
Insurance recharge	\$19,441	\$19,441
Security System Agreement contract	\$1,555	\$1,555
Sports Ground Maintenance	\$30,958	\$30,958
Turfed Playing Field Maintenance	\$5,185	\$5,185
Total costs waived	\$99,939	\$99,137

As this resolution was based on clubs using Council owned facilities, community sporting clubs who own their sites were excluded from this relief measure. Three such community owned sporting clubs have been identified within the City of Onkaparinga:

- Willunga Recreation Park
- McLaren Vale Sporting Complex
- Cherry Gardens Ironbank Recreation Centre

These sporting clubs incur the following annual costs from Council (*based on 2019-20 costs*):

Service	Willunga	McLaren Vale	Cherry Gardens
Rates <sup>(1)</sup>	\$725	-	-
CWMS <sup>(2)</sup>	\$1,584	\$1,584	-
Playing Field Maintenance <sup>(3)</sup>	\$3,407	\$3,407	\$3,407
Water consumption <sup>(4)</sup>	\$12,273	-	-
Total	\$17,989	\$4,991	\$3,407

<sup>(1)</sup> McLaren Vale Sporting Complex and Cherry Gardens Ironbank Recreation Centre are exempt from general rates under the *Recreation Grounds Rates and Taxes Exemption Act 1981*. Willunga Recreation Park comprises of two properties, one of which is exempt under the *Recreation Grounds Rates and Taxes Exemption Act 1981*, the other receives a 50% discretionary rebate under section 166 of the *Local Government Act 1991* (this property is not exempt as it contains a residential building).

<sup>(2)</sup> The CWMS charge for 2019-20 was \$985, less a rebate of \$193.60, for a net fee payable of \$791.40. Willunga Recreation Park is connected to the Community Wastewater Management System (CWMS) on

both properties. McLaren Vale Sporting Complex is also connected on two properties. Cherry Gardens Ironbank Recreation Centre is not connected to CWMS.

- (3) Maintenance fees charged to community owned clubs are based on a rate of 25% of actual maintenance costs, equalised between the three clubs. Each of these clubs are charged \$3,407 annually, for a service that costs Council \$13,628 for each club.
- (4) **Willunga Recreation Park is billed for recycled water usage from council's Water Business. The other two clubs do not have access to this water supply.**

The following table summarises the outstanding fees for these club as at 4 August 2020:

Service	Willunga	McLaren Vale	Cherry Gardens
Rates <sup>(1)</sup>	\$723	–	–
CWMS <sup>(2)</sup>	\$1,584	\$1,584	–
Playing Field Maintenance <sup>(3)</sup>	–	\$379	–
Water consumption <sup>(4)</sup>	\$12,273	–	–
Total outstanding	\$14,580	\$1,963	–

A report written by the Australian Sports Foundation on the Impact of COVID-19 on Community Sport<sup>1</sup> has indicated that approximately one quarter of community sporting clubs nationally are at risk of closure due to lack of financial support, with most sources of revenue such as memberships, sponsorships, fundraising and hospitality ceased or declined while restrictions have been in place but expenses including utility bills, maintenance and rent remain ongoing. Feedback received from Willunga Recreation Park, McLaren Vale Sporting Complex and Cherry Gardens Iron Bank Recreation Centre has identified that this has been their experience.

**Council's earlier decisions to waive lease fees** and other costs to clubs in council owned facilities was to provide support to those clubs while restrictions were in place, however, community sporting clubs were unintentionally excluded.

**Council's [Sport and Active Recreation Strategic Management Plan 2014–2019](#) states that 'we will develop an equitable level of support for our community owned facilities'. On that basis, it is recommended that a level of financial support is provided to the community owned sporting clubs, as per the following options:**

**Option 1 – waiving costs charged by Council for a period of 6 months**

Under this option, to align with the financial support provided to the clubs in council owned facilities, costs would be waived for the period 1 April – 30 September 2020. However, unlike the costs charged to council owned facilities (which are generally billed quarterly), some costs are charged annually. Therefore, it would be recommended that in order to provide immediate relief, 50% of the annual 2019–20 costs (excluding rates) are credited, or refunded, back to the sporting club. Where a charge has already been paid, this credit would apply against charges raised (or charges to be raised) in 2020–21. The following credits would be received:

Willunga*	McLaren Vale	Cherry Gardens	Total
\$8,631	\$2,495	\$1,704	\$12,830

\*The calculation for Willunga excludes the charges for rates, as the amount charged relates to the **residential property**. In addition, under Council's recently adopted [Financial Hardship Policy \(Rates\)](#), rates will only be remitted in instances where the property is being sold due to financial hardship.

<sup>1</sup> Australian Sports Foundation, *Impact of COVID-19 on Community Sport: Survey Report*, July 2020

Option 2 – waiving costs charged by Council for a period of 3 months and providing a supplementary cash payment

Under this option, 25% of the annual 2019–20 costs (excluding rates) would be credited or refunded to the three community sporting clubs as per Option 1, and an additional \$5,000 cash payment would also be provided to assist with other fixed, non-council operating expenses. This would align to the nature of the support provided to the clubs in council owned facilities as well as to the amounts provided, particularly to those who provide similar services such as Happy Valley Sports Park and Noarlunga Sports and Social Park, who had costs of \$13,724.40 and \$8,245.62 respectively waived by council for the 6 month period. This would amount to the following support provided:

Willunga*	McLaren Vale	Cherry Gardens	Total
\$9,316	\$6,248	\$5,852	\$21,416

## 6. Financial implications

### FINANCIAL SUMMARY

Item	\$	Comment
<b>Current budget</b>		
Current budget allocation	\$0	No 2020–21 budget allocated for relief for community sporting groups
Funding required	Option 1: \$12,830 Option 2: \$21,416	If no savings are available to fund
External funding	–	
Budget impact	Option 1: \$12,830 Option 2: \$21,416	As per options above
FTE	-	
<b>Next year's budget</b>		
Funding required	\$0	Once-off relief
Funding source	–	
Operating position	–	
Rate rise impact	–	
FTE	–	
<b>Long Term Financial Plan</b>		
Debt	Option 1: \$12,830 Option 2: \$21,416	
Interest	Option 1: \$282 Option 2: \$471	Based on 2.2%
Reserve	–	

### Baseline budget rate and debt impact

YTD Decisions	Operating Position	Rates (next budget)	Debt
<b>Cumulative Impact</b>	\$449,000 (favourable)	0.34%	-
<b>This proposal</b>	Option 1: \$12,830 Option 2: \$21,416	-	Option 1: \$12,830 Option 2: \$21,416
<b>Including this proposal</b>	Option 1: \$436,170 Option 2: \$427,584	-	Option 1: \$12,830 Option 2: \$21,416

## 7. Risk and opportunity management

Risk	
Identify	Mitigation
Reputation/community expectation	Providing the community sporting clubs with some form of financial relief in line with the relief provided to clubs in council owned facilities will provide an equitable level of community support as per the Sport and Active Recreation SMP

Opportunity	
Identify	Maximising the opportunity
Provision of equitable relief to support community sporting clubs	Providing recognition to the community sporting clubs of the valuable contribution they make to the community

## 8. Timelines, Deadlines and Next Steps

Following a decision made by Council, the community owned sporting clubs will be advised of the outcomes and steps to enact the decision on the next business day.

## 9. Attachments

Attachment 1 – Summary of COVID–19 relief provided to sporting clubs in council owned facilities (2 pages)

- END OF REPORT -

**Attachment 1: Summary of COVID–19 relief provided to sporting clubs in council owned facilities**

*Some July - Sept figures subject to change due to indexation increases*

Sporting Club	April – June 2020	July – Sept 2020	Total
Aldinga Bay Bowling & Croquet Club Inc	\$466.97	\$466.97	<b>\$933.95</b>
Aldinga Bay Hockey Club Inc	\$2,180.38	\$2,180.38	<b>\$4,360.77</b>
Aldinga Bay Riding Club	\$139.82	\$139.82	<b>\$279.63</b>
Aldinga Bay Surf Life Saving Club	\$941.29	\$941.29	<b>\$1,882.59</b>
Aldinga Football Club Inc	\$2,776.65	\$2,776.65	<b>\$5,553.30</b>
Aldinga Netball Court	\$458.25	\$458.25	<b>\$916.50</b>
Archery & Dog Obedience Committee	\$2,460.62	\$2,460.62	<b>\$4,921.23</b>
CFS Kangarilla Rec Ground	\$185.78	\$185.78	<b>\$371.57</b>
Christies Beach Bowling Club	\$839.83	\$839.83	<b>\$1,679.66</b>
Christies Beach Sports & Social Club Inc	\$5,256.12	\$5,256.12	<b>\$10,512.25</b>
Christies Beach Surf Life Saving Club	\$2,388.39	\$2,388.39	<b>\$4,776.78</b>
Christies Sailing Club Inc	\$444.63	\$444.63	<b>\$889.27</b>
Clarendon Bowling Club	\$431.46	\$431.46	<b>\$862.91</b>
Clarendon Tennis Club Inc.	\$678.80	\$678.80	<b>\$1,357.60</b>
Coromandel Valley Croquet Club Inc	\$56.54	\$56.54	<b>\$113.08</b>
Coromandel Valley Ramblers Cricket Club	\$362.25	\$362.25	<b>\$724.50</b>
Coromandel Valley Tennis Club Inc	\$725.97	\$725.97	<b>\$1,451.95</b>
Flagstaff Community Centre Inc	\$4,496.53	\$4,496.53	<b>\$8,993.07</b>
Hackham Football Club	\$3,275.19	\$3,275.19	<b>\$6,550.38</b>
Hackham Tennis Club	\$829.84	\$829.84	<b>\$1,659.69</b>
Happy Valley Bowling Club	\$1,836.59	\$1,836.59	<b>\$3,673.17</b>
Happy Valley Sports Park	\$6,862.20	\$6,862.20	<b>\$13,724.40</b>
Kangarilla Pony Club	\$91.75	\$91.75	<b>\$183.49</b>
Kangarilla Recreation Ground	\$3,299.29	\$3,299.29	<b>\$6,598.58</b>
McLaren Flat Recreation Ground	\$2,737.81	\$2,737.81	<b>\$5,475.62</b>
Mid Coast Surf Life Saving Clubs Inc	\$604.13	\$604.13	<b>\$1,208.26</b>
Moana Surf Life Saving Club	\$1,188.73	\$1,188.73	<b>\$2,377.46</b>
Morphett Vale Football & Sports Club	\$4,206.18	\$4,206.18	<b>\$8,412.37</b>
Morphett Vale Memorial Bowling Club Inc	\$795.60	\$795.60	<b>\$1,591.19</b>
Morphett Vale Netball Club	\$525.47	\$525.47	<b>\$1,050.94</b>
Morphett Vale Riding & Pony Club Inc	\$85.08	\$85.08	<b>\$170.15</b>
Morphett Vale Tennis Club	\$1,601.81	\$1,601.81	<b>\$3,203.61</b>
Noarlunga Sports & Social Club Inc	\$4,122.81	\$4,122.81	<b>\$8,245.62</b>
Noarlunga United Soccer Club Inc	\$4,378.34	\$4,378.34	<b>\$8,756.68</b>
O'Halloran Hill Tennis Club Inc	\$1,253.66	\$1,253.66	<b>\$2,507.31</b>
Old Noarlunga Tennis & Netball Club	\$1,382.49	\$1,382.49	<b>\$2,764.99</b>
Onkaparinga Rugby Union Club	\$4,742.67	\$4,742.67	<b>\$9,485.34</b>
O'Sullivan Beach Sports & Community Club	\$2,781.25	\$2,781.25	<b>\$5,562.51</b>
Port Noarlunga Football Sports Club Inc	\$5,839.74	\$5,839.74	<b>\$11,679.48</b>
Port Noarlunga Soldiers Memorial Bowling	\$1,367.10	\$1,367.10	<b>\$2,734.20</b>
Port Noarlunga Surf Life Saving Club Inc	\$4,252.85	\$4,252.85	<b>\$8,505.71</b>
Riding For The Disabled	\$542.16	\$542.16	<b>\$1,084.33</b>
Sea Wolves Dive Club	\$429.77	\$429.77	<b>\$859.54</b>
Seaford Sports & Social Club	\$2,940.67	\$2,940.67	<b>\$5,881.34</b>
South Australian Amateur Wrestling Academy	\$364.52	\$364.52	<b>\$729.05</b>
South Australian Horse Trails Inc	\$275.97	\$275.97	<b>\$551.93</b>
South Coast Sports & Social Club Inc	\$731.95	\$731.95	<b>\$1,463.89</b>
Southern Cricket Club	\$224.75	\$224.75	<b>\$449.50</b>
Southern Districts Baseball Club Inc	\$5,913.61	\$5,913.61	<b>\$11,827.22</b>

<b>Sporting Club</b>	<b>April – June 2020</b>	<b>July – Sept 2020</b>	<b>Total</b>
Southern Table Tennis Inc	\$910.93	<i>\$910.93</i>	<b>\$1,821.86</b>
Southern United Netball Association	\$2,315.92	<i>\$2,315.92</i>	<b>\$4,631.83</b>
Southern Vales Dressage Club	\$160.67	\$168.46	<b>\$329.13</b>
Southport Surf Life Saving Club	\$1,132.44	<i>\$1,132.44</i>	<b>\$2,264.88</b>
Willunga Judo Club	\$644.11	<i>\$644.11</i>	<b>\$1,288.23</b>
<b>Grand Total</b>	<b>\$99,938.33</b>	<b>\$99,946.12</b>	<b>\$199,884.45</b>

## 9.3 Comments to State Commission Assessment Panel – Development Application Beresford Estate

Report contact

Kyle Tapscott, Senior Development Officer Planning

Contact Number: 83017323

Approving officer

Chris White, Director Corporate

Meeting

Council

Date

18 August 2020

### 1. Purpose

To seek endorsement of Council's comments on the proposed development at 252 Blewitt Springs Road and 158 Ingoldby Road, McLaren Flat, to the State Commission Assessment Panel regarding development application 145/7012/20 (SCAP ref: 145/E062/20).

### 2. Recommendations

That Council endorses the draft letter, as contained in attachment 2 to the agenda report, to the State Commission Assessment Panel (SCAP) as **Council's comments on** the proposed development at 252 Blewitt Springs Road and 158 Ingoldby Road, McLaren Flat (SCAP reference DA 145/E062/20).

### 3. Executive summary

The State Commission Assessment Panel (SCAP) has referred a development application to council, seeking our comments, in relation to a proposed development at 252 Blewitt Springs Road and 158 Ingoldby Road, McLaren Flat, which is more commonly known as the Beresford cellar door and Beresford House site. SCAP has granted an extension of time to provide our comments by 19 August 2020.

The development application includes a proposal for the construction of two single-storey buildings to be used as tourist accommodation units. One building, located to the west of the existing cellar door building, is proposed to have nine accommodation units, with the second building located on the eastern side of the cellar door building proposed to have six units. This eastern building will necessitate the removal of one regulated River Red Gum. A realignment of boundary between the two subject sites is also detailed on the plans.

The proposal also includes the construction of a single-storey building to be used as a restaurant, micro-brewery and associated tasting area. This building is proposed to accommodate up to 200 patrons and 20 staff and will include up to six events per year that operate beyond the usual operating hours of 10am to 5pm daily. Amplified music is not to occur outside of the building during normal operating hours. On-site brewing in the proposed micro-brewery will only be staffed between the hours of 7am and 10pm.

The proposal includes associated carparking, signage and siteworks.

**The development application has been reviewed by council's development assessment planning, traffic and transport, economic growth and investment, environmental health, stormwater and vegetation assessment officers, which has assisted in formulating the draft response to SCAP.**

Whilst it is acknowledged the proposal is of a high quality, contemporary design that contributes to the economic base of the region, there are concerns held with respect to over-development of

the northern allotment of the subject land and resulting impacts on wastewater disposal, the watercourse and vegetation.

We therefore recommend that the SCAP does not support the application in its current form and would seek for ongoing input into the assessment phase with SCAP and the applicant/developer to ensure that a quality, acceptable outcome is delivered for our community.

## 4. Background

Community Plan 2030	<b>prosperity:</b> opportunity, diversity and adaptability The city is a 'destination of choice' with events and development attracting people to visit our area and contribute to the economy.
Policy and/or relevant legislation	The proposal is to be assessed in accordance with the Onkaparinga (City) Development Plan consolidated 2 July 2020.
Who did we talk to/who will we be talking to	Development Services, Environmental Health team, Technical Services (Traffic Engineering, Development Engineering, Stormwater Engineering, Vegetation Assessment) team and Economic Growth and Investment Section.

## 5. Discussion

### Background

Council has previously considered a development application (145/3114/2018) for a restaurant (shop), tasting area and micro-brewery on 252 Blewitt Springs Road, McLaren Flat.

The development application was assessed as a non-complying form of development and underwent category 3 public notification. The restaurant/micro-brewery building was proposed to be sited east of the existing Beresford cellar door building. No accommodation was proposed (whereas the application the subject of this report does).

Four representations were received during the public notification period, all against the proposal. The applicant subsequently withdrew the application prior to any decision being made.

The state government recently made amendments to the development legislation to enable these types of developments a simpler, facilitated pathway to approval. The new application (DA 145/E062/20), whilst still non-complying, will now not need the concurrence of Council should SCAP wish to approve the development. The application would previously have been subject to category 3 notification (anyone can lodge a representation and retain appeal rights against a decision to approve); it is now subject to category 2 notification, meaning to the immediate neighbours only and with no appeal rights against a decision to approve.

## 6. Financial implications

### Financial summary

The development assessment function of council staff is funded from the operational budget.

## 7. Risk and opportunity management

Risk	
Identify	Mitigation
Council does not provide <b>comments for the SCAP's</b> consideration	<b>The SCAP has granted an extension of time for Council's</b> comments to be provided by 19 August 2020; however, it will be presumed by the SCAP that council does not have any comments to make if this deadline is not met. Providing a response to SCAP will ensure localised planning matters are raised for consideration by the SCAP. Council will also maintain a voice during the development assessment process.
<b>Residents' concerns</b>	Council staff are aware that there is likely to be substantial interest in this development application from neighbouring properties to the north of the site. This development application will be subject to category 2 public notification (to neighbours only, with no appeal rights against any decision to approve), to be undertaken by SCAP as the relevant authority.

Opportunity	
Identify	Maximising the opportunity
Council provides comments to SCAP considering the social, development, economic and/or environmental impact of the proposal on the immediate and broader locality of the development site.	Key officers from across the organisation have provided advice on the proposal relevant to their area of expertise, which has <b>formed the basis of Council's comments to SCAP.</b>

## 8. Timelines and deadlines

Council's comments on DA 145/E062/20 must be provided by 19 August 2020.

## 9. Next steps

**Council's comments request that officers** be given the opportunity to address SCAP in support of our comments. The date for this hearing is yet to be scheduled.

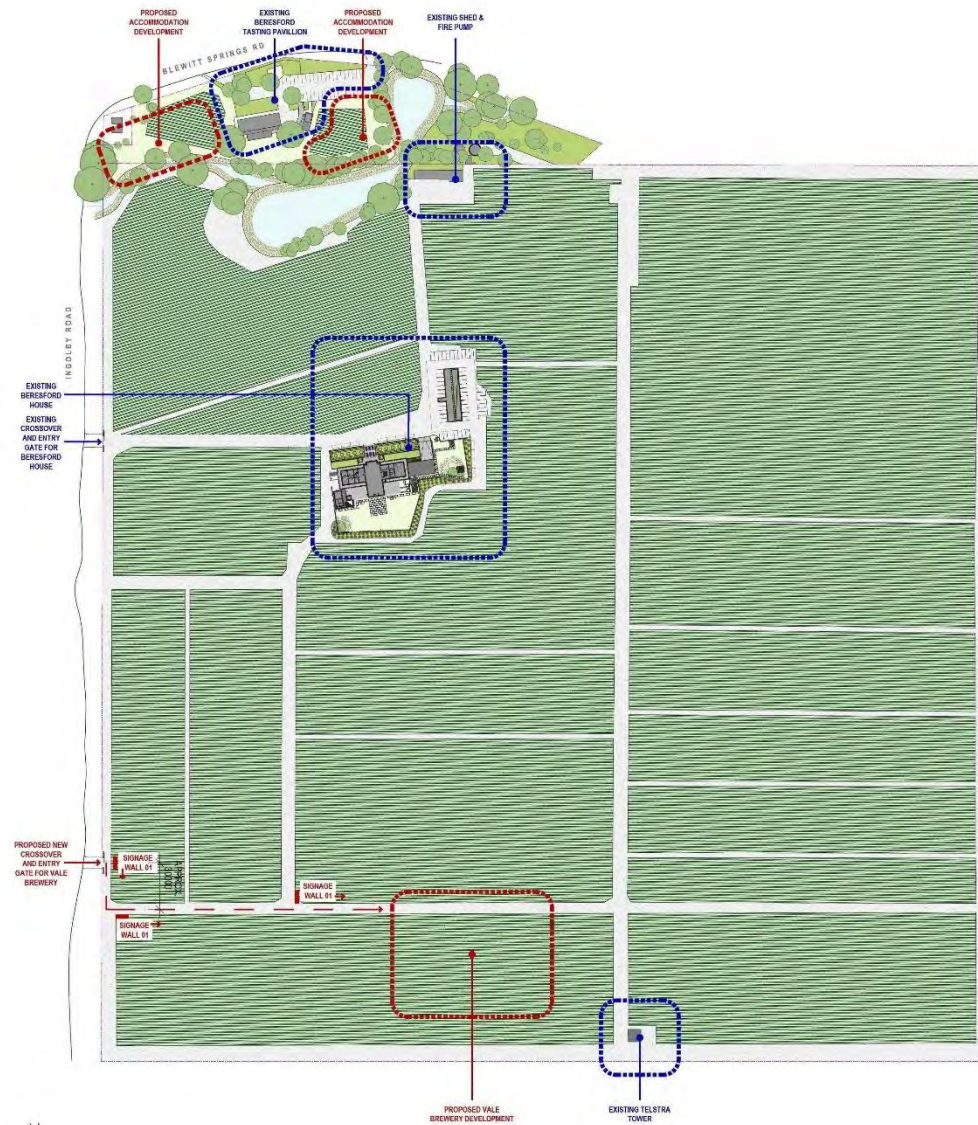
## 10. Attachments

Attachment 1 – Development Application forms, plans and application documents (3 pages)

Attachment 2 – Council comments to SCAP (8 pages)

- END OF REPORT -

# BERESFORD - SITE PLAN



## PROPOSED SITE PLAN 1:3000 @ A3

ALEXANDER BROWN ARCHITECTS | ISSUE F - 09.04.2020 | 19.033.PL3.F

ABA

Attachment 1



**PROPOSED SITE PLAN**  
1:600 @ A3



ALEXANDER BROWN ARCHITECTS | ISSUE F - 09.04.2020 | 19.033.PL6.F

ABA

VALE ALE - BREWERY



AREA SCHEDULE	
RESTAURANT	131.80m²
BREWERY	100.00m²
TERRACE	200.00m²
TOTAL	431.80m²

PROPOSED VALE BREWERY SITE PLAN  
1:600 @ A3



ALEXANDER BROWN ARCHITECTS | ISSUE F - 09.04.2020 | 19.033.PL27.F

ABA



19 August 2020

Mr Ben Williams  
State Commission Assessment Panel  
GPO Box 1815  
ADELAIDE SA 5001

Dear Ben

**Development Application No.** : 145/7012/2020  
**DAC Reference** : 145/E062/2020  
**Proposed Development** : Construction of a building to be used for restaurant (shop), tasting, micro-brewery and associated carparking, construction of fifteen tourist accommodation units and associated carparking & removal of regulated tree (*Eucalyptus camaldulensis*)  
**Location of Proposed Development** : 252 (Allot 6 Sec 15 FP 110037) Blewitt Springs Road & 158 (Allot 101 DP 86331) Ingoldby Road, MCLAREN FLAT SA 5171  
**Property Identification** : Allot 6 Sec 15 FP 110037, Allot 100 DP 863310

Thank you for the opportunity to comment on the above development application. The following comments have been endorsed by Council at its meeting of 18 August 2020.

