

9.1 First Nations People Advisory Group

Report contact

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Approving officer

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Meeting

Council

Date

20 April 2021

1. Purpose

This report responds to the resolution of the Strategic Directions Committee on 1 December 2020 to establish a (provisionally named) First Nations People Advisory Group (FNPAG). It provides an update on progress towards the establishment of the group and seeks nominations from up to three elected members to be appointed as members of the group.

2. Recommendations

That Council:

1. **appoints Ms Alema Pilot, Ms Susan Roberts and Mr Corey Turner as inaugural members of the (provisionally titled) First Nations People Advisory Group for a period of two years, with a fourth Traditional Owner position to be filled at a later date, as determined by the group**
2. **appoints up to three Elected Member nominees as members of the First Nations People Advisory Group for a period of two years (or until the 2022 Council election)**
3. **approves the remuneration of Traditional Owner members at the rate of \$125 per hour for participation in approved meetings of the First Nations People Advisory Group**
4. **approves the First Nations People Advisory Group Draft Terms of Reference (attachment 1 to the agenda report), and delegates authority to the Chief Executive Officer to make any required amendments following the establishment and operation of the group**
5. **notes the first formal meeting of the First Nations People Advisory Group will take place in June/July 2021.**

3. Executive summary

Improving how council works with the Traditional Owners of our region is an integral part of our City's shared journey towards reconciliation. Establishing the First Nations People Advisory Group (FNPAG) is an important step to a stronger and more formal relationship with Kurna as Traditional Owners of our region and beyond, across the Adelaide plains.

Building effective relationships with the Kurna community will help achieve greater involvement in decision-making processes, and better align us with relevant Acts and guidelines. The FNPAG will give Traditional Owners the mechanism to provide advice on Kurna matters related to our project and service delivery planning. This will deliver efficiencies within projects and, importantly, help inform Council decision-making.

This report seeks the appointment of up to three elected members to the FNPAG. Council staff are working with Mr Karl Telfer, as appointed FNPAG Chairperson, on the process for appointing the remaining members of the group and the development of its draft Terms of Reference. Mr Telfer will address Council as part of the consideration of this report.

While doing this work in establishing the FNPAG to better engage with local representatives, council staff are also maintaining connection with other Kurna governance and representative structures, including Sothern Traditional Owners Meyunna Patparta (STOMP), Kurna Nation Cultural Heritage Association (KNCHA) and Kurna Yerta Aboriginal Corporation (KYAC). We will continue to do our normal work through these channels while the FNPAG is being established.

This report provides an update on these and other related matters and provides details for the steps to full operation of the FNPAG in that context.

4. Background

Community Plan 2030	<p>people: connected, engaged, active, healthy</p> <ul style="list-style-type: none"> • Our communities are connected, engaged and resilient
Policy and/or relevant legislation	<ul style="list-style-type: none"> • <i>Native Title Act 1993</i>, (commonwealth) • <i>Aboriginal Heritage Act 1988</i> (state) • UN Declaration on the Rights of Indigenous Peoples
Who did we talk to/who will we be talking to	<ul style="list-style-type: none"> • Mr Karl Telfer, Chairperson First Nations People Advisory Group • Mr Jeffrey Newchurch, Chairperson Kurna Nation Cultural Heritage Association (KNCHA) and Kurna Yerta Aboriginal Corporation (KYAC) • Local Kurna representatives via Southern Traditional Owners Meyunna Patparta (STOMP) • City of Holdfast Bay • City of Adelaide • City of Port Adelaide Enfield • Green Adelaide (Department for Environment and Water)

5. Discussion

Background

On 1 December 2020, the Strategic Directions Committee resolved to:

1. *approve an advisory group model as the preferred structure to strengthen and formalise the relationship between the City of Onkaparinga and the Kurna community*
2. *appoint Karl Telfer as Chair of the advisory group (provisionally called the First Nations People Advisory Group)*
3. *approve council staff to work with the Chair of the advisory group on:*
 - a. *establishing the process to appoint remaining members to the advisory group*
 - b. *consulting with key Kurna stakeholders on proposed membership appointments and draft Terms of Reference*
4. *note that a report will come back to council in early 2021 detailing outcomes of the above, including costs such as sitting fees, Terms of Reference (ToRs), proposed membership, and seeking nominations for appointment of up to three elected members to the advisory group.*