We are familiar with the development site and proposal plans from working with the applicant/developer during assessment of previous development applications, which are discussed in greater detail below.

While we are pleased to see a significant development and level of investment proposed for this site, there are several key issues needing to be carefully considered and assessed. Our comments on the proposed development and these issues are provided below.

#### **Background**

The applicant has previously applied for a restaurant, tasting facility, micro-brewery, carparking and the removal of a regulated tree (River Red Gum) on 252 Blewitt Springs Road, McLaren Flat (DA 145/3114/18).

The development application was assessed as a non-complying form of development and subject category 3 notification. The restaurant/micro-brewery building was proposed to be sited to the east of the existing Beresford cellar door building. The proposal did not include any accommodation.

Four representations were received during the notification period, all of which were objecting to the proposal. The applicant later withdrew the application prior to any decision being made.



### Subject site/Locality

The subject site is comprised of two allotments, namely:

- 158 Ingoldby Road, McLaren Flat – Allotment 101 in DP 86331 – Certificate of Title 6211/364
- 252 Blewitt Springs Road, McLaren Flat – Allotment 6 in FP 110037 – Certificate of Title 6211/360



Allotment 101 has an area of approximately 31ha, fronts Ingoldby Road to the west and fronts an unmade public road to the north, identified as Collett Lane. It has an established vineyard covering most of the allotment and an existing telecommunications tower adjacent the southern property boundary. Adjacent the northern property boundary is an existing shed used in association with the vineyard operations. The land slopes down from the southern boundary toward the northern boundary and the northwest corner of the land has a recognised watercourse, namely Pedlar Creek.

Allotment 6 currently has a single-storey building used as the Beresford cellar door, along with associated carparking. The land has an approximate area of 1.4ha with frontage to Blewitt Springs Road and Douglas Gully Road to the north. The watercourse also bisects the subject site, toward the eastern end of the allotment. The allotment is generally flat however there is some gradient from the northern boundary toward the southern boundary. There is substantial vegetation toward the eastern extent of the allotment and lining the watercourse, along with other examples of mature vegetation dotted across the allotment. The allotment also has some vineyards in two areas either side of the cellar door building.



The allotments and the wider locality are of high amenity value. Notable land uses within the locality include residential/rural-residential-type uses directly north of the subject site along with the Girl Guides facility. Dotted throughout the immediate and wider locality are wineries, cellar doors and tourist accommodation, with the predominant land use being viticulture.

To the immediate west of Allotment 100 is a Local Heritage Item at 178 Blewitt Springs Road, McLaren Flat identified in the Onkaparinga (City) Development Plan as 'dwelling, associated trees and garden'.

### **Proposal**

The proposal includes the construction of two single-storey buildings to be used as tourist accommodation units. One building, located to the west of the existing cellar door building, is proposed to have nine accommodation units with the other building located on the eastern side of the cellar door building to have six units. This eastern building will necessitate the removal of one regulated River Red Gum (*Eucalyptus Camaldulensis*). A realignment of boundary between the two subject sites is shown on the plans; the SCAP should consider if this forms part of this development application or will be addressed by future land division application.

The proposal also includes the construction of a single-storey building to be used as a restaurant, micro-brewery and associated tasting area. This building is proposed to accommodate up to 200 patrons and 20 staff and will include up to six events per year that operate beyond the usual operating hours of 10am to 5pm daily. Amplified music will not occur outside of the building during normal operating hours. On site brewing in the proposed micro-brewery will only be staffed between the hours of 7am and 10pm.

In addition to the above, the proposal includes associated carparking, signage and siteworks.

### **Procedural**

It is noted that the proposal is a category 2 form of development pursuant to Schedule 9(30) of the *Development Regulations 2008*. This was recently introduced, including several other measures, in response to the COVID-19 pandemic to encourage economic outcomes in Primary Production type areas.

The proposal is a non-complying form of development as the restaurant (shop) component is larger in area than 200m<sup>2</sup> and includes tourist accommodation uses (noting some occupancy and wastewater qualifiers). It is noted that the concurrence of Council is not required under the new Regulations, if the State Commission Assessment Panel (SCAP) wishes to grant approval.

The site is in a High Bushfire Risk area (Onkaparinga (City) Development Plan – BPA Map Onka/14) and therefore a referral to the Country Fire Service will be necessary given the proposal incorporates tourist accommodation uses, in accordance with Schedule 8, Table 2, item 18 of the *Development Regulations 2008*.

We note some email correspondence between SCAP staff and the applicant confirming that beverage production (beer) is below the threshold requiring a referral under Schedule 21 or Schedule 22 of the *Development Regulations 2008*.



The site is located in the Character Preservation District and therefore the *Character Preservation (McLaren Vale) Act 2012* applies to this subject site and needs to form part of SCAP's consideration of the application.

#### **Land Use**

The proposal incorporates elements of restaurant/tastings, micro-brewery and tourist accommodation. All elements are reasonably anticipated within the Primary Production Zone as sought by Objectives 5, 7 and 8 of the Zone, with tourist accommodation an envisaged form of development within the zone (Principle of Development Control (PDC) 1 of the zone).

PDC 9 of the zone seeks for shops (in this case, restaurant) to be located on the same site as the primary use and ancillary to primary production. It is noted that the 2018 development application that was withdrawn (DA 145/3114/18) attempted to locate the shop component on the same allotment as the existing cellar door, that is, Allotment 6. This did raise some concerns with the proposal potentially being an overdevelopment of the site, which are now somewhat addressed under the current proposal by siting this use on the larger adjoining allotment. The SCAP will need to be satisfied that there is sufficient linkage between the proposed restaurant use and the primary production use occurring on Allotment 101.

The Primary Production Zone seeks to ensure that tourism developments maintain agricultural activities as the predominant land use in the region (PDC 45). The proposed tourist accommodation units are sited on the smaller of the two subject allotments, of which there is limited primary production potential available due to the existing carpark and cellar door facility. From this perspective, the siting of the accommodation units on Allotment 6 is therefore well-reasoned; however, the zone also seeks to ensure that tourism developments are small in scale and given the site constraints, this raises some concerns that will be discussed below.

Whilst located on separate allotments, the proposed uses will operate in conjunction with the existing cellar door and existing Beresford House on adjoining Allotment 100.

It is noted that the restaurant/micro-brewery occupancy rates are stated in the acoustic assessment report prepared by Sonus and the traffic impact assessment prepared by Phil Weaver and Associates, however it is not confirmed by the applicant's planning consultant report. It is necessary that these figures are confirmed to ensure proper assessment of the proposal and for the placement of conditions on any consent the SCAP may grant.

#### **Character**

PDC 48 (a) prescribes the types of materials that should be included in any development, including stone or weatherboard walls, pitched corrugated steel roofs with galvanised iron or similar, among others. Whilst it could be argued that the building proposed do not strictly meet these requirements, the building construction is of a high quality, contemporary design and complements the existing built form on both subject allotments (cellar door and Beresford House) as sought by PDC 1 of *Design and Appearance – General Section*.

The accommodation buildings display a reasonable height, bulk and scale, however there is concern that the number of accommodation units is excessive for an allotment of this size. It is noted that a minor boundary realignment is necessary to accommodate the three western-most accommodation units, which suggests an overdevelopment of the site. The SCAP needs to be satisfied that the units are sufficiently separated from the watercourse on this site, of



which there is no detail provided at this stage, to ensure that the watercourse is not impacted (either at the development site or downstream) and that the proposed buildings are not inundated per PDCs 5, 6 and 7 of *Hazards – General Section*.

It is noted that the accommodation units are elevated above natural ground level on the southern elevations, which may increase their visibility when viewed from the south. There appears to be the ability to reduce the finished floor levels of some of the units to better respond to the contours of the land.

We raise concern with the potential visual impact of the western covered-car parking structure and its proximity to the front property boundary. This section of Blewitt Springs Road is a distributor-level road (Overlay Map Onka/75) which requires a minimum setback of 8m from the property boundary. Whilst this is not dimensioned on the proposal plans it appears this has not been satisfied. It is noted that some screening measures have been proposed, but this building, given its siting, will have some visual impact on the locality and reduce the prominence/obscure views of the existing cellar door building. This element of the proposal should be reviewed.

The building will have some visual impact on the immediate locality, as any new building would on an undulating site, however the visual impact is generally felt when viewed from the north where it will be some 500m from the public realm of Blewitt Springs Road/Douglas Gully Road. Visual impact of development over such a large distance is acceptable particularly when the development is such high-quality construction and material palette. A row of existing mature vegetation along the southern property boundary sets an appropriate natural backdrop to the building and prevents the building 'skylining' above the ridgeline.

It would be of benefit for the applicant to indicate the floor levels of all buildings relevant to the natural ground level and what extent of cut and/or fill or retaining walls will result. There may be a visual impact because of associated siteworks that the SCAP must consider.

The Primary Production Zone has a strong emphasis on ensuring that development is generally small-scale in nature and visual prominence is reduced. The proposal will have some visual impact on the immediate locality given the building types selected and the topography of the land (when viewed from certain vantage points). The development will be particularly visible when viewed from Blewitt Springs Road looking south, given the relatively open nature of the landscape. The development will become less visible very quickly from a greater distance given the undulating land and existing mature vegetation.

#### **Amenity**

We have received complaints from adjacent landowners regarding impacts on amenity by the existing cellar door facility. The four representations received in response to the withdrawn DA 145/3114/2018 detailed concerns about noise from patrons and vehicles. It is likely similar issues will be raised by representors during the category 2 public notification period.

The existing cellar door and Beresford House buildings are subject to conditions of consent requiring acoustic treatments, to minimise noise impacts on residents. It is noted that Sonus has prepared an acoustic report regarding the restaurant/micro-brewing facility however, consideration of noise impacts from the tourist accommodation units should be undertaken.



The proposal incorporates up to six 'occasional events' in any 12 month period associated with the restaurant/micro-brewery building, with greater operating hours. Council does not oppose this however this is subject to strict compliance with the recommendations of the acoustic engineer's report and defining those events to occur within any 12 month calendar year (not period).

The SCAP should request information about external lighting, including bollards and security lighting, to ensure any light spill is reasonable and appropriately managed.

The carparking ratio for the accommodation units appears to be reasonable and exceeds the requirements of *Table Onka/3 – Off Street Vehicle Parking Requirements*. From a user-experience perspective it would be a reasonable expectation of accommodation guests that each unit would have a carparking space available. Noting that the disabled accessible parking space is not accessible to all, we suggest one additional carparking space per bay be provided in addition to the current proposed. This should be addressed by the applicant under a revised scheme.

Council does not generally support shared carparking arrangements as demand should wholly be met on the subject allotment (PDC 32 – *Transportation and Access – General Section*). Should the SCAP wish to support shared carparking between the two allotments, an appropriately worded agreement/deed should be entered into to ensure continued accessibility in the event one of the allotments is sold to a separate landowner.

Council does not support the proposed shortfall in carparking for the restaurant/micro-brewery building, particularly as the subject allotment is 31ha in size and there is ample opportunity to provide sufficient carparking.

### **Wastewater Disposal**

Two separate wastewater systems are proposed to service the two separate elements of the proposal. The wastewater system associated with the accommodation units appears to be significantly undersized noting this system also must cater for the existing cellar door building's wastewater. The extensive carparking area and increased impervious areas because of the proposed built form, along with the presence of the watercourse, means the only possible location for an onsite wastewater system is adjacent the northern property boundary. This small area may not be sufficient to adequately address wastewater management, in contravention of PDCs 10 and 13 of *General Section Waste*.

The restaurant/micro-brewery building is of a size that requires SA Health is the authority for assessing and approving any wastewater application. Notwithstanding this, based on the limited information provided, it appears the proposal does not achieve the necessary standards of the *On-site Wastewater Systems Code 2013*.

The SCAP should ensure that the wastewater management matters are appropriately addressed prior to any consent being granted.

We have previously advocated for the developer/applicant to consider extending the existing CWMS network, which is to the south of the subject land at the Md.aren Flat township. This will provide a comprehensive solution to the wastewater management issues experienced on the subject land currently. The offer to investigate this further with council still stands and we would be open to negotiations and preliminary scoping work to be undertaken.



### **Traffic Assessment**

Ingoldby Road is a narrow road with an unsealed surface. It is proposed to use Ingoldby Road for mini-bus access however if two vehicles, involving either one or more mini-buses encounter each other, there may be insufficient space for vehicles to safely pass.

An assessment should be undertaken along Ingoldby Road, between Blewitt Springs Road and the restaurant/micro-brewery entrance, to ensure that 'Intermediate Sight Distance' in accordance with section 5.8 of Austroads Guide to Road Design Part 3 is achievable, to mitigate any risk of head-on crashes.

Further details should be provided identifying the need for any intermittent widening along Ingoldby Road to allow cars and larger vehicles to pass each other. Sight distance at the proposed restaurant/micro-brewery vehicle access on Ingoldby Road appears to be sufficient, however there is a possibility that some vegetation removal will be necessary. Consultation with council officers on these matters should be undertaken prior to any consent being granted.

The internal road widths related to the restaurant/micro-brewery site should be confirmed as well as the road surface condition. All carpark dimensions, including aisle widths, should also be provided.

No overflow parking shall be permitted within council's road reserves, with all parking to be contained within the site's available overflow parking areas and this is to be enforced by the site's operators.

### **Stormwater**

No details have been provided in respect to stormwater management for this development. The applicant should demonstrate compliance with our Stormwater Management Design Guidelines, specifically with respect to stormwater disposal and development in proximity to the watercourse. The Guidelines are available here:

<https://www.onkaparingacity.com/Planning-and-development/Development-FAQs/Technical-Services-Standard-Details>

### **Vegetation Assessment**

The arborist's report indicates a major encroachment for trees 3 and 6-11 however the proposed buildings are also very close to other vegetation. Whilst the *Development Act 1993* does not protect trees that are not defined as being 'regulated', it should be confirmed if this is remnant native vegetation.

All vegetation along this section of the watercourse plays a role in reducing flood risk, bank stability and wildlife corridor and due consideration should be given to how this interacts with the proposed built form.

The tree protection zone in respect to trees 7-9 coincides with an existing/proposed wastewater area. Consideration should be given as to the impact of any change in soil or hydrological conditions or excavation.

### **Economic Growth and Investment**



New tourism development and experiences supported by market demand that increase overnight stays are a goal of our *Tourism Strategic Plan 2019-23*, as also sought by Objective 7 of the Primary Production Zone.

This proposed development offers the opportunity to grow visitation and yield for our City and broader Fleurieu region.

This proposed development would also support the stimulation of the local economy through the construction and operation phase, particularly when the industry and region is recovering from COVID-19.

### **Conclusion**

We are strongly of the view that the proposal displays an over-development of the northern allotment of the subject sites. The large number of accommodation units proposed and the associated carparking necessarily results in a development that sites buildings in close proximity to a watercourse, does not achieve necessary building setbacks from the front property boundary and will impact on vegetation that is protected under the *Development Act 1993* and possibly the *Native Vegetation Act 1991*. In addition, the proposal cannot accommodate a wastewater disposal system that can comply with the *On-site Wastewater Systems Code 2013* and requires a boundary realignment to accommodate the proposed built form.

Whilst it is recognised that all proposed buildings are of high-quality and of contemporary design that will complement the high level of amenity in this locality and be of economic benefit to the region, there are functionality aspects of the proposal that we remain concerned about.

We wish to reiterate that we are willing to work with the applicant and the SCAP to ensure that a quality, acceptable outcome is delivered for our community and would welcome the opportunity to meet (possibly onsite) and discuss the proposal.

Should the SCAP be of the view the application is of sufficient merit to approve, either in its current form or under an amended drawing set, we request to be consulted on any proposed reserved matters and conditions.

We would also like the opportunity to address the SCAP in support of our submission when this application is scheduled to be considered.

Please contact Kyle Tapscott, Senior Development Officer Planning on 83017323 or [kyle.tapscott@onkaparinga.sa.gov.au](mailto:kyle.tapscott@onkaparinga.sa.gov.au) if further information is required.

Yours sincerely

Erin Thompson  
**Mayor**

## 9.4 Nomination of South Regional Grouping of Greater Adelaide Regional Organisation of Councils (GAROC)

Report contact

Therese Brunotte, Senior Governance Officer

8301 7228

Approving officer

Chris White, Director Corporate

Meeting

Council

Date

18 August 2020

### 1. Purpose

The Local Government Association (LGA) has contacted the Chief Executive Officer inviting one **nomination from the City of Onkaparinga for a position on the LGA's South Regional Grouping of Greater Adelaide Regional Organisation of Councils (GAROC)**. This report seeks direction from Council on whether such a nomination should be made, and if so, whom should be nominated. It is noted that Mayor Erin Thompson has expressed an interest in being nominated.

### 2. Recommendations

1. That Council nominate ..... for the position of a member to the Local Government **Association's South Regional Grouping of the Greater Adelaide Regional Organisation of Councils**.

Or

2. That Council chooses not to nominate **a member to the Local Government Association's South Regional Grouping of the Greater Adelaide Regional Organisation of Councils**.

### 3. Executive summary

The role of the Greater Adelaide Regional Organisation of Councils (GAROC) is regional advocacy, policy initiation and review, leadership, engagement and capacity building in the greater Adelaide region.

At the 2019 LGA Annual General Meeting, members endorsed the establishment of four (4) GAROC Regional Groupings to take effect from the 2020 GAROC elections, with each Regional Grouping membership to comprise of two eligible members elected by a majority vote of the councils within each Regional Grouping, provided that each person elected for that Regional Grouping is from a different member Council.

The South Regional Grouping of GAROC is comprised of three member councils; Onkaparinga, Marion and Mitcham Councils. Each member council may nominate one member to fill the two positions allocated to the South Regional Grouping. If the number of nominations for each GAROC Regional Grouping exceeds the number of positions a ballot will be conducted in accordance with the GAROC Terms of Reference.

The terms of the current members of the Greater Adelaide Regional Organisation of Councils (GAROC) expire at the October 2020 LGA Annual General Meeting (AGM).

On the 21 July 2020 the LGA wrote to all councils (attachment 1) within the Greater Adelaide Region calling for nominations to fill the two positions allocated to each Regional Grouping of Councils on GAROC.

## 4. Background

Community Plan 2030	<b>prosperity:</b> opportunity, diversity and adaptability
Policy and/or relevant legislation	GAROC is formally established through the LGA Constitution.
Who did we talk to/who will we be talking to	Elected Members were advised via Weekly News on 23 July that nominations were being sought for a member of GAROC.

## 5. Discussion

The term of office will commence from the conclusion of the 2020 LGA Annual General Meeting and remain in office until the conclusion of the 2022 LGA AGM.

The list of GAROC Regional Groupings and additional information about the roles and responsibilities of GAROC and the conduct of these elections in general is available within the GAROC Terms of Reference (attachment 2).

Options:

Council is only able to put forward one (1) nomination for a position on **the LGA's South Regional** Grouping of Greater Adelaide Regional Organisation of Councils (GAROC).

Staff offer three possible options in dealing with this report:

*Option 1 – support the potential candidacy of Mayor Thompson.*

Council may vote to nominate Mayor Thompson to the membership of GAROC.

*Option 2 – support the potential candidacy of a councillor.*

Council may vote to nominate another of its members, should that member accept, to the membership of GAROC.

*Option 3 – do nothing.*

Council is not obliged to nominate a member for GAROC. As such, it is open to Council to do nothing, should Council elect to do so.

## 6. Financial implications

There are no financial implications in Council nominating an Elected Member as a member of GAROC.

Members do not receive a sitting fee as a member of the GAROC.

## 7. Risk and opportunity management

Opportunity	
Identify	Maximising the opportunity
City of Onkaparinga representation	A representative from the City of Onkaparinga to the GAROC would be well positioned to be involved in policy and strategy and provide input from our council perspective.

## 8. Timelines and deadlines

A nomination form for the position of member of GAROC must be received by the LGA, no later than 5pm Friday 28 August 2020. Late nominations will not be accepted. Nomination forms will be submitted to the LGA Returning Officer by Civic Governance.

## 9. Next steps

The successful candidates for the GAROC membership positions will be declared at the 2020 LGA AGM to be held on Thursday 29 October 2020.

## 10. Attachments

Attachment 1 – Letter to CEO City of Onkaparinga (3 pages)

Attachment 2 – List of GAROC Regional Groupings & Extract Terms of Reference (4 pages)

Attachment 3 – Candidate Information Sheet (1 page)

- END OF REPORT -



In reply please quote our reference: ECM 713244 AS/AL

21 July 2020

Mr Scott Ashby  
A/ Chief Executive Officer  
City of Onkaparinga  
PO Box 1  
Noralunga Centre SA 5168  
**Emailed:** scott.ashby@onkaparinga.sa.gov.au

Dear Mr Ashby

### Call for Nominations for GAROC Members

The terms of the current members of the Greater Adelaide Regional Organisation of Councils (GAROC) expire at the 2020 LGA Annual General Meeting (AGM). The LGA hereby calls for nominations to fill the two (2) positions allocated to each Regional Grouping of Councils on GAROC (eight positions in total) to commence office from the conclusion of the 2020 LGA Annual General Meeting and to remain in office until the conclusion of the 2022 AGM. A nomination form for the position of member of GAROC is attached and must be received by me, no later than **5pm Monday 24 August 2020**. Late nominations will not be accepted.

At the 2019 LGA AGM, members endorsed the establishment of four (4) GAROC Regional Groupings to take effect from the 2020 GAROC elections, with membership of GAROC to comprise two eligible members elected by a majority vote of the councils within each Regional Grouping, provided that each person elected for that Regional Grouping is from a different member. Additionally, the Lord Mayor of the City of Adelaide will be a standing member of GAROC.

I write to you in your capacity as the Chief Executive Officer of a Member Council in the South Regional Grouping to invite one (1) nomination from your council for a position on the South Regional Grouping of GAROC. A list of the GAROC Regional Groupings is attached to this letter.

A nomination may only be made by resolution of the council and using the attached nomination form. The form must be signed by both the candidate nominated by the council to indicate his/her willingness to stand for election, and by you as the Chief Executive Officer of the nominating council. The nomination form must be accompanied by the attached candidate information sheet.

### Voting

The GAROC Terms of Reference (TOR) (extract attached) outlines the process as to how an election will occur. As the Returning Officer I am required to conduct a ballot if the number of nominations for each GAROC Regional Grouping exceeds the number of positions. If a ballot is required, the distribution of ballot papers to councils will include any information provided on the candidate information sheet.

### Timetable

Key (indicative) timings and GAROC TOR provisions are outlined in the following table:

Indicative Timing	Headline	GAROC TOR Provision
	Returning Officer	Returning Officer for all LGA electoral matters is the Chief Executive Officer (Clause 4.4.1)
20 July 2020	Nominations Called	CEO to write to members of GAROC Regional Groupings calling for nomination for position of members of GAROC at least 3 months before AGM (Clause 4.3.2)
24 August 2020	Nominations Close	Nominations must be received by the CEO no later than 5pm on the day specified for the close of nomination, being 24 August 2020 (Clause 4.3.4).
	Nominations equal to vacancies	If the number of nominations received equals the number of vacant positions for the Regional Grouping each candidate is elected and takes office at the conclusion of the AGM (Clause 4.4.3)
7 September 2020	Ballot papers prepared and posted	In the event of an election being required the CEO shall deliver ballot papers to each member of the relevant Regional Grouping at least 6 weeks before AGM GAROC (Clause 4.4.5(a))
19 October 2020	voting closes	The CEO shall nominate the date, time and place for the counting of votes and shall invite each candidate and a person nominated as the candidate's scrutineer to be present (Clause 4.4.5(f))
20 October 2020	Counting of votes	The CEO shall nominate the date, time and place for the counting of votes (Clause 4.4.5(f))
29 October 2020	Final declaration of result	CEO shall declare the candidate with the most votes elected at the AGM (Clause 4.4.5(h))
29 October 2020	Takes office	GAROC members take office at the conclusion of the AGM (Clause 4.5)
29 October 2020	Voting for Board Members	GAROC should meet at the conclusion of the AGM to elect 3 of its members (plus its Chair) to the Board of Directors (Clause 6.4.1 and 6.4.2) who's term of office commences after the AGM.

### LGA Board Appointments

Under the LGA Constitution and the GAROC TOR, once members are elected to GAROC, these members will then elect a Chair and three GAROC members to form the LGA Board of Directors. These GAROC LGA Board Directors will be accompanied by their equivalent from SAROC, as well as the President and Immediate Past President, to form the ten (10) member LGA Board of Directors.

If you have any questions in relation to the election process, please contact me or LGA Director Governance & Legislation Alicia Stewart on 8224 2037 or [alicia.stewart@lga.sa.gov.au](mailto:alicia.stewart@lga.sa.gov.au).

Yours sincerely



**Matt Pinnegar**

**Chief Executive Officer/ LGA Returning Officer**

*Telephone: (08) 8224 2039*

*Email: [matt.pinnegar@lga.sa.gov.au](mailto:matt.pinnegar@lga.sa.gov.au)*

CC: Mayor – via email - [erin.thompson@onkaparinga.sa.gov.au](mailto:erin.thompson@onkaparinga.sa.gov.au)

Attachments:

- 1 List of GAROC Regional Groupings
- 2 Extract from LGA GAROC TOR – Section 4
- 3 2020 Nomination Form – GAROC
- 4 Candidate Information Sheet

## List of GAROC Regional Groupings

GAROC Regional Grouping	Members
Adelaide	Adelaide City
North	Gawler Playford Salisbury Tea Tree Gully
West	Charles Sturt Holdfast Bay Port Adelaide Enfield West Torrens
South	Marion Mitcham Onkaparinga
East	Adelaide Hills Burnside Campbelltown Norwood Payneham & St Peters Prospect Unley Walkerville

## Extract – GAROC Terms of Reference

### Clause 4 – GAROC

#### 4. GAROC

##### 4.1. Role

The role of GAROC is regional advocacy, policy initiation and review, leadership, engagement and capacity building in the GAROC Region.

##### 4.2. Membership

4.2.1. Each Regional Grouping of Members listed in the schedule to these Terms of Reference will elect in accordance with clause 4.3 and 4.4 from the Members of the Regional Grouping of Members, 2 Council Members of Members in the Regional Grouping of Members as members of GAROC provided that each person elected is from a different Member.

4.2.2. In addition to the members of GAROC elected in accordance with clause 4.2.1, the Lord Mayor of the City of Adelaide will be a standing member of GAROC.

##### 4.3. Nominations for election to GAROC

4.3.1. The members of GAROC will be elected biennially.

4.3.2. In the year in which GAROC members will be elected, and at least 3 months before the Annual General Meeting, the Chief Executive shall write to all Members of the GAROC Regional Grouping as listed in the schedule calling for nominations for the membership of GAROC.

4.3.3. Each Member of the GAROC Regional Grouping may nominate a candidate for membership of GAROC, provided that:

- (a) a person nominated as a member of GAROC must be a representative of a member on the relevant Regional Grouping of Members; and
- (b) only a Council Member can be nominated to GAROC.

4.3.4. A nomination of a person as a member of GAROC must be by resolution of the Member received by the Chief Executive not later than 5 pm on the day specified for the closure of nominations (Close of Nominations). A nomination must be signed by the candidate indicating his or her willingness to stand for election and be in the form determined by the Chief Executive.

##### 4.4. Election to GAROC

4.4.1. The Chief Executive shall be the returning officer for any election of members to GAROC.

4.4.2. After the Close of Nominations, the Chief Executive will notify Members of each Regional Grouping of Members of the candidates for membership of GAROC nominated by the Regional Grouping of Members.



- 4.4.3. If the only nominations received from a Regional Grouping of Members by the Close of Nominations match the membership positions described in clause 4.2.1, then the Chief Executive will declare those persons duly elected to those membership positions.
- 4.4.4. If the number of persons nominated by the Close of Nominations by a Regional Grouping of Members exceeds the number of membership positions described in clause 4.2.1, then an election for the purpose of clause 4.2.1 must be held in accordance with this clause.
- 4.4.5. In the event of an election being required, the Chief Executive shall conduct the election as follows:
- (a) at least six weeks before the Annual General Meeting, the Chief Executive shall deliver ballot papers to each Member of the Regional Grouping of Members;
  - (b) the ballot papers shall:
    - (i) list the candidates for election;
    - (ii) specify the day of closure of the election;
    - (iii) be accompanied by an envelope marked "Ballot Paper" and a second envelope marked "Returning Officer";
  - (c) each Member shall determine by resolution the candidate or candidates (as relevant) it wishes to elect;
  - (d) the chair of the meeting for that Member shall mark the ballot paper with an "X" next to the candidate or candidates (as relevant) that the Member wishes elected and seal the ballot paper in the envelope marked "Ballot Paper" inside the envelope marked "Returning Officer". Before sealing the second envelope the chair must indicate the Member's name on the inside flap of the envelope. The envelope may then be sealed and delivered to the Returning Officer;
  - (e) on receipt of the envelopes the Chief Executive must:
    - (i) open the outer envelope addressed to the "Returning Officer" and record the name of the Member which appears on the inside flap of the envelope on the roll of Member's eligible to vote; and
    - (ii) place the envelope marked "Ballot Paper" unopened into the ballot box;
  - (f) the Chief Executive shall nominate the date, time and place for the counting of votes and shall invite each candidate and a person nominated as the candidate's scrutineer to be present;
  - (g) at the counting of the votes the Chief Executive shall produce unopened envelopes marked "Ballot Paper" and if satisfied that all votes are valid, count the number of votes received by each candidate;
  - (h) in respect of an election for the purposes of clause 4.2.1, the 2 candidates from a Regional Grouping of Members with the most votes shall be deemed elected in respect of that Regional Grouping of Members and the Chief Executive shall declare the candidates elected at the Annual General Meeting; and
  - (i) in the case of candidates for membership positions described in clause 4.2.1 from a Regional Grouping of Members receiving the same number of votes, the Chief



Executive shall draw lots at the counting of the votes to determine which candidate is elected.

- 4.4.6. The Chief Executive may, in his or her discretion, appoint a deputy returning officer and delegate any of his or her powers, functions or duties to that person who shall act accordingly.
- 4.4.7. The Chief Executive may, in his or her discretion, delegate any of his or her powers, functions or duties to an Executive Officer of a Regional Grouping of Members who shall act accordingly for the conduct of elections for the purpose of clause 4.2.1 in respect of the Regional Grouping of Members relevant to that Executive Officer.

## Candidate Information Sheet

### GAROC

(word limit is strictly 1,000 words)

Name:	<i>(insert title, first name and surname)</i>
Council:	<i>(insert council name)</i>
Local Government Experience & Knowledge	<ul style="list-style-type: none"><li><i>(insert)</i></li></ul>
Local Government Policy Views & Interests	<ul style="list-style-type: none"><li><i>(insert)</i></li></ul>
Other information	<ul style="list-style-type: none"><li><i>(insert details of leadership, board, corporate governance experience etc)</i></li></ul>

**This form must accompany the Nomination Form**

Page left intentionally blank

## 9.5 Nomination of a local government representative to the State Bushfire Coordination Committee

Report contact

Karen Ingram, Civic Governance Officer

8384 0678

Approving officer

Chris White, Director Corporate

Meeting

Council

Date

18 August 2020

### 1. Purpose

The Local Government of SA (LGA) is seeking nominations for a local government representative and deputy on the State Bushfire Coordination Committee for a three year term commencing Friday 14 November 2020 (attachment 1). This report seeks direction from Council on whether such a nomination should be made, and if so, whom should be nominated. It is noted that Cr Heidi Greaves has expressed an interest in being nominated.

### 2. Recommendations

1. **That Council nominate ..... to the Local Government Association to be** considered as a representative or deputy to the State Bushfire Coordination Committee for the period commencing Friday 14 November 2020 for a period of three years.

Or

2. That Council chooses not to nominate a councillor to the Local Government Association to be considered as a representative or deputy to the State Bushfire Coordination Committee.

### 3. Executive summary

The State Bushfire Coordination Committee provides leadership and maintains oversight of **emergency management planning in South Australia. It's vision is a "safe and strong SA through a shared commitment to resilience"** which it aims to achieve by: understanding risks and how they may affect the South Australian community, encouraging sustained behavioural change across the entire community, and focusing on reducing the consequences of emergencies. Committee responsibilities are listed in the Terms of Reference.

Appointments to the State Bushfire Coordination Committee are for a period of three years, commencing Friday 14 November 2020.

The current local government representative is Cr Shiralee Reardon of the City of Salisbury and the deputy representative is Cr Heidi Greaves of the City of Onkaparinga. Both are eligible for re-appointment.

## 4. Background

Community Plan 2030	<b>prosperity:</b> opportunity, diversity and adaptability
Policy and/or relevant legislation	The State Bushfire Coordination Committee is a statutory corporation to which the provision of the <a href="#">Fire and Emergency Services Act 2005</a> apply.
Who did we talk to/who will we be talking to	Elected Members were advised via Weekly News 10 and 17 July 2020 of the opportunity to nominate as a local government representative to the State Bushfire Coordination Committee.

## 5. Discussion

The *Fire and Emergency Services Act 2005* requires the LGA to provide a panel of three nominees from which the Minister will select the appointee and deputy. In accordance with section 36A of the *Acts Interpretation Act 1975* the panel of nominees must include at least one male and one female.

Cr Heidi Greaves has expressed her interest in the role of a local government representative on the State Bushfire Coordination Committee. Cr Heidi Greaves is currently the representative of the City of Onkaparinga and is eligible for re-appointment. Provided at attachment 2 is the LGA Call for Nominations information sheet which details the selection criteria to be addressed by the nominee.

Representatives on the State Bushfire Coordination Committee receive a sitting fee of \$206 per session plus travel expenses.

Options:

Two (2) nominations may be accepted from any one council.

Staff offer three possible options in dealing with this report:

*Option 1 – support the potential candidacy of Cr Greaves.*

Council may vote to nominate Cr Heidi Greaves to the LGA to be considered as a representative to the State Bushfire Coordination Committee.

*Option 2 – support the potential candidacy of Cr Greaves and another councillor.*

Council may vote to nominate a member in addition to Cr Greaves to the LGA to be considered as a representative to the State Bushfire Coordination Committee.

*Option 3 – do nothing.*

Council is not obliged to nominate a member for the State Bushfire Coordination Committee. As such, it is open to Council to do nothing, should Council elect to do so.

## 6. Financial implications

There are no financial implications in Council resolving to nominate an Elected Member to the LGA to be considered as a local government representative on the State Bushfire Coordination Committee.

## 7. Risk and opportunity management

Opportunity	
Identify	Maximising the opportunity
City of Onkaparinga representation	A representative from the City of Onkaparinga to the State Bushfire Coordination Committee would be well positioned to be involved in policy and strategy and provide input from a local government perspective.

## 8. Timelines and deadlines

The nominee and council are required to complete and forward the Nomination Form (Part B) to the Local Government Association of SA by COB Friday 28 August 2020.

## 9. Next steps

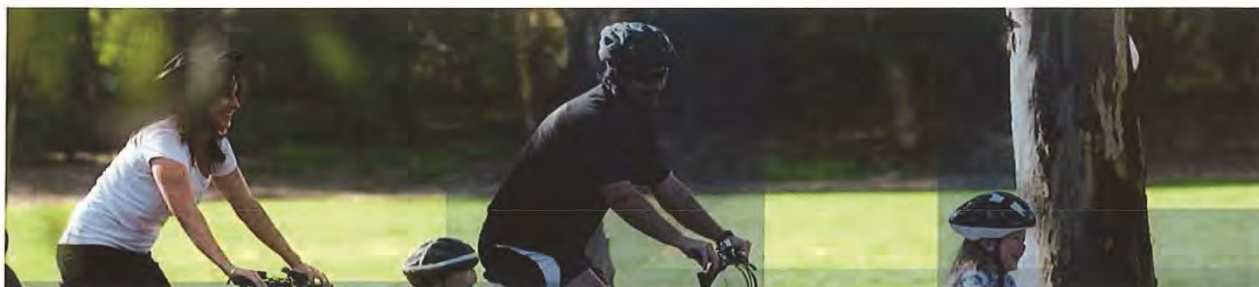
Should council nominate a local government representative or deputy for the State Bushfire Coordination Committee, the Local Government Association Board of Directors will consider nominations received at its meeting to be held on Thursday 17 September 2020.

## 10. Attachments

Attachment 1 – Nominations sought for the State Bushfire Coordination Committee (2 pages)

Attachment 2 – LGA Appointments and Nominations to Outside Bodies – Call for Nominations (1 page)

- END OF REPORT -



## Nominations sought for the State Bushfire Coordination Committee.

[Home](#)[News and Events](#)[News](#)[Latest News](#)

Nominations sought for the State Bushfire Coordination Committee.

6th July 2020

The LGA is seeking nominations for a LG representative and deputy on the State Bushfire Coordination Committee for a term commencing Friday 14 November 2020.

### State Bushfire Coordination Committee

The State Bushfire Coordination Committee is a statutory corporation to which the provisions of the [Fire and Emergency Services Act 2005](#) apply.

The State Bushfire Coordination Committee provides leadership and maintains oversight of emergency management planning in South Australia. It's vision is a "safe and strong SA through a shared commitment to resilience" which it aims to achieve by: understanding risks and how they may affect the south Australian community, encouraging sustained behavioural change across the entire community, and focusing on reducing the consequences of emergencies.

Appointments to the State Bushfire Coordination Committee are for a period of three years, commencing Friday 14 November 2020.

Four meetings per year, of 2-3 hours duration are held at metropolitan locations. Sitting fees are \$206 per session plus travel expenses.

The current local government representative is Cr Shiralee Reardon of the City of Salisbury and her deputy is Cr Heidi Greaves of the City of Onkaparinga. Both are eligible for re-appointment.

The *Fire and Emergency Services Act 2005* requires the LGA to provide a panel of three nominees from which the Minister will select the appointee and deputy. In accordance with section 36A of the *Acts Interpretation Act 1915* the panel of nominees must include at least one male and one female.

### **Changes to LGA Appointments and Nominations Processes**

In December 2019 the LGA Board of Directors endorsed a new [LGA Appointments and Nominations to Outside Bodies Policy](#), which provides for varied rigour in the examination of nominees that is commensurate with the responsibilities and strategic importance of the Outside Body.

Under the policy, the LGA Board of Directors may set selection criteria to be addressed by nominees; if selection criteria have been set these will be specified in the [Call for Nominations Information Sheet \(Part A\)](#).

The policy also enables the LGA Secretariat to maintain a Nominees Database, which will record the details of nominees who agree to be considered for other vacancies for a period of 12 months based on the nominee's preferences. [The nomination form \(Part B\)](#) asks nominees whether they want to be listed on the database.

The policy establishes a Nominations Committee of the LGA Board of Directors, which may undertake preliminary consideration of nominees and make recommendations to the LGA Board of Directors.

LGA nominations on outside bodies will, unless determined otherwise by the LGA Board of Directors, be currently serving council members or employees of a council or other local government entity. Only nominations submitted by a council, following a resolution of council, will be considered.

### **How to nominate**

The [Call for Nominations Information Sheet \(Part A\)](#) provides further information regarding the role, as well as any selection criteria to be addressed by the nominee.

The nominee and council are required to complete the [Nomination Form \(Part B\)](#) and forward to [nominationscoordinator@lga.sa.gov.au](mailto:nominationscoordinator@lga.sa.gov.au) by COB Friday 28 August 2020.

An up-to-date curriculum vitae and a response to the selection criteria (no more than 2 pages) must be supplied by the nominee – these may be submitted with the nomination form or forwarded separately by COB Friday 28 August 2020.

The LGA Board of Directors will consider nominations received at its meeting on Thursday 17 September 2020.

For further information, please contact the Nominations Coordinator, Alicia Stewart, at

Phone: 08 8224 2000 • Email: [lgasa@lga.sa.gov.au](mailto:lgasa@lga.sa.gov.au)  
148 Frome St Adelaide SA 5000 • GPO Box 2693 Adelaide SA 5001  
ABN: 83 058 386 353  
Disclosure Statement | Accessibility | Acknowledgement



## PART A

## LGA Appointments and Nominations to Outside Bodies — Call for Nominations

State Bushfire Coordination Committee	
<b>Governing Statute</b>	Section 71(2)(xiii) Fire and Emergency Services Act 2005
<b>Purpose/Objective</b>	Provides leadership and maintains oversight of emergency management planning in South Australia. Vision is a "safe and strong SA through a shared commitment to resilience" which it aims to achieve by: understanding risks and how they may affect the South Australian community, encouraging sustained behavioral change across the entire community, and focusing on reducing the consequences of emergencies.
<b>Administrative Details</b>	Four meetings are held per year with a session fee of \$206.
<b>Selection Criteria (to be addressed by applicant)</b>	<ul style="list-style-type: none"> <li>• Local government knowledge and experience</li> <li>• Experience in an area that is relevant to bushfire prevention or management</li> <li>• Respond to the purpose of the committee (as outlined above)</li> </ul>
<b>Liability and indemnity cover</b> <i>The LGA requires that persons appointed to Outside Bodies be appropriately insured throughout the period of their appointment and seeks to collect details of the insurances provided by the Outside Body on an annual basis.</i>	
<b>For more information contact:</b> LGA Nominations Coordinator at <a href="mailto:nominationscoordinator@lga.sa.gov.au">nominationscoordinator@lga.sa.gov.au</a> or 8224 2000	

## 9.6 Local Design Review Scheme - Comments

Report contact	Meeting
Steve Tilbrook, Team Leader, Planning	Council
8384 0710	
Approving officer	Date
Chris White, Director Corporate	18 August 2020

### 1. Purpose

The Office for Design and Architecture South Australia (ODASA) has prepared a new Local Design Review Scheme (the Scheme) (Attachment 1) on behalf of the Minister for Planning in collaboration with the State Planning Commission (SPC). This report has been prepared to provide Council with information about the Scheme and discusses various options for our **involvement. It also provides council's feedback on the draft Scheme** (Attachment 2), that is now being sought from ODASA by 21 August 2020.

### 2. Recommendations

1. That the draft letter at Attachment 2 to the agenda report be approved as **Council's submission on the Draft Local Design Review Scheme Feedback.**

AND

2. That Council approves Option 1, to not offer the Local Design Review Scheme, **and continues to provide design advice through council's Urban Designer.**

OR

3. That Council approves Option 2, to select a suitable consultant(s), to provide design advice for preliminary development proposals under the Local Design Review Scheme.

OR

4. That Council approves Option 3, to select a suitable Panel of experts, to provide design advice for preliminary development proposals under the Local Design Review Scheme.

OR

5. That Council approves Option 4, to select a suitable shared Panel of experts with other neighbouring councils, to provide design advice for preliminary development proposals under the Local Design Review Scheme.