Our advisory group model, as approved by SDC, aligns with other contemporary Aboriginal engagement structures and is well positioned to achieve:

- an inclusive approach that recognises the diversity of voices in the Kurna community
- group discussion that arrives at an agreed position on matters, preferably via consensus
- an accountable structure with Terms of Reference, a schedule, agendas and meeting records
- a cost-effective method for working directly with Traditional Owners
- a platform for strengthening and formalising our Kurna relationship, while:
 - improving clarity for the organisation, Kurna stakeholders and our wider communities regarding how Council considers Kurna perspectives in decision-making
 - respecting the range of voices within the Kurna community
 - contributing to achieving relevant outcomes in the Community Plan 2030 and Community Capacity Strategic Plan 2021–24
 - upholding the principles of the current Community Engagement Framework
 - upholding the intent of the 2017 amendments to the state *Aboriginal Heritage Act 1988* to more closely involve relevant Aboriginal groups in protecting Aboriginal heritage
 - better recognising and managing the Aboriginal cultural landscape and its spiritual and cultural significance
 - better understanding and facilitating Aboriginal spiritual and cultural renewal.

The City of Onkaparinga is located within the Kurna Native Title determination area as formally defined in 2018 via the Kurna Native Title consent determination in the Federal Court of Australia. This determination formally recognises Kurna as the Aboriginal Traditional Owners of a broad area of metropolitan Adelaide, including our City.

On this basis Kurna Yerta Aboriginal Corporation (KYAC – Native Title) and Kurna Nation Cultural Heritage Association (KNCHA – Aboriginal heritage) are key stakeholders in Kurna governance at the peak body level. These are important organisations for us to engage with in establishing the FNPAG and undertaking other work with our First Nations people.

Mr Jeffrey Newchurch, Chairperson KYAC and KNCHA, has advised that a 'hub and spoke model' is envisaged for Kurna governance at this level and that the FNPAG will form the first spoke of this model, with other spokes north, east and west to be determined. We have engaged with Mr Newchurch during the process of considering the FNPAG, including earlier engagement on the appointment of the Chairperson and more recent engagement on appointing the remaining members of the group and the draft Terms of Reference.

A meeting held on Friday 16 April confirmed Mr Newchurch's ongoing support, and discussed how KYAC and FNPAG will work together.

Further engagement has occurred with Warpulai Kumangka (WK), the Kurna advisory group facilitated by Green Adelaide, in ensuring a connected approach to working across the Kurna region. This group has been in operation for some time and provides a good opportunity for us to work with them on matters that relate to the *Landscape South Australia Act 2019*, specifically coastal management, water resources and wetlands, fauna and flora, urban greening, nature education and pest plants and animals. Mr Newchurch and other lead Kurna representatives are involved in WK and the Green Adelaide Board.

With these broader learnings in mind, council staff have worked with the FNPAG Chairperson, Mr Karl Telfer, to establish the process to appoint remaining FNPAG members and arrive at draft ToRs for Council to consider.

Process to appoint remaining FNPAG members

Traditional Owner positions

There will be five Traditional Owner positions including the Chairperson. It is proposed that the following three Traditional Owners fill positions on the FNPAG as recommended by the Chairperson. These recommendations have been supported by Southern Traditional Owners Meyunna Patparta (STOMP) at a meeting convened on Sunday 28th March. Note, the Chairperson has requested the fourth position is filled at a later date by a younger person, as succession planning and nurturing skills in the younger generation is an important matter in First Nations business.

- Ms Alema Pilot
- Ms Susan Roberts
- Mr Corey Turner

Elected Member positions

The December 2020 SDC report identified that there will be up to three Elected Member positions. This report seeks nominations from Elected Members to fill these positions.

The successfully nominated Elected Member representatives will hold their positions on FNPAG for a period of two years, unless they leave Council following the 2022 Council election, in which case they would need to be replaced on the FNPAG.

Depending on Council approval, FNPAG members (Traditional Owners and Elected Members) will be invited to attend a workshop to determine how the Advisory Group will operate under its ToRs.

Terms of Reference

Council staff have worked with the FNPAG Chairperson to develop draft Terms of Reference (ToRs) (attachment 1).

The draft ToRs have been developed based on research of other advisory groups, including the one in operation at City of Holdfast Bay. It outlines how the FNPAG will work and includes the following highlights:

- Up to six meetings per year, each of up to three hours duration
- Membership period of two years
- Advice provided by the group is not binding – it contributes to City of Onkaparinga decision-making, in which a wide range of factors are considered
- Meeting records will be shared with City of Onkaparinga senior management and elected members, to inform decision-making
- Some confidentiality and gender specificity per Aboriginal cultural tradition factors may apply to topics discussed at advisory group meetings
- Review terms of reference and any other FNPAG arrangements after 12 months to determine if anything needs to change for the following period.

Remuneration for meetings

Remuneration for Traditional Owner participation in advisory groups is a well-established practice. Payments of this nature recognise the specialist cultural knowledge and advice provided by Aboriginal people in these settings.

The City of Holdfast Bay pays Traditional Owner members of their Kaurna advisory group \$125 per hour for their regular meetings. The scope and purpose of this group, in the context of providing advice on a broad range of matters for a local government area and is similar to the intended approach for the FNPAG.

Based on this, it is recommended a payment for the five Traditional Owner FNPAG members of \$125 per hour, for regular meetings of the FNPAG, for six meetings per year (as per Terms of Reference). This would result in a maximum cost of \$11,250 per annum. In addition, working group meetings may be held if necessary and approved by the Chief Executive Officer or delegate, under the same remuneration arrangements. We anticipate a potential of four working group meetings per year, of up to four members for three hours duration, at a total maximum cost of \$6,000.

The actual cost per meeting would depend on the number of the Traditional Owner members that attend (up to five members) and the duration of the meeting (up to three hours), so the total costs may fluctuate around those quoted above. It is also expected there may be some minor incidental meeting costs associated with the holding of meetings.

Update on South Australian Aboriginal Engagement Reform

The state Commissioner for Aboriginal Engagement, Dr Roger Thomas, is working towards establishment of a new engagement body to replace the role of the current South Australian Aboriginal Advisory Council. We will continue to monitor developments in this space for potential connections with the FNPAG. The engagement body will be based on new legislation that is yet to be written and seeks to:

- improve government engagement with Aboriginal people
- ensure the views of Aboriginal people are represented in government decision-making
- make recommendations regarding improved partnerships between government and the Aboriginal community of South Australia.

The Commissioner for Aboriginal Engagement met with the Premier in July 2020 to review the progress of the Aboriginal Engagement Reform. It was concluded that due to the impact of COVID-19, any engagement with the Aboriginal community was to be deferred. Notwithstanding this, the Premier has endorsed the following key aspects of the reform initiative, to be addressed in 2021:

- Draft legislation for an election of five candidates from five wards in South Australia
- Draft election rules to include but not limited to: eligibility to be registered to vote, enrolment provisions, complaints and dispute resolution process, election methodology and ward composition
- Establish an electoral roll for Aboriginal people in South Australia that enables them to vote in an election including eligibility to be registered to vote, how to enrol to vote and all other necessary rules
- Develop administrative systems for all voters to be registered on the roll.

6. Financial implications

If approved, a \$20,000 annual meeting remuneration cost and meeting incidentals budget allocation will be included in the draft 2021–22 operating budget. This cost has been factored into preliminary budget planning and, given the quantum, will not impact the Long Term Financial Plan in a material way. Costs for the remainder of 2020–21 will be covered by existing budget.

7. Risk and opportunity management

Risk	
Identify	Mitigation
Reputation/community expectation Our Kurna community is not satisfied with our approach to considering their perspectives in our decision-making.	Ensure that interested parties, such as KNCHA/KYAC and other local Kurna stakeholders, are kept informed of how the group will operate. Once established, twice yearly reports from FNPAG will be provided to KNCHA/KYAC, as per the draft terms of reference.
Compliance/legal Our approach to working with Kurna needs to be cognisant of the <i>Aboriginal Heritage Act 1988</i> or <i>Native Title Act 1993</i> .	A locally-based Kurna advisory group supported by the Kurna peak bodies will allow for our continued alignment with the Kurna governance structures already in place in relation to both Acts.
Operational The FNPAG takes longer than expected to be established and provide the desired advice to the organisation.	It may take time to establish the group to the point where it is fully operational. Interim processes, such as working with KNCHA/KYAC and/or other local Kurna representatives, will remain in place.