### 3. Executive summary

The *Planning, Development and Infrastructure Act 2016* (PDI Act) enables South Australia's new planning system to place greater emphasis on high-quality design. One of the ways it will do this is by creating more opportunities to participate in Design Review under a new Local Design Review Scheme (the Scheme).

Design Review is a pre-lodgement service that supports high-quality design outcomes, improves access to independent design expertise and assists with informed decision-making during development assessment.

The draft Scheme sets out a consistent approach for the delivery of Local Design Review across the State and seeks to:

- support high-quality design
- improve access to independent and expert design advice early in the planning and design process
- support consistent and informed planning decisions
- facilitate collaboration between allied professionals that can positively contribute to professional development.

It is envisaged the Local Design Review Scheme will come into operation with the Phase Three Planning and Design Code (the Code) toward the end of 2020.

The draft letter in Attachment 2 contains draft comments on the Scheme, for Council's endorsement as the formal submission on the Scheme.

Recommendations 2 to 5 are in order of the administration's recommended approach to the Scheme. However, the determination on how best to proceed is ultimately a matter for Council.

## 4. Background

Community Plan 2030	<b>place:</b> liveable, connected and green <i>The adoption of a Local Design Review Scheme will assist with improved environmental and visually appealing development outcomes which directly relate to the Place theme.</i>
Policy and/or relevant legislation	<i>Planning, Development and Infrastructure Act 2016</i>
Who did we talk to/who will we be talking to	This report has been prepared with input from Development Services (Planning and Development Policy) and Projects (Urban Design).

## 5. Discussion

### Proposed Scheme summary

The Design Review is an independent evaluation process where a panel of built environment experts review the design quality of a development proposal before it is lodged for assessment.

The Design Review provides the opportunity to obtain advice (design advice) in relation to:

- the form or content of a proposed development
- how the proposed development might be changed or be improved
- other relevant matters that may assist with the assessment of the development, and/or
- other matters that may be relevant to the design of the proposed development.

The PDI Act requires that any design advice provided under the Local Design Review Scheme must be considered by the council during development assessment. If a proponent chooses not to participate in Local Design Review, no formal design advice will be provided to the proponent or the relevant authority.

The Local Design Review under the Scheme will be:

- optional for councils to make available

- available to classes of development that are yet to be specified in the Planning and Design Code before they are lodged for assessment
- voluntary for proponents
- advisory in nature only.

All councils in South Australia will have a choice whether to make Local Design Review available in their area. If so, the council will need to work with the State Planning Commission (SPC) to specify the eligible classes of development which will be identified in the Planning and Design Code. The classes of development may be identified spatially, such as by address, and/or by certain criteria, such as building height or development that affects a heritage place.

The process for including the eligible classes of development within the Code is currently being considered by the SPC and the Department of Planning, Transport and Infrastructure (DPTI). For example, it is envisaged that larger scale development will be eligible as opposed to structures such as sheds, verandas etc.

If Council decides to provide a Local Design Review, the options for consideration are:

1. to establish our own design panel
2. establish a joint design panel with other councils, or
3. **procure a design panel from an independent provider on an 'as needs' basis.**

Council may also choose not to participate and retain our current arrangements. The pros and cons of each option are discussed below.

Our existing pre-lodgement advice process

Council currently provides an informal, free pre-lodgement and lodgement service for applicants **that includes input from council's Urban Design expert, as well as planning and engineering advice. In addition, Development Services' Significant Development Forum** reviews specified development proposals with respect to building siting and design that includes materials, finishes, height, overshadowing, landscaping, bulk, scale etc.

This assessment is extremely important as an early part in the development assessment process in encouraging high-quality urban design, landscaping and built form outcomes that enhance streetscape and neighbourhood quality and desirability, particularly for residential infill and larger scale development.

In the mid-2000s, council provided an Infill Advisory Service for medium density developments where design was particularly important and medium density policy was new to our area. This **involved referral of proposed developments to a planning and design consultancy, at council's** cost, with their expert feedback used to inform officers and proponents considerations. This process was seldom used due to the lack of large-scale design applications submitted to council at the time and ceased in 2009.

Effectively we are already providing a similar service to that proposed by the Local Design Review Scheme, with the key difference that the feedback provided to applicants does not need to be formally adopted in the design of the development. This will be the case with preliminary proposals considered under the Review process.

Proposed scheme options

As noted above, the draft Scheme provides councils with flexibility for participating in the Scheme in a number of ways. These are discussed below for consideration.

1. Council may establish its own design panel
 

Registration is required under the Draft Scheme. Council is required to recruit panel members with tertiary qualifications in Architecture, Ecologically Sustainable Design, Landscape Architecture or Urban Design with a minimum of 10 years professional experience. Successful Panel Members need to complete an induction program. It is not clear from the draft Scheme how many Panels members are required.

2. A group of councils may establish a joint design panel

Council (or a group of councils) who establish their own design panel to carry out a Local Design Review will require resourcing to service the administration of the design panel. This **also includes the need to be 'registered', undertake recruiting of panel members, training panel members, accepting and processing applications for the Local Design Review, the review process and collect data on all projects that undergo Local Design Review.**

We have contacted the three adjoining metropolitan councils (Cities of Marion, Holdfast Bay and Mitcham) and the four adjoining outer metropolitan councils (Yankalilla District Council, Alexandrina Council, Adelaide Hills Council and Mount Barker District Council) to survey interest in forming a joint design panel. There was little to no interest.

3. Council may procure a design panel from an independent provider (consultant) on an 'as needs' basis.

This flexibility is designed to provide councils with options when considering the availability of Local Design Review.

4. Council decides not to make Local Design Review available in our area.

Council may choose to retain the current arrangements, as we already provide an in-house service for applicants as discussed above. Should there be an increased uptake of the existing service this may have implications for the Urban Designer role which could require additional resourcing. This impact will need to be assessed once the new planning system comes into effect (late 2020).

It is important to note that the Scheme requires that the advice provided under the Scheme is formally considered in the assessment of any subsequent development application.

Our current design advice does not have any statutory authority and it is unclear whether we will still be able to internally review the urban design quality of a development should the applicant not seek a Local Design Review. However, given the focus of the Planning and **Design Code on urban design, it is likely that council's internal Urban Designer can review and provide advice that applicants should incorporate into the design.**

If council decides not to establish their own Local Design Review panel, we will still need to engage an independent provider if an application for Local Design Review is made, but council would not to be registered in the scheme.

### Recommended options

#### Option 1 – Maintain the status quo of using internal Urban Design advice.

Council currently refers development applications requiring urban design advice to our qualified Urban Designer, with feedback consistent with the Development Plan provided to the developer to incorporate in an amended proposal. This process has to date resulted in most of the urban design recommendations being incorporated into the proposal.

There is no cost to council if this option is selected, subject to a review of staffing implications based on the uptake of the service once the Code commences. However, Council will not formally offer the Local Design Review Scheme and therefore design feedback is not formally involved in the development assessment process, which based on the optional status of the Scheme, may not be pursued by applicants in any case.

As such, staff recommend this option to Council for consideration.

#### Option 2 – Council engage an independent consultancy

With this option a primary consultant would be selected, along with a secondary firm(s) to ensure the service is available at all times, in the case where very specific advice is sought

(for landscaping design only for example) and in the case where the selected firm has a conflict of interest. The firms engaged would need to show they have various areas of expertise so we could specify the type of advice being sought relevant to a specific proposal (for example, landscaping or building design, specific architectural considerations for coastal areas etc).

Based on the kind and type of developments experienced within the council area, it is unlikely that there will be a large take up for preliminary proposals to be considered under the Local Design Review Scheme. However, it is important for council to provide this option for those developers seeking to establish a high pedigree of development within the City of Onkaparinga and therefore the second option would be for council to engage an independent **provider on an 'as needs' basis to undertake the review of development** proposals.

This option is considered by staff to be efficient as the proposal would be forwarded to the successful provider and would also be more cost effective for council when compared to a panel of experts who would need to be contracted.

As such, staff would recommend this option as a second choice to Council for consideration.

#### Option 3 – Council-established Local Design Review Panel

This option involves establishing a Panel of design experts to undertake the review of preliminary development proposals of certain forms. Further details will need to be resolved such as the number of Panel members, how often meetings are held etc.

This option is likely to be the costliest depending on number of members and their fees and may not be nimble enough to respond to requests in a timely manner due to organising consultants.

Whilst this approach would require a meeting of multiple consultants to be arranged, it would enable staff to tailor the assessment panel to best respond to the needs of the particular proposal, and may allow for a wider spectrum of professional consultant input rather than relying on the views of a single consultancy.

As such, it is considered that this option has less merit when compared to options 1 and 2 above.

#### Option 4 – Joint Panel with other councils

We have contacted the seven adjoining metropolitan and outer-metropolitan councils to understand if there is interest in forming a shared panel.

The City of Holdfast Bay is preferring to have its own Panel based on the unique design requirements of Holdfast Bay.

The City of Mitcham is yet to form a position on a joint Panel with other councils, but is open to this if it can be negotiated and works efficiently for the councils involved.

Alexandrina Council is unlikely to seek establishment of a joint panel based on lack of development proposals that would require Local Design Review.

At the time of writing this report, no other councils had responded.

As such, staff are not able to recommend this option to council at this time.

## Cost and Resourcing

Option 1 – In house	Resourcing	Cost
Advice provided to applicants <b>by Council's qualified Urban Designer</b>	In-house	Nil (subject to a review of the uptake of this service following commencement of the Design Code)
Option 2 – Consultancy	Resourcing	Cost
Call for tender, administrative processes and consultant selection	In house (referral)	-
Potential consultant rates per design review	3hours/site visit x \$200 p/h	\$600 (3hours/site visit x \$200 p/h) per proposal (estimate)
Potential number of design review requests x cost	Consultant – 10 to 20 design reviews per annum x 3hours/site visit x \$200 p/h = \$6,000 - \$12,000 (estimate)	\$6,000 - \$12,000 (estimate)
Total cost		\$6,000 - \$12,000
Option 3 – Council Panel	Resourcing	Cost
Call for nominations, administrative processes and Panel member selection	In house	-
Potential Panel member rates per design review meeting	In house (referral)	\$400 (2hours/site visit x \$200 p/h) per proposal for 3 Panel members = \$1200 per meeting (estimate)
Potential number of design review requests x cost	Panel - 10 to 20 design reviews per annum x 2hours/site visit x \$200 p/h x 3 Panel members = \$12,000 - \$24,000 (estimate)	\$12,000 - \$24,000 (estimate)
Total cost		\$12,000 - \$24,000
Option 4 – Shared Panel	Resourcing	Cost
Call for nominations, administrative processes and Panel member selection shared between councils	In house	-
Potential Panel member rates per design review meeting	In house (referral)	\$400 (2hours/site visit x \$200 p/h) per proposal for 3 Panel members = \$1200 per meeting (estimate) potentially shared between participating councils depending on agenda items, unknown at present.
Potential number of design review requests x cost	Panel - 10 to 20 design reviews per annum for City of Onkaparinga x 2hours/site visit x \$200 p/h x 3 Panel members = \$12,000 - \$24,000 (estimate)	\$12,000 - \$24,000

## Feedback on the Local Design Review Scheme

The proposed Local Design Review Scheme is considered a positive initiative by ODASA in improving urban design outcomes for new development.

Details of the forms of development that the Local Design Review Scheme will consider are required and staff welcome the opportunity to discuss these with State Planning Commission (SPC) as it is noted that the same forms of development requiring design input in the CBD will be different to those in the City of Onkaparinga. It is suggested the forms of development requiring design advice within our council area should include medium density multi-level dwellings, mixed-use developments (combining residential and commercial), medium/large residential subdivisions, cellar doors, tourism facilities, and industrial and commercial development.

The scheme is voluntary which will likely see some developers, who are not seeking the best design outcome, bypass this opportunity. The SPC should consider making the design review mandatory for some forms of development in order to achieve improved outcomes for the environment and community.

The lodgement costs associated with the Scheme will be **council's responsibility for which a fee** is yet to be set. The SPC should consider making all the fees for this service on a user-pays basis, however it is acknowledged that applicants are not likely to want to pay if the service is not compulsory. A user-pays system may be appropriate if the scheme was compulsory or if there were another benefit for the applicant, for example if the assessment path was made quicker and easier (noting that planning requirements, not just design, will need to be satisfied) for those applications that have gone through the Local Design Review Scheme and the feedback provided wholly incorporated into the submitted application.

A user-pays Scheme should be applicable where council has engaged an external consultant or a review panel of experts to undertake the design review. Additional fees should not be applicable if council staff are assessing the design of a proposal.

There appears to be no guidance in the draft Scheme on the number of Panel Members required to form a Local Design Review Panel. From a functionality perspective any more than three Panel Members may be difficult to obtain, in particular for the more remote metropolitan councils, such as Onkaparinga.

Clarity is sought on the role of internal council staff, such as urban designers and the like, should an applicant not seek a development be reviewed under the Scheme on whether can design advice still be provided informally for applicants to consider, which occurs now under the Development Act system.

In relation to council engaging a consultant to undertake its Reviews several firms should be nominated for specific advice and in the case of a conflict of interest scenario.

Should council choose not to provide a design review option under the Scheme now, is there an opportunity for this to be commenced at a later date.

## 6. Financial implications

### Financial summary

Item	\$	Comment
<b>Current budget</b>		
Current budget allocation	In kind	Costs captured within Development Services and Assets (Urban Designer) budgets.
Funding required	Nil	Option 1 – existing in house resource, subject to review of the uptake of this service following commencement of the Design Code.
External funding	N/A	N/A
Budget impact	Nil	Option 1 - depends on the demand for the service and implication on Urban Designer function.
FTE	Nil	N/A
<b>Next year's budget</b>		
Funding required	Nil	Option 1 - Depends on the demand for the service.
Funding source	General	
Rate rise impact	Negligible	
FTE	Negligible	

## 7. Risk and opportunity management

Risk	
Identify	Mitigation
Reputation/community expectation	Option 1 will mean council do not formally offer the design Review Service but will still provide the function to assist development assessments from our urban designer. If Option 2 or Option 3 is pursued council will be meeting the expectations of the SPC and community by offering a design Review Service for development.
Political	If a Local Design Review Scheme is not adopted council may be open to criticism in not providing expert review of development designs, noting that this is provided internally in any case.
Environment	If Option 1, Option 2 or Option 3 is pursued council will be meeting the expectations of the SPC and community by offering a design review for development the ensures improved environmental outcomes through urban design.
Compliance/legal	Under the Planning and Design Code council will have an increased responsibility to ensure the level of urban design is improved for new development.

Influence on Development	Current advice provided by council does not have statutory authority. If Council adopts the Local Design Review scheme, advice from this process will carry statutory authority, forming part of <b>council's</b> development assessment.
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Opportunity	
Identify	Maximising the opportunity
Build improved relationships with applicants so they understand the benefits of improved urban design outcomes	Design Review will provide opportunity for positive lessons learned from each review and will provide ongoing knowledge for return developers to learn from and implement improvements in future projects.
Design Review will result in buildings that harmonise with the environment and the streetscape.	Comments provided from the Review are to be taken into consideration during the development assessment process. Key urban design outcomes, such as orientation and improved streetscape impacts, will result in more sustainable buildings that complement the urban environment.

## 8. Timelines and deadlines

Council comments to the State Planning Commission are due 21 August 2020. Implementation of the Local Design Review Scheme is proposed when Phase Three of the Planning and Design Code commences in late 2020.

## 9. Next steps

If Option 1 is approved, next steps will be:

- Council comments forwarded to SPC by 21 August 2020.
- No further action as resource exists internally.

If Option 2 is approved, next steps will be:

- Council comments forwarded to SPC by 21 August 2020.
- **Prepare consultant's brief.**
- Tender the project (for implementation after commencement of the Code and Scheme in late 2020).

## 10. Attachments

Attachment 1 – Draft Local Design Review Scheme (24 pages)

Attachment 2 – Local Design Review Scheme Feedback letter (3 pages)

- END OF REPORT -

# Local Design Review Scheme for South Australia

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→ **OUR  
NEW  
SYSTEM**

Draft for Consultation

June 2020



**Government of South Australia**  
Department of Planning,  
Transport and Infrastructure

**OFFICE FOR  
DESIGN+  
ARCHITECTURE** 



*Design Review is a pre-lodgement service that supports high-quality design outcomes, improves access to independent design expertise and assists with informed decision-making during development assessment.*



Image by Sam Noonan

Design quality of the built environment not only relates to the 'look and feel' of buildings and places, but how successfully they meet the needs of the people who use and experience them. High-quality design helps to make buildings and places better for people, our environment and economy.

The *Planning, Development and Infrastructure Act 2016* enables South Australia's new planning system to place greater emphasis on high-quality design. One of the ways it will do this is by creating more opportunities to participate in Design Review under a new Local Design Review Scheme (the Scheme).

This draft Scheme sets out consistent procedural requirements for councils who wish to provide Local Design Review within their communities, as well as independent Design Review providers.

The Office for Design and Architecture South Australia (ODASA) has prepared the draft Scheme on behalf of the Minister for Planning in collaboration with the State Planning Commission, council staff from across the State and peak industry bodies who might provide Local Design Review.

Feedback on the draft Scheme is now being sought from councils, industry professionals and any other interested parties. It is envisaged the Local Design Review Scheme will come into operation with the Phase Three Planning and Design Code.

A consultation guide has been prepared to provide additional background information for the draft Local Design Review Scheme.

Cover image by Sam Noonan

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## 1. Introduction

### 1.1. Legislative Context

Section 121 of the *Planning, Development and Infrastructure Act 2016* (the **Act**) enables the Minister for Planning (the **Minister**) to establish a design review scheme (the **Scheme**), where a person who is considering undertaking types of development specified in the Planning and Design Code may apply to a design panel for design advice.

It is intended that design review under this Scheme be available to development proposals that will be assessed by local relevant authorities in South Australia.

### 1.2. Design Review

Design Review is an independent evaluation process where a panel of built environment experts (a **design panel**) review the design quality of a development proposal before it is lodged for assessment. Design Review is most effective when undertaken early in the planning and design process to effect positive change during design development. Proponents are typically encouraged to participate in more than one Design Review session.

The role of Design Review is not to redesign development proposals, but rather to identify and discuss opportunities to encourage high-quality design. In particular, Design Review provides the opportunity to obtain advice (**design advice**) in relation to:

- a) the form or content of a proposed development;
- b) how the proposed development might be changed or improved;
- c) other relevant matters that may assist with the assessment of the development; and/or
- d) other matters that may be relevant to the design of the proposed development.

The design advice is a summary of the Design Review session and is provided to the proponent to assist with design development. The design advice is also provided to the relevant authority when the development application is lodged so that it may be subsequently used for the purposes of development assessment.

The Act requires that any design advice provided by a design panel under this Scheme must be taken into account by the relevant authority when it is undertaking its assessment of the relevant development (insofar as may be relevant to the assessment of the proposed development by the relevant authority).



### 1.3. Principles of Design Review

It is important that Design Review is carried out using a robust process and that it offers consistently high standards in the quality of advice. Design Review under this Scheme is informed by the following Principles of Design Review:

- a) **Independent**  
Design Review should be conducted by people who are not connected with the proponent or decision-makers so as to avoid any conflicts of interest.
- b) **Expert**  
Design Review should be carried out by appropriately experienced design experts who have training in delivering constructive feedback. Design advice is most effective when carried out by the professional peers of project designers.
- c) **Multidisciplinary**  
Design Review should combine the perspectives of architects, landscape architects, urban designers and other specialist experts to provide a complete and rounded assessment.
- d) **Accountable**  
A design panel and its advice should be clearly seen to be supporting the public's interest.
- e) **Transparent**  
Information about Design Review, panel membership, funding and governance should be available to the public.
- f) **Timely**  
Design Review should take place as early in the design process as possible so as to effect positive change during design development and to avoid reworking.
- g) **Advisory**  
A design panel should not make decisions or give direction; it offers impartial advice and recommendations to the panel Chair and to the proponent.
- h) **Objective**  
Design Review should appraise development proposals according to reasoned and objective principles, rather than stylistic tastes or subjective opinion.
- i) **Accessible**  
The recommendations arising from Design Review should be expressed in terms that design teams, decision-makers and proponents can clearly understand and apply.

#### 1.4 Principles of Good Design

Design Review under this Scheme and the resulting design advice must be guided by South Australia's *Principles of Good Design* as published in the *design quality policy* under section 59 of the Act.

The Principles of Good Design are:

- a) **Context**  
Good design is contextual because it responds to the surrounding environment, and contributes to the existing quality and future character of a place.
- b) **Inclusive**  
Good design is inclusive and universal because it creates places for everyone to use and enjoy, by optimising social opportunity and equitable access.
- c) **Durable**  
Good design is durable because it creates buildings and places that are fit for purpose, adaptable and long-lasting.
- d) **Value**  
Good design adds value by creating desirable places that promote community and local investment, as well as enhancing social and cultural value.
- e) **Performance**  
Good design performs well because it realises the project's potential for the benefit of all users and the broader community.
- f) **Sustainable**  
Good design is sustainable because it is environmentally responsible and supports long-term economic productivity, health and wellbeing.

### 1.5 Objects of the Scheme

The objects of this Scheme are to—

1. Support development that demonstrates high-quality design.
2. Improve access to independent and expert design advice early in the planning and design process.
3. Support consistent and informed planning decisions.
4. Support South Australia's planning system meet the objects of the Act in section 12, including to—
  - a) support and enhance the State's liveability and prosperity in ways that are ecologically sustainable and meet the needs and expectations, and reflect the diversity, of the State's communities by creating an effective, efficient and enabling planning system;
  - b) promote certainty for people and bodies proposing to undertake development while at the same time providing scope for innovation; and
  - c) promote high standards for the built environment through an emphasis on design quality in policies, processes and practices, including by providing for policies and principles that support or promote universal design for the benefit of people with differing needs and capabilities.
5. Demonstrate practical application of the *Principles of Good Planning* identified in section 14 of the Act, particularly—
  - a) high-quality design;
  - b) activation and liveability; and
  - c) sustainability.

### 1.6 Operation

This Scheme will come into operation on [date to be determined].

## 1.7 Interpretations

In this Scheme, unless the contrary intention appears—

**Act** means the *Planning, Development and Infrastructure Act 2016*;

**applicant** means a proponent who has submitted an application for design review under this Scheme;

**Chief Executive** means the Chief Executive of the Department of Planning, Transport and Infrastructure;

**code of conduct** means the code of conduct referred to in Part 7 of this Scheme;

**Commission** means the State Planning Commission;

**constituent council** means a council that has obtained, or that is a member of a group of councils that have obtained, the registration as a Local Design Review Administrator under this Scheme;

**council** means a council constituted under the *Local Government Act 1999*;

**Department** means the Department of Planning, Transport and Infrastructure;

**design panel** means one or more design panel members (including the panel Chair) selected for a design review session;

**design review session** means the design review of a proposed development;

**designated entity** means a Local Design Review Administrator or Independent Design Review Administrator;

**Government Architect** means the South Australian Government Architect;

**Independent Design Review Administrator** means the person or body recognised by the Department to administer design review under this Scheme;

**Local Design Review Administrator** means the council or group of councils recognised by the Department to administer design review under this Scheme;

**Minister** means Minister for Planning;

**panel Chair** means the Chair of a design panel;

**panel member** means a member of a design panel (including the panel Chair);

**panel member pool** means one or more pre-qualified panel members from which a design panel is selected;

**proponent** means a person, persons or body considering the undertaking of development;

**registered architect** means a person who is registered as an architect under the *Architectural Practice Act 2009*;

**relevant authority** means any relevant authority under section 82 of the Act.

**Note:** Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in an instrument made under an Act has, unless the contrary intention appears, the same meaning as in the Act under which the instrument was made.

## 2. Establishing Design Review

### 2.1. Development to which this Scheme will apply

Design review under this Scheme will be available to any class of development specified by the Planning and Design Code.

### 2.2. Relevant Designated Entity

If a council determines to make design review available in its area by participating in this Scheme, design review in its area will be carried out—

- (a) if the council is a constituent council – by a design panel supplied by the constituent council's Local Design Review Administrator; or
- (b) in any other case – by an Independent Design Review Administrator in accordance with the provisions of this Scheme.

### 2.3. Registration as a Designated Entity

1. The Chief Executive Officer of a council, or a group of two or more Chief Executive Officers of councils, may seek registration as a Local Design Review Administrator for the purposes of this Scheme.
2. A person, body or any other appropriate entity, including a professional association, or a group of two or more professional organisations, may seek registration as an Independent Design Review Administrator for the purposes of this Scheme.
3. An application for registration as a designated entity must—
  - a) be made to the Chief Executive; and
  - b) be in the approved form determined by the Chief Executive; and
  - c) include any information specified in the approved form; and
  - d) be accompanied by any registration fee under the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*.
4. The Chief Executive may, as the Chief Executive thinks fit, accept or refuse any application for registration as a designated entity under this Scheme.
5. Registration under this Scheme will be for a period of 3 years and may be renewed by the Chief Executive from time to time on a new application for registration under this Scheme.
6. The Chief Executive must ensure that a record of current designated entities and their panel members is maintained on the SA planning portal.

## 2.4 Design Panel Membership

1. Each designated entity may establish one panel member pool under this Scheme.
2. All persons within a panel member pool established by a Local Design Review Administrator must be independent from the council and any relevant authority appointed by that council.
3. Each design panel must have a panel Chair.
4. Where a design panel is made up of one person, this person will be taken to be the panel Chair.
5. Where the proposed development includes built form, the panel Chair must be a registered architect.

## 2.5 Design Panel Selection Process

1. The panel member selection process for any designated entity must be advertised publicly, including on the SA planning portal, for a minimum of 15 business days.
2. All panel members and Chairs must have at least—
  - a) a tertiary degree in a relevant field, such as—
    - i. Architecture;
    - ii. Ecologically Sustainable Design;
    - iii. Landscape Architecture;
    - iv. Urban Design; and
  - b) 10 years of professional experience relating to that field.
3. The designated entity must be satisfied that—
  - a) in addition to the competencies in section 2.5.2, a successful panel member is highly experienced within their field; and
  - b) the panel member pool provides a sufficient representation of the expert skills required for design review; and
  - c) panel Chairs can fulfil the responsibilities outlined in Part 4.3 to a high standard.
4. The designated entity must provide the names of the successful applicant(s) to the Chief Executive within 10 business days of the applicant(s) being notified of the outcome of their application(s).

**2.6. Engagement of Panel Members**

1. The designated entity must provide each panel member with a contractual agreement.
2. A contractual agreement provided under this section must be accompanied by a copy of the code of conduct requirements under Part 7 of this Scheme.
3. The designated entity must ensure contracts for panel members are current and valid.

**2.7. Induction of Panel Members**

All panel members must complete an induction program prepared in accordance with the Government Architect guidelines prior to being involved in design review under this Scheme.

**2.8. Administrative Requirements**

A designated entity must have sufficient resources to meet the requirements outlined in this Scheme.

### 3. Preparing for Design Review

#### 3.1. Documentation

1. The Chief Executive must ensure that the information required from a proponent to apply for design review under this Scheme is published on the SA planning portal.
2. The Chief Executive must ensure that the application form for design review under this Scheme is published on the SA planning portal.

#### 3.2. Application Process

1. A proponent who is seeking to participate in design review under this Scheme must apply to the council before lodging their development application with the relevant authority.
2. The application must—
  - a) be in the form approved by the Commission; and
  - b) include any information specified in the approved form; and
  - c) be lodged via the method outlined in the approved form; and
  - d) be accompanied by any relevant fee prescribed by the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*.
3. The council may require an applicant—
  - a) to provide such additional documents or information as may be reasonably required to assess the application; and
  - b) to remedy any defect or deficiency in any application or accompanying document or information required under this Scheme.
4. If an application for design review under this Scheme is made in relation to a class of development specified in the Planning and Design Code, the council must approve the application for design review.
5. If the council is not a constituent council, the council must forward the application and accompanying information to an Independent Design Review Administrator, taking into account the kind of development to which the application relates, and request that they supply a design panel.
6. After receiving a request for a design panel from a council, the Independent Design Review Administrator must take all reasonable steps to establish a design panel for the council within 5 business days.

## 4. Undertaking Design Review

### 4.1. Role of the Designated Entity

A designated entity must, on receiving a valid application for design review under this Scheme—

- a) establish a suitable design panel for the design review session from their panel member pool; and
- b) coordinate panel member and Chair attendance (and panel members and Chairs should, so far as reasonably practicable, be the same persons when undertaking multiple reviews for the same project); and
- c) assist panel members and Chairs to identify any conflicts of interest and maintaining a register of any such conflicts; and
- d) coordinate proponents and other stakeholder attendance; and
- e) coordinate and distribute design review session agendas; and
- f) prepare and provide the design panel briefing prior to the design review session; and
- g) coordinate preparation of the design review venue; and
- h) assist the panel Chair to minute the discussion from the design review session.

### 4.2. Role of the Design Panel

1. The design panel established for each design review session must have an understanding of local design and planning challenges, opportunities and priorities, commercial viability and government policy relevant to the proposal.
2. Panel members must—
  - a) make themselves available for design review sessions where practicable; and
  - b) review the design review agenda and briefing notes prior to the design review session; and
  - c) identify any conflicts of interest, inform the designated entity of any such conflicts before the design review session, and not participate in any design review session where a conflict exists; and
  - d) be objective when reviewing projects; and
  - e) provide constructive feedback (whether supportive or critical); and
  - f) treat all information acquired through performing any function relating to this Scheme confidentially.



### 4.3. Role of Design Panel Chair

In addition to the responsibilities in section 4.2, the panel Chair must—

- a) welcome attendees and begin the design review session; and
- b) facilitate the design review session in an objective and considerate manner; and
- c) demonstrate strong critical and analytical skills; and
- d) communicate clearly in an accessible manner; and
- e) respectfully manage panel members, proponents or other stakeholders who express strong or conflicting opinions; and
- f) synthesise and summarise disparate or conflicting views; and
- g) summarise the panel discussion in a clear and concise manner; and
- h) close the design review session.

## 5. Design Advice

### 5.1. Preparing Design Advice

1. The panel Chair must prepare the design advice arising from the design review session.
2. The design advice must be in the format approved by the Chief Executive and—
  - a) be an accurate summary of the design review session; and
  - b) where possible, use clear and accessible language; and
  - c) include the design review session number; and
  - d) specify the date on which the design review session occurred; and
  - e) reference any design advice resulting from previously undertaken design review sessions for the relevant development proposal; and
  - f) outline the design panel's involvement with the project, including any site visits; and
  - g) include the contact information of the council; and
  - h) remain confidential.

### 5.2. Provision of Design Advice

1. The panel Chair must finalise the design advice and provide a copy to the designated entity as soon as practicable after signing the design advice.
2. Where design review is carried out by an Independent Design Review Administrator, the council must provide a copy of the signed design advice to the proponent.
3. It is intended that a copy of the signed design advice be provided to the proponent within 10 business days after the design review session.

### 5.3. Correction of Errors

If design advice is found to contain an error, the designated entity may withdraw it and request it be corrected by the panel Chair, and then re-issue it. The report must retain its original date and be clearly marked with an explanation of reissue.

#### 5.4. Lodging Design Advice with a Development Application

1. The proponent must provide a complete copy of the most recent design advice and previous iterations of design advice, if there have been two or more design review sessions, to the relevant authority when submitting their development application.
2. The proponent must include a response to the design advice, including a summary of any changes made to the proposal since the most recent design review session.
3. The council should undertake a concurrence check of the proponent's response to the design advice and the lodged development application before assessment, and alert the relevant authority of discrepancies.

#### 5.5. Status of the Design Advice in the Planning System

1. In considering a development application that was subject to design review under this Scheme, the relevant authority must take into account the design advice (insofar as may be relevant to the assessment of proposed development by the relevant authority).
2. The relevant authority should consider how the lodged proposal has responded to the design advice provided by the design panel.

## 6. Monitoring, Performance and Complaints

### 6.1. Annual Evaluation

1. The designated entity must undertake an annual evaluation on the impacts and benefits of design review in a format determined or approved by the Government Architect.
2. Each annual evaluation will relate to a financial year.
3. To undertake the evaluation, the designated entity must collect data on each project that was the subject of design review in the relevant year including—
  - a) the class of development; and
  - b) the address or site of the proposed development; and
  - c) any relevant planning zone, subzones and overlays; and
  - d) the estimated development cost; and
  - e) the Panel members and Chair; and
  - f) the number of design review sessions undertaken; and
  - g) project status as at the end of the financial year (if known); and
  - h) any other information that the Government Architect thinks fit.
4. The designated entity must provide the complete evaluation report to the Government Architect within three months of the end of the financial year.

### 6.2. Feedback

A proponent may provide feedback to the council on their experiences of design review under this Scheme, the quality of the design advice they received, and the impact it had on the final outcome.

### 6.3. Data Storage

Designated entities and councils participating in this Scheme must store all data collected under this Scheme securely and take such steps as may be reasonably necessary or appropriate to keep it confidential.

#### 6.4. Complaints

1. A proponent may lodge a complaint to the designated entity under this Scheme, if the proponent—
  - a) believes that the designated entity failed to comply with, or acted in contravention of, the Act or any regulations under the Act with respect to any matter associated with this Scheme; or
  - b) believes that there has been a breach of the code of conduct; or
  - c) believes that the written design advice is not an accurate representation of the discussion from the design review session.
2. A complaint made under this Scheme must—
  - a) be made in the form approved by the designated entity; and
  - b) contain particulars of the allegation on which the complaint is based; and
  - c) include any other information specified by the designated entity.
3. The designated entity may refuse to investigate a complaint or, having accepted a complaint for investigation, may refuse to investigate it further, if it appears that—
  - a) the matter raised by the complaint is trivial; or
  - b) the complaint is frivolous or vexatious or is not made in good faith; or
  - c) it would be more appropriate for proceedings to be initiated in a court or tribunal constituted by law, or for the matter to be handled by another authority; or
  - d) there is some other good reason not to proceed (or further proceed) with the matter under this Scheme.
4. While no action may be brought against a panel member on the basis of any advice or other action given or taken by a design panel under section 121(8) of the Act, the designated entity may, at the conclusion of any complaints resolution process—
  - a) decide to take no further action on the complaint; or
  - b) undertake any consultation or further inquiry as the designated entity thinks fit; or
  - c) amend the design advice; or
  - d) make recommendations to the panel member; or
  - e) caution or reprimand the panel member; or
  - f) recommend that a person no longer hold office as a panel member under this Scheme; or
  - g) take such other action as the designated entity thinks fit.

## 7. Code of Conduct

### 7.1. Introduction

This Part provides for standards of conduct and professionalism that are to be observed by all persons and bodies operating under the Act.

For the purposes of the Act, all persons and bodies performing a function under this Scheme must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of the design review scheme under the Act.

A designated entity may also develop and maintain other code of conduct requirements for the purposes of this Scheme.

These standards and requirements constitute a code of conduct and must be read in conjunction with the requirements under the Act.

### 7.2. Requirements under the Act

All persons or bodies operating under this Scheme are subject to a statutory duty under section 15 of the Act as follows:

- (1) *It is expected that a person or body that—*
  - (a) *seeks to obtain an authorisation under this Act; or*
  - (b) *performs, exercises or discharges a function, power or duty under this Act; or*
  - (c) *takes the benefit of this Act or is otherwise involved in a process provided by this Act,**will—*
  - (d) *act in a cooperative and constructive way; and*
  - (e) *be honest and open in interacting with other entities under this Act; and*
  - (f) *be prepared to find reasonable solutions to issues that affect other interested parties or third parties.*
- (2) *Without limiting subsection (1), a person or body performing, exercising or discharging a function, power or duty under this Act must—*
  - (a) *exercise professional care and diligence; and*
  - (b) *act honestly and in an impartial manner; and*
  - (c) *be responsible and accountable in its conduct; and*
  - (d) *comply with any code of conduct, service benchmark or other requirement that applies in relation to the person or body.*
- (3) *The Minister may, after taking into account the advice of the Commission, establish and maintain service benchmarks for the purposes of this section.*
- (4) *The principles and benchmarks under this section—*
  - (a) *do not give rise to substantive rights or liabilities; but*
  - (b) *may lead to action being taken on account of a breach of a code of conduct or professional standard that applies in relation to a relevant person or body.*

## Have your say

The draft Local Design Review Scheme is available for public comment until Friday 21 August 2020.

Feedback received will help to finalise the Local Design Review Scheme for South Australia.

Please ensure you provide your feedback on the draft Scheme through any of the following channels:

- **Email:** [DPTI.ODASAconsultation@sa.gov.au](mailto:DPTI.ODASAconsultation@sa.gov.au)
- **Online:** [yoursay.sa.gov.au/local-design-review-scheme](https://yoursay.sa.gov.au/local-design-review-scheme)
- **Post:** ODASA Consultation, 28 Leigh Street, Adelaide SA 5000

If you would like to speak with someone about Local Design Review, please contact the Office for Design and Architecture South Australia (ODASA) on 8402 1884 during business hours (9am – 5pm, weekdays).

For more information about South Australia's new planning system, please visit the SA Planning Portal ([sapanningportal.sa.gov.au](https://sapanningportal.sa.gov.au)).



**Government of South Australia**  
Department of Planning,  
Transport and Infrastructure

**OFFICE FOR  
DESIGN+  
ARCHITECTURE** 

From the office of the Mayor  
City of Onkaparinga

Attachment 2

Your Ref:

Our Ref: 5224381

19 August 2020

[DPTI.ODASAcconsultation@sa.gov.au](mailto:DPTI.ODASAcconsultation@sa.gov.au)

Dear Sir/Madam

### **DRAFT LOCAL DESIGN REVIEW SCHEME FEEDBACK**

Thank you for the opportunity to provide feedback on the draft Local Design Review Scheme. This submission was approved by Council at its meeting of 18 August 2020.

Council acknowledges and supports the proposed benefits of such a Scheme to encourage high quality design to make buildings and places better for people, our environment and economy.

Council would like to provide the following comments to ensure the Scheme is as effective as envisaged.

#### Effectiveness

The City of Onkaparinga currently provides a free pre-lodgement service for applicants that includes input from council's Urban Design expert. In addition, our Development Services section coordinates the Significant Development Forum (SDF) that reviews specific development proposals to consider design elements that include use of materials, finishes, height, overshadowing, landscaping, bulk, scale, landscaping etc.

This is an important part of the development assessment process in encouraging high-quality urban design, landscaping and built form outcomes that enhance streetscapes and neighbourhood quality and desirability, particularly for residential infill and larger scale development.

We note that a benefit of the Scheme provides that the advice provided by a Panel is required to be considered in the assessment of any subsequent development application. Our current pre-lodgement advice does not have that statutory authority.

However, we would consider that as a voluntary Scheme (and the cost of participating in the Scheme may influence some applicants' willingness to take part) it may not be taken up by applicants with development proposals that council would consider benefiting from



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PO Box 1  
Noarlunga Centre  
South Australia 5168  
[www.onkaparingacity.com.au](http://www.onkaparingacity.com.au)

Noarlunga office  
Ramsay Place  
Noarlunga Centre  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

Aberfoyle Park office  
The Hub  
Aberfoyle Park  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

Willunga office  
St Peters Terrace  
Willunga  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

Woodcroft office  
1/5 Bains Road  
Marphett Vale  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

the Scheme. In these cases, council would still be able to carry out its own design review and early assessment via our SDF and continue to provide that role.

Related to this, it is noted that the Design Review Panel consists of professionals with qualifications in architecture, urban design, landscape architecture, but not planning. We consider that if the panel makeup does not include planners with a focus on planning issues such as setbacks, height, private open space and other planning matters that proposals may not be reviewed in a holistic way, as is currently the case with council's SDF.

#### Need for multiple consultants to undertake Reviews on council's behalf

If Council were to engage a consultant to undertake its Reviews, two or more firms should be nominated to ensure a broad cross-section of expertise for specific advice, and in the case of any conflict of interest scenario.

#### Applicable development

We consider that if the Scheme is to be as effective as possible, it should be compulsory for certain classes of development. This may be according to scale, location, context, character or heritage matters. It is difficult to estimate how effective the Scheme will be in attracting participation by proponents not knowing what the applicable classes of development are.

We also would like clarification or further discussion as to how the Scheme applies to merit or performance-assessed development.

#### Fees

If the Scheme were made compulsory for certain forms of development we also consider that fees for the service should be paid by the applicant.

#### Panel composition

There appears to be no guidance in the draft Scheme on the number of Panel Members required to form a Local Design Review Panel. From a functionality perspective any more than three Panel Members may be difficult to obtain, in particular, for the more remote metropolitan councils, such as Onkaparinga.

#### Timing

Should council decide not to offer the Scheme, clarification is required if Council can join the scheme at a later date.

#### Additional option

A state-wide service provided by ODASA and/or DPTI/SPC is a further option that may be worthy of exploring, similar to that provided by ODASA for SCAP-assessed proposals.

Council's preferred Option

At its meeting of 18 August 2020, Council resolved to support Option 1 (to be updated depending on decision).

We trust that you find this feedback constructive. We welcome the opportunity to discuss the matters raised in our submission or provide further explanation.

Please contact Steve Tilbrook, Team Leader Planning on 8301 1710 or [Steven.Tilbrook@onkaparinga.sa.gov.au](mailto:Steven.Tilbrook@onkaparinga.sa.gov.au) if you would like to discuss further.

Yours sincerely

Erin Thompson  
**Mayor**

## 9.7 Delegations Update

Report contact	Meeting
Kim Vrankovic, Senior Corporate Governance Officer	Council
8384 0554	
Approving officer	Date
Christopher White, Director Corporate	18 August 2020

### 1. Purpose

This report provides delegations for the new *Landscape South Australia Act 2019* and *Landscape South Australia (General) Regulations 2020* and updated delegations for the *Fire and Emergency Services Act 2005* and the *South Australian Public Health Act 2011* and seeks delegation of these powers and functions from Council to the Chief Executive Officer (CEO).

This report also seeks to update Council's current authorisations under the *Road Traffic Act 1961*.

### 2. Recommendations

1. That, in accordance with section 44 of the *Local Government Act 1999*, Council hereby:
  - a. revokes its previous delegations to the Chief Executive Officer of those powers and functions under the following Acts, namely:
    - *Fire and Emergency Services Act 2005*
    - *Natural Resources Management Act 2004*, *Natural Resources Management (General) Regulations 2005* and *Natural Resources Management (Transitional Provisions - Levies) Regulations 2005* – repealed in consequence of commencement of the *Landscape South Australia Act 2019* on 1 July 2020
    - *South Australian Public Health Act 2011*
  - b. delegates from this day 18 August 2020 to the person occupying the office of **Chief Executive Officer ('the Delegate')** and to any person acting in that office, subject to the conditions and or limitations specified in the Instruments of Delegation (as per Attachments 1 to 3 to the agenda report), those powers and functions under the following Acts, namely:
    - *Fire and Emergency Services Act 2005 (Attachment 1 to the agenda report)*
    - *Landscape South Australia Act 2019 and Landscape South Australia (General) Regulations 2020 (Attachment 2 to the agenda report)*
    - *South Australian Public Health Act 2011 (Attachment 3 to the agenda report)*
2. That such powers and functions may be further delegated by the Chief Executive Officer in accordance with Sections 44 and 101 of the *Local Government Act 1999* as the Chief Executive Officer sees fit, and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instruments of Delegation under the above Acts.

Authorisations under the Road Traffic Act 1961

3. In accordance with the Instrument of General Approval and Delegation to Council dated 22 August 2013 from the Minister for Transport and Infrastructure (the

**'Instrument') the Council authorises the following persons pursuant to Clause A.7** of the Instrument to endorse Traffic Impact Statements for the purposes of Clause A of the Instrument provided that such persons shall take into account the matters specified in Clause A.7 of the Instrument in respect of Traffic Impact Statements:

Richard Dekker, Matt Buckell, Kirk Richardson, Morgan Ellingham and Brett Williams

In accordance with Clause A.7 of the Instrument, the Council is of the opinion that the following persons are experienced traffic engineering practitioners for the purposes of preparing a Traffic Impact Statement as required by Clause A.7 of the Instrument:

Richard Dekker, Matt Buckell, Kirk Richardson, Morgan Ellingham and Brett Williams

In accordance with Clause E.2 of the Instrument, the Council is of the opinion that the following persons have an appropriate level of knowledge and expertise in the preparation of Traffic Management Plans:

Richard Dekker, Matt Buckell, Kirk Richardson, Morgan Ellingham and Brett Williams

### 3. Executive summary

Due to recent legislative amendments there are two changes to current delegations of the CEO; one under the *Fire and Emergency Services Act 2005* (section 105F(9)) and one under the *South Australian Public Health Act 2011* (section 96(3)). Amended delegations are proposed to reflect these changes.