Opportunity	
Identify	Maximising the opportunity
A more defined, accountable, effective and efficient way of working with the Traditional Owners of our region.	An advisory group will provide a structure for our relationship with the Kurna community to enable timely and authoritative advice that informs our relevant decision-making.

8. Timelines and deadlines

Workshop process for FNPAG members in May 2021, followed by the first formal FNPAG meeting in June/July 2021, dependent on workshop outcomes.

9. Next steps

Depending on Council approval, council staff will work with the FNPAG Chairperson, Mr Karl Telfer, to invite FNPAG members (Traditional Owners and Elected Members) to participate in a workshop process in May 2021 on how the FNPAG will operate, as per the draft Terms of Reference.

It is proposed that the first FNPAG meeting will be held in June/July 2021.

Meanwhile council staff will develop internal protocols and procedures to align council communication and engagement on matters that relate to the First Nations People Advisory Group.

10. Attachments

Attachment 1 – Draft First Nations People Advisory Group Terms of reference (5 pages)

- END OF REPORT -

City of Onkaparinga
First Nations People Advisory Group (provisional title)
Terms of Reference

INTRODUCTION

Context

Per the Kurna Native Title Consent Determination in the Federal Court of Australia, the City of Onkaparinga recognises Kurna Meyunna as the Traditional Owners of the area that comprises the City of Onkaparinga council region and beyond, across the full determination area. It recognises ongoing Traditional Owner connections to the land and with all things that formed, have lived, are living, and will live within and upon the land and in the waters.

It is committed to gaining input from Traditional Owners to inform its decision-making pertaining to City of Onkaparinga matters.

Purpose

The City of Onkaparinga has led the establishment of a Traditional Owners advisory group (provisionally named) First Nations People Advisory Group to form the lead channel of engagement between the City of Onkaparinga and the Kurna People on formal matters needing Traditional Owner input via scheduled, formal meetings.

The meetings provide for a consensus Kurna Meyunna/Traditional Owner perspective on relevant matters occurring in the City of Onkaparinga region (see below for scope of matters). Advice provided by the group is not binding – it contributes to City of Onkaparinga decision-making, in which a wide range of factors are considered. Meeting records will be shared with City of Onkaparinga senior management and elected members, to inform decision-making.

The advisory group creates a space for discussions with Traditional Owners early in project planning/policy development processes, so that Traditional Owner perspectives are part of the early stages of forming council's position on relevant matters and projects.

A connection between the advisory group and Kurna Yerta Aboriginal Corporation, as the Prescribed Body Corporate under the Kurna Native Title Determination, will be maintained.

Objectives

For council to have a means for directly discussing matters occurring in the City of Onkaparinga region with Traditional Owners through a representative advisory group.

For Traditional Owners to have a means for directly discussing matters occurring in the City of Onkaparinga region with council representatives.

To formalise and strengthen a respectful relationship that enables better outcomes for:

1. Kurna Meyunna and broader Aboriginal communities in the City of Onkaparinga by way of, amongst other means:
 - a. better recognising and managing the Aboriginal cultural landscape and its spiritual and cultural significance
 - b. better understanding and facilitating Aboriginal spiritual and cultural renewal
2. the City of Onkaparinga in relation to Kurna Meyunna interests in projects, services and other local government responsibilities

3. Our broader communities, living, working and recreating on the land and in the waters traditionally owned by Kurna Meyunna.

Scope

The intended areas of influence for the advisory group include providing advice on:

- the establishment of a comprehensive City of Onkaparinga register of places of cultural significance – a register comparable to the listing of State and Local heritage places
- the potential for proposed City of Onkaparinga projects to impact on Aboriginal heritage and ways to mitigate this
- ways to better identify, manage and protect places of importance to Traditional Owners and other Aboriginal communities
- ways to promote Traditional Owner culture through City of Onkaparinga work and better respect Traditional Owner spiritual relationships with country
- Traditional Owners views on matters raised at advisory group meetings.