On 1 July 2020 the new *Landscape South Australia Act 2019* (the Landscape Act) replaced the *Natural Resources Management Act 2004* (NRM Act) as the new framework for managing the **state's land, water, pest animals and plants, and biodiversity. Council has current delegations** under the NRM Act.

On recommendation from the Local Government Association, new delegations under the Landscape Act are proposed to the CEO since current delegations under the NRM Act are no longer applicable.

In addition, current authorisations under the *Road Traffic Act 1961* require updating to include the Manager Assets & Technical Services. The authorisations are made by the Council in **accordance with the Minister's Instrument of General Approval and Delegation to Council dated 22 August 2013** for the purposes of preparing and endorsing Traffic Impact Statements and preparing Traffic Management Plans. They are necessary **for the officer's role.**

### 4. Background

Community Plan 2030	<b>prosperity:</b> opportunity, diversity and adaptability To be open, accountable and transparent in the conduct of our business with communities, business and other tiers of government and staff
Policy and/or relevant legislation	<i>Local Government Act 1999</i>

Who did we talk to/who will we be talking to

Internal consultation with relevant Managers. Community engagement is not required.

## 5. Discussion

### Background

Delegations allow the use of legislated powers for the purposes of conducting governing regulatory and service activities efficiently and effectively.

The Local Government Association (LGA) regularly advises councils of amendments to delegations due to changes in legislation as well as corrections to its delegation templates.

Section 44 of the *Local Government Act 1999* (the LG Act) provides that Council may delegate its powers or functions under the LG Act or another Act. This occurs because it is not practicable or efficient for the elected body to perform the many functions or carry out the day-to-day activities of the Council.

Council can make delegations to a committee or subsidiary of the Council, the Chief Executive Officer (CEO) or an authorised person. In the case of powers delegated to the CEO, he may further sub-delegate them to staff as he sees fit pursuant to Sections 44 and 101 of the LG Act. A delegation made pursuant to Section 44 is revocable at will and does not prevent the Council from acting in the matter.

Corporate Governance sought input from the relevant Managers to affirm, for both new and existing delegated powers, pursuant to the relevant legislation if any:

- delegation changes were required and/or remained appropriate
- powers should not be delegated and remain with Council.

### New and amended delegations

The LGA has advised the Council of new and amended provisions under the:

- *Fire and Emergency Services Act 2005* (amended)
- *Landscape South Australia Act 2019* and *Landscape South Australia (General) Regulations 2020* (new)
- *South Australian Public Health Act 2011* (amended)

They are noted in red within Attachments 1 to 3. Table 1 below provides a summary of changes. It is recommended that the Council delegate these new and amended provisions to the CEO.

The commencement of the *Landscape South Australia Act 2019* on 1 July 2020 has repealed the *Natural Resources Management Act 2004* (the NRM Act). **Consequently, Council's current delegations under the NRM Act no longer apply and will be removed from Council's Delegations Register.**

### Authorisations under Road Traffic Act 1961

**Council's current authorisations under the *Road Traffic Act 1961* require updating to include an additional officer, Manager Assets & Technical Services. The authorisations are made by the Council in accordance with the Minister's Instrument of General Approval and Delegation to Council dated 22 August 2013 for the purposes of preparing and endorsing Traffic Impact Statements and preparing Traffic Management Plans. They are necessary for the officer's role.**

Table 1 Summary of changes

Legislation	Change	Summary
<i>Fire and Emergency Services Act 2005</i> (Attachment 1)	Amended provision	Amended delegation enables Council to publish a notice issued under section 105(5) of the Act on website determined by the Minister.  Section 105F(9)
<i>Landscape South Australia Act 2019</i> and <i>Landscape South Australia (General) Regulations 2020</i> (Attachment 2)	New legislation	This is new legislation which commenced on 1 July 2020 replacing the <i>Natural Resources Management Act 2004</i> (NRM Act) as the new framework for managing <b>the state's land, water, pest animals and plants, and biodiversity</b> .  Key changes include: <ul style="list-style-type: none"> <li>• 8 new regional landscape boards and a new metropolitan board, Green Adelaide, to facilitate the sustainable management of the state's landscapes</li> <li>• Land and water levies capped at CPI</li> <li>• Simpler planning framework where board plans are 5-year plans with 5 priorities</li> <li>• New State Landscape Strategy that provides a long-term vision for managing the state's landscapes</li> </ul> Compliance relies on provisions similar to those under the NRM Act, with some processes simplified and streamlined to improve effectiveness.  The Instrument is based on the delegation template created by the LGA. The powers contained therein primarily relate to use of Council facilities, regional landscape plans, contribution payment by councils, handling of regional landscape levy and recovery of costs.
<i>South Australian Public Health Act 2011</i> (Attachment 3)	Amended provision	Delegation has been amended to reflect appeals to the South Australian Civil and Administrative Tribunal.  Section 96(3)

## 6. Financial implications

### Financial summary

Item	\$	Comment
<b>Current budget</b>		
Current budget allocation		Not applicable
Funding required		Not applicable
External funding		Not applicable
Budget impact		Not applicable
FTE		Not applicable
<b>Next year's budget</b>		
Funding required		Not applicable
Funding source		Not applicable

Operating position		Not applicable
Rate rise impact		Not applicable
FTE		Not applicable
<b>Long Term Financial Plan</b>		
Debt		Not applicable
Interest		Not applicable
Reserve		Not applicable

### Scope of impact

Not applicable

### Baseline budget rate and debt impact

Year to date Decisions	Operating position	Rates (next budget)	Debt
Cumulative Impact	Not applicable	Not applicable	Not applicable
This proposal	Not applicable	Not applicable	Not applicable
Including this proposal	Not applicable	Not applicable	Not applicable

## 7. Risk and opportunity management

Risk	
Identify	Mitigation
Reputation/community expectation	Clear and transparent account and decision making to Council and the community
Compliance/legal	<p><b>Delegated authority from Council is essential for Council's administration to implement Council's decisions and to comply with legislation.</b></p> <p>Ensuring there is staff expertise or specialisation to understand and correctly implement these obligations.</p> <p>The inclusion of powers and functions in the Delegations Register.</p>
Opportunity	
Identify	Maximising the opportunity
Increased efficiencies	<p>It is not practical or efficient for the Council to perform the many operational activities required in the day to day administration of council.</p> <p>The delegation of powers and functions to the CEO which may then be sub-delegated to appropriate staff contributes towards increased efficiencies in our operational activities.</p>

## 8. Timelines and deadlines

These new and amended delegations are in consequence of legislative amendments which are now operational and it is recommended that the Council delegate them to the CEO as soon as possible.

## 9. Next steps

**Council's Delegation Register will be updated accordingly once Council has approved** these delegations to the CEO.

The CEO may choose to further sub-delegate some or all of these powers to officers.

## 10. Attachments

Attachment 1 – Instrument of Delegation - *Fire and Emergency Services Act 2005* (4 pages)

Attachment 2 – Instrument of Delegation - *Landscape South Australia Act 2019* and *Landscape South Australia (General) Regulations 2020* (3 pages)

Attachment 3 – Instrument of Delegation - *South Australian Public Health Act 2011* (7 pages)

- END OF REPORT -

**INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER UNDER THE FIRE AND EMERGENCY SERVICES ACT 2005**

Fire and Emergency Services Act 2005		
Provision	Powers and Functions Delegated	Delegate
s4A(3)	<p>1. Areas of Urban Bushfire Risk</p> <p>1.1 The power pursuant to Section 4A(3) of the Fire and Emergency Services Act 2005 ('the Act'), to consult with and make submissions to the Commission before the Commission publishes a notice in the Gazette designating pursuant to Section 4A(1) of the Act an area within a fire district as an area of urban bushfire risk, varies an area designated under Section 4A(1) of the Act or revokes the designation of an area under Section 4A(1) of the Act.</p> <p>(Note: only applies to Councils with areas within a 'fire district')</p>	CEO
s71C	<p>2. Use of Facilities - State Bushfire Coordination Committee</p> <p>2.1 The power pursuant to Section 71C of the Act to make arrangements with the State Bushfire Coordination Committee for the State Bushfire Coordination Committee to make use of the services of the staff, equipment or facilities of the Council.</p>	CEO
s72D	<p>3. Use of Facilities - Bushfire Management Committees</p> <p>3.1 The power pursuant to Section 72D of the Act to make arrangements with a Bushfire Management Committee for the Bushfire Management Committee to make use of the services of the staff, equipment or facilities of the Council.</p>	CEO
s73A(7)	<p>4. Bushfire Management Area Plans</p> <p>4.1 The power pursuant to Section 73A(7) of the Act, in relation to a proposal of a bushfire management committee to create or amend a Bushfire Management Area Plan for its area, to consult with and make submissions to the bushfire management committee where the Council's area is wholly or partly within the relevant bushfire management area.</p> <p>(Note: only relevant where Council's area is wholly or partly within a 'bushfire management area')</p>	CEO
s103(1)	<p>5. Fire Control Officers</p> <p>5.1 The power pursuant to Section 103(1) of the Act to request that the Chief Officer of the SACFS appoint a person as fire control officer for a designated area of the State (whether inside or outside a council area).</p>	CEO
s103(2)	<p>5. Fire Control Officers</p> <p>5.2 The power pursuant to Section 103(2) of the Act to consult with and make submissions to the Chief Officer of the SACFS before the Chief Officer of the SACFS of his or her own initiative appoints a person as a fire control officer for a designated area of the State (whether inside or outside a council area) in relation to the proposed appointment.</p>	CEO
s104	<p>6. Giving of Expiation Notices</p> <p>6.1 The duty pursuant to Section 104 of the Act to not authorise a person (under Section 6(3)(b) of the Expiation of Offences Act 1996) to give expiation notices for alleged offences under Part 4 of the Act unless the person is a fire prevention officer.</p>	CEO
s105	<p>7. Appropriation of Penalties</p> <p>7.1 The duty pursuant to Section 105 of the Act if a summary offence against Part 4 of the Act is committed in the area of the Council and the complaint is laid by the Council (or an officer of the Council), to pay any fine recovered from the defendant into the general revenue of the Council (rather than into the Consolidated Account).</p>	CEO
s105A	<p>8. Interpretation</p> <p>8.1 The power pursuant to Section 105A of the Act to authorise for the purposes of Part 4A of the Act an authorised person appointed by the Council under the Local Government Act 1999.</p>	CEO

Fire and Emergency Services Act 2005		
Provision	Powers and Functions Delegated	Delegate
s105B(1)	9. Fire Prevention Officers 9.1 The power and duty pursuant to Section 105B(1) of the Act and subject to Sections 105B(2) and 105B(3) of the Act, to appoint at least one person as a fire prevention officer for the Council's area.	CEO
s105B(3)	9. Fire Prevention Officers 9.2 The duty pursuant to Section 105B(3) of the Act to - 9.2.1 in determining the number of fire prevention officers to appoint under Section 105B(1) of the Act; and take into account any policy developed by SACFS for the purposes of Section 105B of the Act.	CEO
s105B(3)	9. Fire Prevention Officers 9.2 The duty pursuant to Section 105B(3) of the Act to - 9.2.2 in assessing the qualifications or experience of a person for the purposes of Section 105B(2) of the Act, take into account any policy developed by SACFS for the purposes of Section 105B of the Act.	CEO
s105B(3)	9.3 The power pursuant to Section 105B(3) of the Act to apply to the Chief Officer of the SACFS for an exemption for the Council from the requirement to appoint a fire prevention officer under Section 105B of the Act. (Note: paragraphs 9.1 - 9.3 only relevant to 'rural councils' or councils that have a 'designated urban bushfire risk area' within their area)	CEO
s105E	10. Reports 10.1 The duty pursuant to Section 105E of the Act to, where required by written notice from the Commission, the State Bushfire Safety Coordination Committee or a bushfire management committee in whose bushfire management area the Council's area is wholly or partly located, provide to the Commission, the State Bushfire Coordination Committee or the bushfire management committee (within a period stated in the notice or at stated intervals) any report, or reports relating to the performance, exercise or discharge of the functions, powers or responsibilities of the fire prevention officer or officers (if any) for the Council's area, as the Commission, the State Bushfire Coordination Committee or the bushfire management committee (as the case may be) thinks fit.	CEO
s105F(2)	11. Private Land 11.1 The duty pursuant to Section 105F(2) of the Act, in determining the standard required to comply with Section 105F(1) of the Act (but subject to Section 105F(4) of the Act), to take into account the following matters (insofar as may be relevant and without limiting any other relevant matter): 11.1.1 the nature of the land; 11.1.2 whether the land is in a country, metropolitan, township or other setting; 11.1.3 the activities carried out on the land (including whether flammable or combustible materials or substances are used or stored on the land); 11.1.4 other statutory standards or requirements that apply to or in relation to the land.	CEO
s105F(5)	11. Private Land 11.2 The power pursuant to Section 105F(5) of the Act, if the Delegate believes on reasonable grounds - 11.2.1 that an owner of private land has failed to comply with Section 105F(1) of the Act; or 11.2.2 that measures should be taken in respect of particular private land for the purpose of - 11.2.2.1 preventing or inhibiting the outbreak of fire on the land; or 11.2.2.2 preventing or inhibiting the spread of fire through the land; or 11.2.2.3 protecting property on the land from fire,	CEO

Fire and Emergency Services Act 2005		
Provision	Powers and Functions Delegated	Delegate
	to, by notice in writing that complies with any requirements set out in the regulations, require the owner of the private land to take specified action to remedy the default or to protect the land or property on the land, within such time as may be specified in the notice.	
s105F(6)	<p>11. Private Land</p> <p>11.3 The power pursuant to Section 105F(6) of the Act and without limiting the operation of Section 105F(5) of the Act, to include in a notice under Section 105F(5) of the Act directions -</p> <p>11.3.1 to trim or remove vegetation on the land; or</p> <p>11.3.2 to remove flammable or combustible materials or substances, or to store flammable or combustible materials or substances in a specified manner; or</p> <p>11.3.3 to eliminate a potential ignition source; or</p> <p>11.3.4 to create, establish or maintain fire breaks or fuel breaks.</p>	CEO
s105F(7)	<p>11. Private Land</p> <p>11.4 The duty pursuant to Section 105F(7) of the Act, in acting under Section 105F(5) of the Act, to apply any guidelines prepared or adopted by the Minister for the purposes of Section 105F(5) of the Act and published by the Minister in the Gazette.</p>	CEO
s105F(9)	<p>11. Private Land</p> <p>11.5 The power pursuant to Section 105F(9) of the Act to give a notice under Section 105(5) of the Act -</p> <p>11.5.1 personally; or</p> <p>11.5.2 by post; or</p> <p>11.5.3 if the delegate cannot, after making reasonable inquiries, ascertain the name and address of the person to whom the notice is to be given -</p> <p>11.5.3.1 by publishing the notice -</p> <p>(A) on a website determined by the Minister; or</p> <p>(B) in a newspaper circulating in the locality of the land; and</p> <p>11.5.3.2 by leaving a copy of the notice in a conspicuous place on the land.</p>	CEO
s105F(10)	<p>11. Private Land</p> <p>11.6 The power pursuant to Section 105F(10) of the Act to, by further notice in writing, vary or revoke a notice under Section 105(5) of the Act.</p>	CEO
s105F(11)	<p>11. Private Land</p> <p>11.7 The duty pursuant to Section 105F(11) of the Act, if a notice under Section 105F(5) of the Act is directed to an occupier of land, to take reasonable steps to serve (personally or by post) a copy of the notice on the owner.</p>	CEO
s105G(5)	<p>12. Council Land</p> <p>12.1 The power pursuant to Section 105G(5) of the Act to consult with and make submissions to the Minister on the referral of a matter under Section 105G(4) of the Act.</p>	CEO
s105G(7)	<p>12. Council Land</p> <p>12.2 The duty pursuant to Section 105G(7) of the Act, to comply with a notice under Section 105G(6) of the Act.</p>	CEO
s105J(1)	<p>13. Additional Provision in Relation to Powers of Authorised Officers</p> <p>13.1 The power pursuant to Section 105J(1) of the Act, for a purpose related to the administration, operation or enforcement of Part 4A of the Act, to -</p> <p>13.1.1 at any reasonable time, after giving reasonable notice to the occupier of the land, enter the land; or</p> <p>13.1.2 with the authority of a warrant issued by a magistrate, or in circumstances in which the delegate reasonably believes that immediate action is required, use reasonable force to break into or open any part of, or anything in or on, the land.</p>	CEO

Fire and Emergency Services Act 2005		
Provision	Powers and Functions Delegated	Delegate
s105J(3)	13. Additional Provision in Relation to Powers of Authorised Officers 13.2 The power and duty pursuant to Section 105J(3) of the Act to apply for a warrant - 13.2.1 either personally or by telephone; and 13.2.2 in accordance with any procedures prescribed by the regulations.	CEO
s105J(4)	13. Additional Provision in Relation to Powers of Authorised Officers 13.3 The power pursuant to Section 105J(4) of the Act, in exercising a power under Part 4A of the Act, to - 13.3.1 give directions with respect to the stopping, securing or movement of a vehicle, plant, equipment or other thing; 13.3.2 take photographs, films, audio, video or other recordings; 13.3.3 give any other directions reasonably required in connection with the exercise of the power.	CEO
s105J(5)	13. Additional Provision in Relation to Powers of Authorised Officers 13.4 The power pursuant to Section 105J(5) of the Act, in exercising a power under Part 4A of the Act, to be accompanied by such assistants as may reasonably be required in the circumstances.	CEO
s105J(6)	13. Additional Provision in Relation to Powers of Authorised Officers 13.5 The power pursuant to Section 105J(6) of the Act, if an owner of land refuses or fails to comply with the requirements of a notice under Section 105F(5) of the Act, to proceed to carry out those requirements.	CEO
s105J(7)	13. Additional Provision in Relation to Powers of Authorised Officers 13.6 The power pursuant to Section 105J(7) of the Act to authorise a person for the purposes of Section 105J(6) of the Act, to take action under Section 105J(6) of the Act on the Council's behalf.	CEO
s105J(8)	13. Additional Provision in Relation to Powers of Authorised Officers 13.7 The power pursuant to Section 105J(8) of the Act, to recover the reasonable costs and expenses incurred by an authorised person in taking action under Section 105J(6) of the Act as a debt from the person who failed to comply with the requirements of the relevant notice, if the relevant notice was given by the Council or a fire prevention officer or an authorised person appointed by the Council and authorised for the purposes of Part 4A of the Act.	CEO
s105J(9)	13. Additional Provision in Relation to Powers of Authorised Officers 13.8 The power pursuant to Section 105J(9) of the Act, if an amount is recoverable from a person by the Council under Section 105J(8) of the Act, to recover the amount as if it were rates in arrears.	CEO
s129	14. Power to Provide Sirens The power pursuant to Section 129 of the Act to erect a siren in a suitable place for the purpose of giving warning of the outbreak or threat of a fire or the occurrence or threat of an emergency, and the power to test and use the siren.	CEO

# **INSTRUMENT OF DELEGATION UNDER THE LANDSCAPE SOUTH AUSTRALIA ACT 2019 AND LANDSCAPE SOUTH AUSTRALIA (GENERAL) REGULATIONS 2020**

Landscape South Australia Act 2019			
Provision	Powers and Functions Delegated	Conditions and Limitations	Delegate
s32(7)	<p>1. Special Vesting of Infrastructure</p> <p>1.1 The power pursuant to Section 32(7) of the Landscape South Australia Act 2019 (the Act) to consent in writing to the Governor making a proclamation under Sections 32(1), (2) or (6) of the Act in relation to infrastructure or land vested in or under the care, control or management of the Council.</p>		CEO
s37(1)(c)	<p>2. Power of Delegation</p> <p>2.1 The power pursuant to Section 37(1)(c) of the Act to approve a regional landscape board delegating a function or power of the board under the Act or any other Act to the Council or an officer of the Council.</p>		CEO
s41	<p>3. Use of Facilities</p> <p>3.1 The power pursuant to Section 41 of the Act to make arrangements with a regional landscape board for the regional landscape board to make use of the services of the staff, equipment or facilities of the Council.</p>		CEO
s47(7)	<p>4. Key Features of Plan</p> <p>4.1 The power pursuant to Section 47(7) of the Act to, when performing functions or exercising powers under the Local Government Act 1999 or any other Act, have regard to any regional landscape plan that applies within the relevant area and in particular to give consideration to the question whether the Council should implement changes to the manner in which, or the means by which, it performs a function or exercises a power or undertakes any other activity that has been identified in the plan as requiring change.</p>		CEO
s51(5)(b)	<p>5. Annual Business Plan</p> <p>5.1 The power pursuant to Section 51(5)(b) of the Act, if a regional landscape board is intending to include in its annual business plan any proposal referred to in Section 51(4) of the Act, which relates to the payment (or proposed payment) of contributions by the Council under Part 5 Division 1 Subdivision 1 of the Act, to make submissions to the regional landscape board to the extent required by the regulations.</p>		CEO
s67(1)	<p>6. Payment of Contributions by Councils</p> <p>6.1 The power pursuant to Section 67(1) of the Act, subject to Section 67(2) of the Act to pay the Council's share of the amount to be contributed by the constituent councils in approximately equal instalments on 30 September, 31 December, 31 March and 30 June in each year to which the contribution relates.</p>		CEO
s67(2)	<p>6. Payment of Contributions by Councils</p> <p>6.2 The power pursuant to Section 67(2) of the Act, if notice of a regional landscape levy imposed by the Council in respect of a financial year could not be included in the notice of general rates for that year because the regional landscape board's annual business plan was not finalised (and, if necessary, approved by the Minister) on or before 1 June preceding that year, to pay the Council's share in approximately equal instalments on 31 December, 31 March and 30 June in that year.</p>		CEO
s69(10)	<p>7. Imposition of Levy by Councils</p> <p>7.1 The power pursuant to Section 69(10) of the Act, if the Council writes off a debt constituted by an unpaid regional landscape levy (or</p>		CEO

Landscape South Australia Act 2019			
Provision	Powers and Functions Delegated	Conditions and Limitations	Delegate
	part of a regional landscape levy) under Section 143 of the Local Government Act 1999, to apply to the regional landscape board in accordance with the regulations, for a refund of an amount equal to the amount of the levy (not including any related interest) that has been written off.		
s72(6)	8. Board May Declare a Levy 8.1 The power pursuant to Section 72(6) of the Act to arrange with a regional landscape board for service of a notice to be effected as part of any other notice served by the Council and arrange with a regional landscape board for collection of a levy to be effected by the Council.		CEO
s101(6)	9. Declaration of Prescribed Water Resources 9.1 The power pursuant to Section 101(6) of the Act to make submissions to the Minister in accordance with the notice served by the Minister on the Council.		CEO
s202(4)	10. Authorised Officers 10.1 The power pursuant to Section 202(4) of the Act to agree to the Minister appointing an officer of the Council as an authorised officer under Section 202 of the Act.		CEO
s219(3)	11. Management Agreements 11.1 The power pursuant to Section 219(3) of the Act to make submissions to the Minister within a period specified by the Minister in relation to a proposal to provide for the remission of any Council rates under Section 219(2)(j) of the Act.		CEO

Landscape South Australia (General) Regulations 2020			
Provision	Powers and Functions Delegated	Conditions and Limitations	Delegate
r13(3)	12. Refunds to Councils in Relation to Unpaid Regional Landscape Levies (Section 69(10) of the Act) 12.1 The power pursuant to Regulation 13(3) of the Landscape South Australia (General) Regulations 2020 (the General Regulations) if: 12.1.1 the Council writes off a debt constituted by an unpaid regional landscape levy (or part of a levy); and 12.1.2 a refund is made to the Council under Section 69(10) of the Act in relation to the unpaid levy; and 12.1.3 the Council subsequently recovers an amount (the relevant amount) with respect to the unpaid levy as part of steps taken by the Council to recover rates in arrears under the Local Government Act 1999, to pay the relevant amount to the regional landscape board that made the refund under Section 69(10) of the Act.		CEO
r14(4)	13. Cost of Councils (Section 70 of the Act) 13.1 The power pursuant to and subject to Regulation 14(4) of the General Regulations to recover establishment costs the amount being: 13.1.1 fair costs incurred by the Council with respect to: 13.1.1.1 consulting with the relevant regional landscape board in relation to the basis for the regional landscape levy; and 13.1.1.2 establishing the ability of the Council's rating system to deal with the regional landscape levy; and 13.1.1.3 making any amendments to the Council's rating system on account of the imposition of the regional landscape levy; and		CEO

Landscape South Australia (General) Regulations 2020			
Provision	Powers and Functions Delegated	Conditions and Limitations	Delegate
	13.1.1.4 conducting any tests involving the Council's rating system on account of the imposition of the regional landscape levy; and 13.1.1.5 setting up and assigning codes within the Council's rating system on account of the imposition of the regional landscape levy; and 13.1.1.6 obtaining any new assessment or valuation information on account of the imposition of the regional landscape levy; and 13.1.1.7 confirming the imposition of the appropriate levy with respect to rateable land in the area of the Council; or 13.1.2 \$10,848 (indexed), plus 71 cents (indexed) for each assessment of levy against a piece of rateable land, adjusted, if necessary under Regulation 14(6) of the General Regulations.		
r14(8)	13. Cost of Councils (Section 70 of the Act) 13.2 The power pursuant to and subject to Regulation 14(7) of the General Regulations to recover as ongoing costs the amount being: 13.2.1 fair costs as described in Regulation 14(3)(b) of the General Regulations; or 13.2.2 \$2,532 (indexed), plus 25 cents (indexed) for each assessment of levy against a piece of rateable land.		CEO
r14(8)	13. Cost of Councils (Section 70 of the Act) 13.3 The power pursuant to Regulation 14(8) of the General Regulations, if the Council is claiming transitional costs from two or more regional landscape boards with respect to a particular financial year to agree as between them the respective shares of those boards.		CEO
r14(9)	13. Cost of Councils (Section 70 of the Act) 13.4 The power pursuant to Regulation 14(9) and subject to Regulation 14(11) of the General Regulations, if the Council is seeking to recover any costs with respect to a particular financial year, other than the 2020/2021 financial year, to as a preliminary step, furnish to the relevant regional landscape board or boards, a reasonable estimate of the costs that the Council expects to claim under Regulation 14 of the General Regulations.		CEO

**INSTRUMENT OF DELEGATION UNDER THE SOUTH AUSTRALIAN PUBLIC HEALTH ACT 2011**

South Australian Public Health Act 2011		
Provision	Powers and Functions Delegated	Delegate
s18(2)	1. Power to Require Reports 1.1 The power pursuant to Section 18(2) of the South Australian Public Health Act 2011 (the Act) to, if required by the Minister, provide a report on any matter relevant to the administration or operation of the Act	CEO
s18(3)	1. Power to Require Reports 1.2 The power pursuant to Section 18(3) of the Act to, if required by the Minister, in a case involving the Council provide a combined report with 1 or more other councils.	CEO
s18(5)	1. Power to Require Reports 1.3 The power pursuant to Section 18(5) of the Act to provide the report in accordance with the requirements of the Minister.	CEO
s22(2)	2. Risk of Avoidable Mortality or Morbidity 2.1 The power pursuant to Section 22(2) of the Act, if the Council receives a request under Section 22(1) of the Act, to consider the request and then respond in accordance with Section 22(3) of the Act to the Chief Public Health Officer within a reasonable time.	CEO
s22(3)	2. Risk of Avoidable Mortality or Morbidity 2.2 The power pursuant to Section 22(3) of the Act to include in a response under Section 22(2) of the Act details about: 2.2.1 any steps already being taken by the Council that may be relevant in the circumstances; and 2.2.2 any plans that the Council may have that may be relevant in the circumstances; and 2.3 any steps that the Council is willing to take in the circumstances; and 2.4 any other matter relating to the Council that appears to be relevant.	CEO
s39(1)	3. Cooperation Between Councils 3.1 The power pursuant to Section 39(1) of the Act to, in performing the Council's functions or exercising the Council's powers under the Act, act in conjunction or partnership with, or cooperate or coordinate the Council's activities with, 1 or more other councils	CEO
s39(2)	3. Cooperation Between Councils 3.2 The power pursuant to Section 39(2) of the Act to, if requested by the Chief Public Health Officer, cooperate with 1 or more other councils.	CEO
s39(3)	3. Cooperation Between Councils 3.3 The power pursuant to Section 39(3) of the Act to, if the Council receives a request under Section 39(2) of the Act, within 28 days after receiving the request or such longer period as the Chief Public Health Officer may specify, furnish the Chief Public Health Officer with a written report on the action that the Council intends to take in response to the request.	CEO
s40(2)	4. Power of Chief Public Health Officer to Act 4.1 The power pursuant to Section 40(2) of the Act to consult with the Chief Public Health Officer.	CEO
s41(1)	5. Council Failing to Perform a Function Under Act 5.1 The power pursuant to Section 41(1) of the Act to consult with the Minister in relation to the Minister's opinion that the Council has failed, in whole or in part, to perform a function conferred on the Council under the Act.	CEO

South Australian Public Health Act 2011		
Provision	Powers and Functions Delegated	Delegate
s41(6)	5. Council Failing to Perform a Function Under Act 5.2 The power pursuant to Section 41(6) of the Act to: 5.2.1 make written submissions to the Minister in relation to the matter within a period specified by the Minister; and 5.2.2 request in the written submissions to the Minister that the Minister discuss the matter with a delegation representing the Council; and 5.2.3 appoint a delegation representing the Council to discuss the matter with the Minister.	CEO
s42(1)	6. Transfer of Function of Council at Request of Council 6.1 The power pursuant to Section 42(1) of the Act to request, in accordance with Section 42(2), of the Act that a function of the Council under the Act be performed by the Chief Public Health Officer.	CEO
s42(10)	6. Transfer of Function of Council at Request of Council 6.2 The power pursuant to Section 42(10) of the Act to enter into an agreement with the Minister for the Minister to recover costs and expenses associated with the Chief Public Health Officer acting under Section 42 of the Act.	CEO
s42(11)	6. Transfer of Function of Council at Request of Council 6.3 The power pursuant to Section 42(11) of the Act to request that the Minister vary or revoke a notice under Section 42 of the Act.	CEO
s42(11)	6. Transfer of Function of Council at Request of Council 6.4 The power pursuant to Section 42(11) of the Act to consult with the Minister in relation to the Minister varying or revoking a notice under Section 42 of the Act.	CEO
s44(1) s45	7. Local Authorised Officers 7.1 The power pursuant to Section 44(1) of the Act, subject to Section 45 of the Act, to, by instrument in writing, appoint a suitably qualified person to be a local authorised officer.	CEO
s44(2)	7. Local Authorised Officers 7.2 The power pursuant to Section 44(2) of the Act to make an appointment under Section 44 subject to such conditions or limitations as the Delegate thinks fit.	CEO
s44(4)	7. Local Authorised Officers 7.3 The power pursuant to Section 44(4) of the Act to direct a local authorised officer.	CEO
s44(6)	7. Local Authorised Officers 7.4 The power pursuant to Section 44(6) of the Act to vary or revoke an appointment at any time.	CEO
s44(7)	7. Local Authorised Officers 7.5 The power pursuant to Section 44(7) of the Act to notify the Chief Public Health Officer in accordance with Section 44(8) of the Act, if the Council or the Delegate: 7.5.1 makes an appointment under Section 44 of the Act; or 7.5.2 revokes an appointment under Section 44 of the Act.	CEO
s44(9)	7. Local Authorised Officers 7.6 The power pursuant to Section 44(9) of the Act to determine the number of local authorised officers who should be appointed for the Council's area and in determining the number of local authorised officers who should be appointed for the Council's area, take into account any policy developed by the Chief Public Health Officer for the purposes of Section 44 of the Act.	CEO

South Australian Public Health Act 2011		
Provision	Powers and Functions Delegated	Delegate
s46(1) s46(2)	<p>8. Identity Cards</p> <p>8.1 The power pursuant to Section 46(1) of the Act to issue in accordance with Section 46(2) of the Act to an authorised officer appointed under the Act an identity card in a form approved by the Chief Public Health Officer:</p> <p>8.1.1 containing the person's name and a photograph of the person; and</p> <p>8.1.2 stating that the person is an authorised officer for the purposes of the Act; and</p> <p>8.1.3 setting out the name or office of the issuing authority.</p>	CEO
s49(1)	<p>9. Specific Power to Require Information</p> <p>9.1 The power pursuant to Section 49(1) of the Act to require a person to furnish such information relating to public health as may be reasonably required for the purposes of the Act.</p>	CEO
s51(1), (2), (5), (6), (8), (9), (11), (12), (13), (15)	<p>10. Regional Public Health Plans</p> <p>10.1 The power pursuant to Section 51(1) of the Act to in accordance with Sections 51(2), (5), (6), (8), (9), (11), (12), (13) and (15) of the Act prepare and maintain a plan or, if the Minister so determines or approves, with a group of councils, prepare and maintain a plan, for the purposes of the operations of the Council or Councils under the Act (a regional public health plan).</p>	CEO
s51(10), (11)	<p>10. Regional Public Health Plans</p> <p>10.2 The power pursuant to Section 51(10) of the Act, to, subject to Section 51(11), amend a regional public health plan at any time.</p>	CEO
s51(11) s51(12)	<p>10. Regional Public Health Plans</p> <p>10.3 The power pursuant to Section 51(11) of the Act to, in relation to any proposal to create or amend a regional public health plan:</p> <p>10.3.1 prepare a draft of the proposal; and</p> <p>10.3.2 when the draft plan is completed, subject to Section 51(12) of the Act:</p> <p>10.3.2.1 give a copy of it to:</p> <p>(a) the Minister; and</p> <p>(b) any incorporated hospital established under the Health Care Act 2008 that operates a facility within the region; and</p> <p>(c) any relevant public health partner authority under Section 51(23); and</p> <p>(d) any other body or group prescribed by the regulations; and</p> <p>10.3.2.2 take steps to consult with the public.</p>	CEO
s51(12) s51(11)	<p>10. Regional Public Health Plans</p> <p>10.4 The power pursuant to Section 51(12) of the Act to, if required by the Minister, consult with the Minister, or any other person or body specified by the Minister, before the Council or the Delegate releases a draft plan under Section 51(11).</p>	CEO
s51(13)	<p>10. Regional Public Health Plans</p> <p>10.5 The power pursuant to Section 51(13) of the Act to, before bringing a regional public health plan into operation, submit the plan to the Chief Public Health Officer for consultation.</p>	CEO
s51(15)	<p>10. Regional Public Health Plans</p> <p>10.6 The power pursuant to Section 51(15) of the Act to take into account any comments made by the Chief Public Health Officer, SAPHC, and any other body within the ambit of a determination under Section 51(14) of the Act, at the conclusion of the consultation processes envisaged by Sections 51(13) and (14).</p>	CEO
s51(16)	<p>10. Regional Public Health Plans</p> <p>10.7 The power pursuant to Section 51(16) of the Act to then adopt a plan or amend a plan with or without alteration.</p>	CEO

South Australian Public Health Act 2011		
Provision	Powers and Functions Delegated	Delegate
s51(17)	10. Regional Public Health Plans 10.8 The power pursuant to Section 51(17) of the Act to undertake the processes set out in Section 51 of the Act in conjunction with the preparation and adoption of its strategic management plans under Section 122 of the Local Government Act 1999 (and the power if the delegate thinks fit, incorporate a regional public health plan into the Council's strategic management plans under that Act).	CEO
s51(18)	10. Regional Public Health Plans 10.9 The power pursuant to Section 51(18) of the Act to provide in a regional public health plan, by agreement with the public health partner authority, for a public health partner authority to take responsibility for undertaking any strategy, or for attaining any priority or goal, under the plan.	CEO
s51(19)	10. Regional Public Health Plans 10.10 The power pursuant to Section 51(19) of the Act to review a regional public health plan at least once in every 5 years.	CEO
s51(20)	10. Regional Public Health Plans 10.11 The power pursuant to Section 51(20) of the Act to, in preparing and reviewing the Council's regional public health plan insofar as is reasonably practicable, give due consideration to the plans of other councils insofar as this may be relevant to issues or activities under the Council's plan.	CEO
s51(21)	10. Regional Public Health Plans 10.12 The power pursuant to Section 51(21) of the Act to, when performing functions or exercising powers under the Act or any other Act, insofar as may be relevant and reasonable, have regard to the State Public Health Plan, any regional public health plan that applies within the relevant area and any other requirement of the Minister, and in particular to give consideration to the question whether the Council or the Delegate should implement changes to the manner in which, or the means by which, the Council or the Delegate performs a function or exercises a power or undertakes any other activity that has been identified in the State Public Health Plan as requiring change.	CEO
s52(1)	11. Reporting on Regional Public Health Plans 11.1 The power pursuant to Section 52(1) of the Act to, in relation to a regional health plan for which the Council is responsible, on a 2 yearly basis, prepare a report that contains a comprehensive assessment of the extent to which, during the reporting period, the Council has succeeded in implementing its regional public health plan to the Chief Public Health Officer in accordance with Sections 52(2), (3) and (4) of the Act.	CEO
s66(6)	12. Action to Prevent Spread of Infection 12.1 The power pursuant to Section 66(6) of the Act to recover as a debt costs and expenses reasonably incurred in exercising powers under Section 66(5) of the Act from the person who failed to take the required action.	CEO
s66(5)	12. Action to Prevent Spread of Infection 12.2 The power pursuant to Section 66(9) of the Act to, if the Chief Public Health Officer informs the Council of the occurrence of a disease constituting a notifiable condition, take such action as is reasonably open to the Delegate to assist in preventing the spread of the disease.	CEO
s92(1)	13. Notices 13.1 The power pursuant to Section 92(1) of the Act and subject to Sections 92(2), (3), (4), (5) and (12) of the Act to issue a notice for the purpose of:	CEO

South Australian Public Health Act 2011		
Provision	Powers and Functions Delegated	Delegate
	13.1.1 securing compliance with a requirement imposed by or under the Act (including the duty under Part 6 or a requirement imposed under a regulation or a code of practice under the Act); or 13.1.2 averting, eliminating or minimising a risk, or a perceived risk, to public health.	
s92(2)	13. Notices 13.2 The power pursuant to Section 92(2) of the Act and subject to Section 92(12) of the Act, to, before issuing a notice to secure compliance with the general duty under Part 6 of the Act: 13.2.1 have regard to: 13.2.1.1 the number of people affected, or potentially affected, by the breach of the duty; 13.2.1.2 the degree of harm, or potential degree of harm, to public health on account of the breach of the duty; 13.2.1.3 any steps that a person in breach of the duty has taken, or proposed to take, to avoid or address the impact of the breach of the duty, and such other matters as the Delegate thinks fit; and 13.2.2 subject to Section 92 of the Act, give the person to whom it is proposed that the notice be given a preliminary notice in writing: 13.2.2.1 stating the proposed action, including the terms of the proposed notice and the period within which compliance with the notice will be required; and 13.2.2.2 stating the reasons for the proposed action; and 13.2.2.3 inviting the person show, within a specified time (of a reasonable period), why the proposed action should not be taken (by making representations to the Delegate or a person nominated to act on behalf of the Council).	CEO
s92(2)(b)(iii)	13. Notices 13.3 The power pursuant to Section 92(2)(b)(iii) of the Act to nominate a person to act on behalf of the Council.	CEO
s92(3)	13. Notices 13.4 The power pursuant to Section 92(3) of the Act to, in a case where Section 92(2)(b) of the Act applies, after considering representations made within the time specified under Section 92(2)(b) of the Act: 13.4.1 issue a notice in accordance with the terms of the original proposal; or 13.4.2 issue a notice with modifications from the terms of the original proposal; or 13.4.3 determine not to proceed further under Section 92.	CEO
s92(4)	13. Notices 13.5 The power pursuant to Section 92(4) of the Act to: 13.5.1 not give notice under Section 92(2)(b) of the Act if the Delegate considers that urgent or immediate action is required in the circumstances of the particular case; and 13.5.2 not give further notice before issuing a notice with modifications under Section 92(3)(b) of the Act.	CEO
s92(5)	13. Notices 13.6 The power pursuant to Section 92(5) of the Act issue a notice under Section 92 of the Act: 13.6.1 in the form of a written notice served on the person to whom it is issued; and 13.6.2 specifying the person to whom it is issued (whether by name or by a description sufficient to identify the person); and 13.6.3 directing 2 or more persons to do something specified in the notice jointly; and 13.6.4 without limiting any other provision, in the case of a notice that relates to the condition of any premises, to any person who: 13.6.4.1 is the owner or occupier of the premises; or 13.6.4.2 has the management or control of the premises; or	CEO

South Australian Public Health Act 2011		
Provision	Powers and Functions Delegated	Delegate
	<p>13.6.4.3 is the trustee of a person referred to in Section 92(5)(i) or (ii) of the Act or is managing the affairs of such a person on some other basis; and</p> <p>13.6.5 stating the purpose for which the notice is issued and giving notice of the requirement or the risk to which it relates; and</p> <p>13.6.6 imposing any requirement reasonably required for the purpose for which the notice is issued including 1 or more of the following:</p> <p>13.6.6.1 a requirement that the person discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from a relevant authority;</p> <p>13.6.6.2 a requirement that the person not carry on a specified activity except at specified times or subject to specified conditions;</p> <p>13.6.6.3 a requirement that the person take specified action in a specified way, and within a specified period or at specified times or in specified circumstances;</p> <p>13.6.6.4 a requirement that the person take action to prevent, eliminate, minimise or control any specified risk to public health, or to control any specified activity;</p> <p>13.6.6.5 a requirement that the person comply with any specified code or standard prepared or published by a body or authority referred to in the notice;</p> <p>13.6.6.6 a requirement that the person undertake specified tests or monitoring;</p> <p>13.6.6.7 a requirement that the person furnish to a relevant authority specified results or reports;</p> <p>13.6.6.8 a requirement that the person prepare, in accordance with specified requirements and to the satisfaction of the relevant authority, a plan of action to secure compliance with a relevant requirement or to prevent, eliminate, minimise or control any specified risk to public health;</p> <p>13.6.6.9 a requirement prescribed under or for the purposes of the regulations; and</p> <p>13.6.7 stating that the person may, within 14 days, apply for a review of the notice under the provisions of the Act.</p>	
s92(9)	<p>13. Notices</p> <p>13.7 The power pursuant to Section 92(9) of the Act by written notice served on a person to whom a notice under Section 92 of the Act has been issued by the Delegate or the Council, vary or revoke the notice.</p>	CEO
s95(15)	<p>13. Notices</p> <p>13.8 The power pursuant to Section 92(15) of the Act to, not comply with any other procedure, or hear from any other person, except as provided by Section 92 of the Act before the Delegate issues a notice under Section 92 of the Act.</p>	CEO
s93(1)	<p>14. Action on Non-compliance with Notice</p> <p>14.1 The power pursuant to Section 93(1) of the Act if the requirements of a notice under Part 12 of the Act are not complied with, to take any action required by the notice.</p>	CEO
s93(2)	<p>14. Action on Non-compliance with Notice</p> <p>14.2 The power pursuant to Section 93(2) of the Act to authorise a person for the purpose of taking action on the Council's behalf under Section 93(1) of the Act.</p>	CEO
s93(4)	<p>14. Action on Non-compliance with Notice</p> <p>14.3 The power pursuant to Section 93(4) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 93 of the Act as a debt from the person who failed to comply with the requirements of the notice.</p>	CEO
s93(5)	<p>14. Action on Non-compliance with Notice</p> <p>14.4 The power pursuant to Section 93(5) of the Act, if an amount is recoverable from a person by the Council under Section 93, to, by notice in writing to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid by the person.</p>	CEO

South Australian Public Health Act 2011		
Provision	Powers and Functions Delegated	Delegate
s94(5)	15. Action in Emergency Situations 15.1 The power pursuant to Section 94(5) of the Act to recover the reasonable costs and expenses incurred by a local authorised officer in taking action under Section 94 from any person who caused the risk to which the action relates, as a debt.	CEO
s95(13)	16. Reviews - Notices Relating to General Duty 16.1 The power pursuant to Section 95(13) of the Act to appear in proceedings before the Review Panel as a representative of the Council.	CEO
s95(15)	16. Reviews - Notices Relating to General Duty 16.2 The power pursuant to Section 95(15) of the Act to make an application to the Review Panel to: 16.2.1 dismiss or determine any proceedings that appear: 16.2.1.1 to be frivolous or vexatious; or 16.2.1.2 to have been instituted for the purpose of delay or obstruction, or for some other improper purpose; 16.2.2 bring any proceedings to an end that appear: 16.2.2.1 to be more appropriate suited to proceedings before the Tribunal rather than the Review Panel; or 16.2.2.2 to be unable to be satisfactorily resolved (or resolved within a reasonable period) by proceedings before the Review Panel; or 16.2.3 bring any proceedings to an end for any other reasonable cause.	CEO
s96(3)	17. Appeals 17.1 The power pursuant to Section 96(3) of the Act and subject to Section 96(4) of the Act, to apply to the Tribunal under Section 34 of the South Australian Civil & Administrative Tribunal Act 2013 for a review of the outcome of review proceedings by the Review Panel under Section 95 of the Act.	CEO

## 9.8 Council and Committee Reporting Schedule

Report contact	Meeting
Sue Hammond, Senior Governance Officer	Council
8384 0747	
Approving officer	Date
Chris White, Director Corporate	18 August 2020

### 1. Purpose

This report provides an update on the reporting for upcoming Council and Committee meetings.

### 2. Recommendations

That Council note the agenda report and Reporting Schedules (attachments 1 and 2 to the agenda report).

### 3. Executive summary

This report is provided as per the following resolution of Council at its meeting of 21 March 2017:

**That the item “Updated Work Program” from the agenda of the Strategic Directions Committee be duplicated as a monthly agenda item for Council meetings.**

As the Reporting Schedule is a guide only and subject to change, members are encouraged to utilise the Elected Member website for an up to date version of the Reporting Schedule.

### 4. Discussion

Unscheduled elected member sessions

There are currently no elected member sessions that have been requested by a Council resolution that are not scheduled.

### 5. Attachments

Attachment 1 – Reporting Schedule to October 2020 (3 pages)

Attachment 2 – Schedule of elected member sessions to end of year (1 page)

– END OF REPORT –

### Report schedule as at 12 August 2020

EM Session 25/08/2020			
REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
1. GM Crop Community Engagement Results - Confirmed	Onsman, Ynys	CR	
Long Term Financial Plan process - Confirmed	Spartalis, George	FC	
SDC meeting 1/9/20			
REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Community engagement 'refresh' update	Sutton, Dale	CR	
Presentation - Hills & Fleurieu Landscape Board & Green Adelaide	McGlennan, Jennifer	CR	
Council and Committee Reporting Schedule	Luke, Jonathan	CCS	
Economic Growth and Investment section annual report 2019-20	Mrotek, Adam	CCS	
Winners of 2020 History and Heritage Awards	Bali Dogra, Divya	CCS	
ARVEC meeting 7/9/20			
REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Long term viability of the Sellicks Beach cliff top access vegetation barrier planting	Jurado, Salvador	CO	
2020 Committee Reporting Schedule (Work Plan)	Brown, Kathryn	CCS	
Annual report - Placement of Council Insurances	Brown, Kathryn	CCS	
Annual report - section 270 applications	Brown, Kathryn	CCS	
Quarterly update - Risk Management	Mirovitskaya, Elena	CCS	
EM Session 08/09/2020			
REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Sellicks Beach Structure Plan - TBC	Wright, Clare	CCS	
Elected Member Website presentation	McElligott, Sheryn	CCS	
Representation review, role of elected members and admin support - TBC	Brunotte, Therese	CCS	
Council meeting 15/9/20			
REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Response to petition - increase road safety Saddle Bags Road Kangarilla	Williams, Brett	CO	
Aldinga Community Centre transition update	Purves, Stuart	CR	
Can:Do South	Stevens, Bobbie-Jean	CR	
GM Crops (designated area)	Onsman, Ynys	CR	
Presentation - Can:Do Group - Alison Valentine, Heidi Limareff and Bec Young	Stevens, Bobbie-Jean	CR	
Audit, Risk, Value and Efficiency Committee meeting minutes	Hammond, Susan	CCS	
Building Fire Safety Committee Report	Randell, Ian	CCS	
Council and Committee Reporting Schedule	Hammond, Susan	CCS	
Council Assessment Panel (CAP) Annual Report	Victory, Ben	CCS	
Deputation - Jan Chorley, Australia Day Council	Ryan, Karyn	CCS	
Rescheduled - Evaluation - Foreshore and Coastal Activations	Bolger, Eulonda	CCS	
Strategic Directions Committee minutes	Hammond, Susan	CCS	
Letter Box Banks (Council's financial exposure)	Dallimore, Fiona	FC	
Proposal to close unmade road adjacent 153 Coxs Hill Road, Onkaparinga Hills to enable sale	Lee, Bernadette	FC	
Proposal to commence a revocation of community land at 1 Hopkins Court Woodcroft	Lee, Bernadette	FC	
Revocation of 43 Thames Drive Reynella	Adams, Bryn	FC	

#### EM Session 22/09/2020

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Strategic Asset Management Plan TBC	Flaherty, Lisa	CO	
Corporate Emissions Target Workshop - Confirmed	McGlennon, Jennifer	CR	
Sellicks Beach Structure Plan - TBC	Wright, Clare	CCS	

#### ARVEC meeting 26/9/20

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Community Grants Guidelines Review	Onsman, Ynys	CR	
2019-2020 Internal Financial Controls assessment	Mirovitskaya, Elena	CCS	
Information report - Climate Risk Governance Working Group	Brown, Kathryn	CCS	
Draft general purpose financial statements for the period ended 30 June 2020	Carter, Kevin	FC	
External audit completion letter	Carter, Kevin	FC	
In-camera meeting with ARVEC committee and External Auditors (prior to meeting)	Carter, Kevin	FC	
Review of auditor independence and legislative compliance	Carter, Kevin	FC	

#### SBC meeting 6/10/20

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Morton Road Sport & Community Hub	Manchip, Susan	CO	
Update Report on the establishment of the Aldinga Washpool Conservation Park	Bouwer, Rinus	CO	
Community Capacity Strategic Plan	Hamdorf, Pamela-Sue	CR	
Draft Arts and Cultural Development Strategic Plan 2021-26	Stevens, Bobbie-Jean	CR	
Kaurna Engagement	Brown, Michael	CR	
Council and Committee Reporting Schedule	Luke, Jonathan	CCS	
Onkaparinga Local Area Plan Final OLAP (Stage 2)	Luke, Jonathan	CCS	

#### ARVEC meeting 12/10/20

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
2020 Committee Reporting Schedule (Work Plan)	Brown, Kathryn	CCS	
ARVEC Annual Performance Review results	Mirovitskaya, Elena	CCS	
ARVEC Annual Report	Mirovitskaya, Elena	CCS	
Building Rules Assessment Audit Report - close out of actions	Randell, Ian	CCS	
Quarterly Performance Improvement Report	Hassam, Gregory	CCS	
Quarterly update - Internal Audit	Mirovitskaya, Elena	CCS	
Council Solutions Regional Authority Annual Report for year ended 30 June 2020	Carter, Kevin	FC	
Southern Region Waste Resource Authority Annual Report for year ended 30 June 2020	Carter, Kevin	FC	

#### EM Session 13/10/2020

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Draft Economic Growth and Investment Strategy 2020-24 - TBC	Mrotek, Adam	CCS	
Fees & Charges - TBC	Spartalis, George	FC	

#### Council meeting 20/10/20

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Audit, Risk, Value and Efficiency Committee meeting minutes	Hammond, Susan	CCS	
Confidential items	Hammond, Susan	CCS	
Council and Committee Reporting Schedule	Hammond, Susan	CCS	
Southern Volunteering	Littlefair, Jordan	CCS	

# Strategic Directions Committee minutes

Hammond, Susan

CCS

## EM Session 27/10/2020

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Coastal Climate Risk Management - TBC	Keath, Nina	CO	

## SDC meeting 3/11/20

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Affordable Housing	Onsman, Ynys	CR	
Inclusive Communities Plan 2021-2025 - Plan approval	Wright, Paul	CR	
Council and Committee Reporting Schedule	Luke, Jonathan	CCS	
Sellicks Beach Structure Plan	Wright, Clare	CCS	

## EM Session 10/11/2020

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Organisation Expo - Confirmed	Brunotte, Therese	CCS	

## Council meeting 17/11/20

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF
Strategic Asset Management Plan - community engagement plan	Flaherty, Lisa	CO	
Confidential Report - Legal Services Summary	White, Christopher	CCS	
Council and Committee Reporting Schedule	Hammond, Susan	CCS	
Strategic Directions Committee minutes	Hammond, Susan	CCS	
Tourism Plan Implementation Progress Update	Collins, Vivonne	CCS	
Consultation results - Community land process for land at 23 Highway Drive Morphett Vale	Haslam, David	FC	

### Department acronyms

CR – Community Relations  
CCS – Corporate and City Services  
FC – Finance and Commercial  
CO – City Operations

### Meeting acronyms

ARVEC – Audit, Risk, Value and Efficiency Committee  
SDC – Strategic Directions Committee  
EM Session – Elected Member Session

**Report schedule as at 12 August 2020**  
**Elected member sessions to end of 2020**

**EM Session 25/08/2020**

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF	DW	STATUS
GM Crop Community Engagement Results – Confirmed	Onsman, Ynys	CR			0
Long Term Financial Plan process - Confirmed	Spartalis, George	FC			0

**EM Session 08/09/2020**

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF	DW	STATUS
Sellicks Beach Structure Plan - TBC	Wright, Clare	CCS			0
Elected Member Website presentation	McElligott, Sheryn	CCS			6
Representation review, role of elected members and admin support - TBC	Brunotte, Therese	CCS			0

**EM Session 22/09/2020**

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF	DW	STATUS
Strategic Asset Management Plan TBC	Flaherty, Lisa	CO			0
Corporate Emissions Target Workshop - Confirmed	McGlennan, Jennifer	CR			0
Sellicks Beach Structure Plan - TBC	Wright, Clare	CCS			0

**EM Session 13/10/2020**

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF	DW	STATUS
Draft Economic Growth and Investment Strategy 2020-24 - TBC	Mrotek, Adam	CCS			0
Fees & Charges - TBC	Spartalis, George	FC			0

**EM Session 27/10/2020**

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF	DW	STATUS
Coastal Climate Risk Management - TBC	Keath, Nina	CO			0

**EM Session 10/11/2020**

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF	DW	STATUS
Organisation Expo - Confirmed	Brunotte, Therese	CCS			0

**EM Session 24/11/2020**

REPORT SCHEDULED	RESPONSIBLE OFFICER	DEPT	CF	DW	STATUS
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**Department acronyms**

CR – Community Relations

CCS – Corporate and City Services

FC – Finance and Commercial

CO – City Operations

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## 10. Questions on notice

### 10.1 Questions on notice – Cr de Graaf – Aboriginal Engagement Forum

*Please provide an update on the Council's new "Aboriginal Engagement Forum". Is this the correct name for the forum? How many meetings have been held and who attended and who was invited?*

*Can other Kurna people and Aboriginal people from other groups come and join this forum if interested? What is the process?*

*Have meetings been advertised anywhere?*

*Will Councillors be invited to attend a future meeting?*

*Is there a draft Terms of Reference? (please provide it if so).*

*What are the objectives of the group?*

*When is the Witton Bluff project going to be consulted with the Aboriginal Community?*

The responses to these questions will be included in the minutes of this meeting.

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## 10.2 Questions on notice – Cr de Graaf – Low Income Reference Group outcomes

### Background

Last year Council made a resolution to not operate the Low Income Reference Group, but instead take an all of chamber extended interest to work through low income related issues within our region.

*Will this new more invigorated whole of Council approach take a wholistic approach, so that Rates Hardship Policy is considered by groups other than just the Finance Sector of Council?*

*What overseeing body will determine a different approach, a whole of council approach?*

*What changes have already occurred?*

*Despite the Community Capacity Strategic Management Plan having it's engagement and feedback process still happening, as Council already made a decision to be more active in the Low Income space – what changes have been made since that resolution?*

*What changes are being made, based on Council's resolution?*

*Can you please put a copy of that whole of council resolution in with these notes, for background to any readers.*

The responses to these questions will be included in the minutes of this meeting.

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## 10.3 Questions on notice – Cr de Graaf – Hardship policy

### Background

Council reported a large number of residents who are on payment arrangements, indicating those people could be struggling to keep on top of their rates bills.

*Was there a cap on the amount of fines / late fees / court fees that could be credited back to a person's rates account last year, and in previous years?*

*Council have approved a cap of up to \$100 be credited back, in approved cases – is this amount of \$100 a restriction that didn't exist before?*

*Council appear to have taken a more conservative and restricted approach to assisting with rates hardship – considering there are COVID19 related hardships, and ongoing hardships – why hasn't this been explored to be improved and raised, so more help is given – and that an over view be done, by a group other than just the finance team (ie perhaps community capacity team?). IE why hasn't council acted on the "whole of council" approach, and included "hardship" in their forward strategy?*

*If a person attends or ring council, and asks – what do you have to offer or assist "me or my family" whilst we are undergoing short term financial hardship – what answer do they get? Please provide links to useful website pages etc.*

The responses to these questions will be included in the minutes of this meeting.

**11. Motions on notice**

Nil.

**12. Petitions**

Nil.

**13. Urgent business**

**14. Confidential items**

Confidential Clause

If the Council so determines items 14.1 to 14.4 may be considered in confidence under Section 90(2) of the *Local Government Act 1999* on grounds contained in the Recommendations below.



Scott Ashby  
Chief Executive Officer

## 14.1 LGA Initiative – Food Diversion

### 1. Exclusion of the public

That:

- a. under the provisions of Section 90(2) of the *Local Government Act 1999* an order be made that the public, with the exception of staff on duty, be excluded from attendance at the meeting in order to consider this item in confidence.
- b. the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Council to consider the report at the meeting on the following grounds:

Section 90(3)(j) information the disclosure of which—

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

This report has been requested in confidence as the Local Government Association has requested Council consider this matter in confidence.

- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

### 2. Confidential recommendations

### 3. Period of confidentiality and delegations

- a. That the matter of Local Government Association Initiative – Food Diversion having been considered by the Council in confidence under sections 90(2) and 90(3) (j) of the *Local Government Act 1999* that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the agenda report, related attachments, discussion and minutes of the Council relating to the subject matter be kept confidential until such time as the initiative is finalised and announced publicly.
- b. That, pursuant to section 91(9)(a) of the *Local Government Act 1999*, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.
- c. That, pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.

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## 14.2 Presiding Member appointment of Council Assessment Panel

### 1. Exclusion of the public

That:

- a. under the provisions of Section 90(2) of the *Local Government Act 1999* an order be made that the public, with the exception of staff on duty, be excluded from attendance at the meeting in order to consider this item in confidence.
- b. the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Council to consider the report at the meeting on the following grounds:

Section 90(3)(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

As this report contains information of a personal nature relating to the preferred candidate for the Presiding Member of the Council Assessment Panel, it should remain confidential until and unless the recommended candidate is approved by Council and accepts the appointment.

- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

### 2. Confidential recommendations

### 3. Period of confidentiality and delegations

- a. That the matter of Presiding Member appointment of Council Assessment Panel, having been considered by the Council in confidence under sections 90(2) and 90(3)(a) of the *Local Government Act 1999* that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the agenda report, related attachments, discussion and minutes of the Council relating to the subject matter be kept confidential until and unless the recommended candidate is endorsed by Council and accepts the appointment.
- b. That, pursuant to section 91(9)(a) of the *Local Government Act 1999*, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.
- c. That, pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.

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## 14.3 Chief Executive Officer Performance Management Committee meeting confidential minutes of 6 August 2020 re probation review

### 1. Exclusion of the public

That:

- a. under the provisions of Section 90(2) of the *Local Government Act 1999* an order be made that the public, with the exception of the Director Corporate, Manager Human Resources and Governance Officer/s, be excluded from attendance at the meeting in order to consider this item in confidence.

- b. the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Committee to consider the report at the meeting on the following grounds:

Section 90(3)(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead), in this instance being matters related to the terms and conditions of the employment contract for the Chief Executive Officer.

The Council is satisfied that it is reasonably foreseeable that the public disclosure or discussion of information concerning the contract of employment of a person at the meeting would be inconsistent with accepted principles of professional human resource management and that the commercial nature of the information that is presented in this report is not for broader public consumption.

- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

### 2. Confidential recommendations

### 3. Period of confidentiality and delegations

- a. That the matter of Chief Executive Officer Performance Management Committee meeting confidential minutes of 6 August 2020 re probation review having been considered by the Council in confidence under sections 90(2) and 90(3)(a) of the *Local Government Act 1999* that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the agenda report, discussion and minutes of the Council relating to the subject matter be kept confidential until 6 August 2032 (being seven years following the expiry of the CEO's contract in accordance with standard human resource recording keeping practices), with the exception that this information may be released to the Chief Executive Officer, the Director Corporate, Manager Human Resources, and the Independent Advisor.
- b. That, pursuant to section 91(9)(a) of the *Local Government Act 1999*, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.
- c. That, pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.

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## 14.4 Legal Services Summary

### 1. Exclusion of the public

That:

- a. under the provisions of Section 90(2) of the *Local Government Act 1999* an order be made that the public, with the exception of staff on duty, be excluded from attendance at the meeting in order to consider this item in confidence.
- b. the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Council to consider the report at the meeting on the following grounds:

Section 90(3)(h) legal advice;

Section 90(3)(i) information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council;

Section 90(3)(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

The information to be received, discussed or considered in relation to this agenda report is information relating to actual litigation involving the Council in that the legal advice concerning an appeal before the Environment, Resources & Development Court will be discussed.

- c. accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.
- ### 2. Confidential recommendations
- ### 3. Period of confidentiality and delegations
- a. That the matter of Legal Services Summary having been considered by the Council in confidence under sections 90(2) and 90(3)(h), (i) and (a) of the *Local Government Act 1999* that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the agenda report, discussion and minutes of the Council relating to the subject matter be kept confidential until the agenda report has been discussed and considered by the Council at the 18 August 2020 meeting, with the exception that:
 

the personal details contained within the agenda report be kept confidential on the grounds it would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).
  - c. That, pursuant to section 91(9)(a) of the *Local Government Act 1999*, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.
  - d. That, pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.

## 15. Closure

# Conflict of Interest Disclosure Form

CONFLICTS MUST BE DECLARED VERBALLY DURING MEETINGS

Councillor: \_\_\_\_\_

Date: \_\_\_\_\_

Meeting name: \_\_\_\_\_

Agenda item no: \_\_\_\_\_

1. I have identified a conflict of interest as:

MATERIAL ☐

ACTUAL ☐

PERCEIVED ☐

MATERIAL: Conflict arises when a councillor or a nominated person will gain a benefit or suffer a loss (whether directly or indirectly and whether pecuniary or personal) if the matter is decided in a particular manner. If declaring a material conflict of interest, Councillors must declare the conflict and leave the meeting at any time the item is discussed.

ACTUAL: **Conflict arises when there is a conflict between a councillor’s interests (whether direct or indirect, personal or pecuniary) and the public interest, which might lead to decision that, is contrary to the public interest.**

PERCEIVED: Conflict arises in relation to a matter to be discussed at a meeting of council, if a councillor could reasonably be taken, from the perspective of an impartial, fair-minded person, to have a conflict of interest in the matter – whether or not this is in fact the case.

2. The nature of my conflict of interest is as follows:

*(Describe the nature of the interest, including whether the interest is direct or indirect and personal or pecuniary)*

\_\_\_\_\_

\_\_\_\_\_

3. I intend to deal with my conflict of interest in the following transparent and accountable way:

☐ I intend to leave the meeting

OR

☐ I intend to stay in the meeting *(complete part 4)*

4. The reason I intend to stay in the meeting and consider this matter is as follows:

\_\_\_\_\_

\_\_\_\_\_

*(This section must be filled in. Ensure sufficient detail is recorded of the specific circumstances of your interest.)*

and that I will receive no benefit or detriment direct or indirect, personal or pecuniary from considering and voting on this matter.

CONFLICTS MUST ALSO BE DECLARED VERBALLY DURING MEETINGS

Governance use only: Member voted FOR/AGAINST the motion.

## Ordinary Business Matters

A material, actual or perceived Conflict of Interest does not apply to a matter of ordinary business of the council of a kind prescribed by regulation.

- (1) *The following ordinary business matters are prescribed under Regulation 8AAA of the Local Government (General) Regulations 2013.*
  - (a) *the preparation, discussion, conduct, consideration or determination of a review under section 12 of the Act*
  - (b) *the preparation, discussion, adoption or revision of a policy relating to allowances and benefits payable to members if the policy relates to allowances and benefits payable equally to each member (rather than allowances and benefits payable to particular members or particular office holders)*
  - (c) *the preparation, discussion, adoption or alteration of a training and development policy under section 80A of the Act*
  - (d) *the preparation, discussion, adoption or amendment of a strategic management plan under section 122 of the Act*
  - (e) *the adoption or revision of an annual business plan*
  - (f) *the adoption or revision of a budget*
  - (g) *the declaration of rates (other than a separate rate) or a charge with the character of a rate, and any preparation or discussion in relation to such a declaration*
  - (h) *a discussion or decision of a matter at a meeting of a council if the matter—*
    - (i) *relates to a matter that was discussed before a meeting of a subsidiary or committee of the council*
    - (ii) *the relevant interest in the matter is the interest of the council that established the committee or which appointed, or nominated for appointment, a member of the board of management of the council subsidiary or regional subsidiary.*
- (2) *For the purposes of section 75(3)(b) of the Act, a member of a council who is a member, officer or employee of an agency or instrumentality of the Crown (within the meaning of section 73(4) of the Act) will not be regarded as having an interest in a matter before the council by virtue of being a member, officer or employee.*

## Engagement and membership with groups and organisations exemption

A member will not be regarded as having a conflict of interest actual or perceived in a matter to be discussed at a meeting of council by reason only of:

- **an engagement with a community group, sporting club or similar organisation undertaken by the member in his or her capacity as a member; or membership of a political party**
- **membership of a community group, sporting club or similar organisation ( as long as the member is **not** an office holder for the group, club or organisation)**
- **the member having been a student of a particular school or his or her involvement with a school as parent of a student at the school**
- **a nomination or appointment as a member of a board of a corporation or other association, if the member was nominated for appointment by a Council.**

However, the member will still be required to give careful consideration to the nature of their association with the above bodies. Refer Conflict of Interest Guidelines.

For example: If your only involvement with a group is in your role as a Council appointed liaison as outlined in the Council appointed liaison policy, you will not be regarded as having a conflict of interest actual or perceived in a matter, and are NOT required to declare your interest.