As the group is established it may not be possible to fully exercise influence across all these areas, until such time as processes are developed to support doing so. A staged approach to moving to full operation and effectiveness of the group is anticipated.

TERMS OF REFERENCE

Preamble

In consultation with Kurna Yerta Aboriginal Corporation the Terms of Reference will be considered for approval by the City of Onkaparinga Council, including membership nominations.

The Terms of Reference will be reviewed after the first twelve (12) months of advisory group operation. They will then be reviewed as required or at a two-yearly interval minimum.

At each revision, in consultation with Kurna Yerta Aboriginal Corporation, the revised Terms of Reference will be considered for approval by the Council or as delegated.

Chairperson

In December 2020 the Strategic Directions Committee resolved that an initial Chairperson of the advisory group be appointed.

The term of a Chairperson appointment is two (2) years. If the Chairperson position is vacated prior to the end of their term, a new Chairperson will be appointed from within the existing Traditional Owner membership of the advisory group and will be considered for approval by Council.

The Chairperson facilitates meeting discussions within agreed group norms and the provision of advice by the advisory group, along with other responsibilities as outlined in these terms of reference.

Traditional Owner membership

There will be up to five (5) Traditional Owner members, including the Chairperson. The term of a Traditional Owner member position is two (2) years. If a Traditional Owner member position is vacated prior to the end of their term, the remaining Traditional Owner membership, including the Chairperson, will nominate a new member who will be considered for approval by Council.

To establish the committee, nominations for membership appointments have been advised by the appointed Chairperson, in consultation with Kurna Yerta Aboriginal Corporation, and will be considered for approval by Council.

Council membership

Council will appoint up to three (3) Council members (elected members). The term of a Council membership is two (2) years, after which Council will again appoint up to three (3) Council members.

All Council member positions will be vacated at the end of a Council term and Council will again appoint up to three (3) Council members for the next two (2) year period.

An ex-officio member can be invited to attend meetings, at the advisory group's discretion.

Council staff (non-members)

For the functionality of the group, non-member staff may attend meetings to present information, learn from discussions, or support the process. Council staff non-members will respect any confidentiality stipulations and gender specificity requirements.

Member attendance

If a member cannot attend a meeting, then an apology should be sent to the Chairperson or the council officer and a nominated proxy can attend in their place.

If the Chairperson cannot attend a meeting, then an apology should be sent to the council officer and a nominated proxy can attend in their place. A temporary chairperson will be appointed by the Traditional Owner membership present at the meeting for the duration of that meeting.

Quorum

A minimum of three (3) Traditional Owner members and one (1) Council member is required to make a meeting quorum. If a quorum is not reached, the agenda for the meeting will not proceed.

Meeting administration

Administration to support the advisory group and its meetings will be provided by a council officer, who will maintain communication with members, prepare agendas as agreed with the chairperson, and record and distribute the outcomes of meeting discussions. The council officer will be present at meetings as a non-member participant and other non-member council officers will also attend as required.

Agendas and papers

A council staff member will support the Chairperson in the preparation of agendas and papers for scheduled advisory group meetings. The staff member will distribute meeting agendas and any supporting material at least one (1) calendar week prior to the scheduled meeting.

Record of meetings

The council officer will record outcomes of discussions at all meetings. Meeting records are for information only – they do not constitute formal minutes and are not for distribution beyond the identified recipients.

The council officer will distribute the meeting record to members within two (2) weeks of the meeting. Meeting records will also be provided to City of Onkaparinga senior management and elected members, to inform decision-making.

Twice yearly a brief summary will be provided to Kurna Yerta Aboriginal Corporation of matters discussed by the advisory group and any outcomes, for the preceding period.

Meeting location

Meetings will be held in the City of Onkaparinga Council Chamber, unless the Chairperson, via negotiation with council administration, determines an alternative venue is required for a specific meeting.

Meeting frequency and duration

The advisory group will meet up to six (6) times in its first twelve (12) months of operation, with meetings of up to three (3) hours in duration. These arrangements will be reviewed after the first twelve (12) months.

A meeting schedule will be provided at the start of each calendar year. Meeting times can be adjusted by the Chairperson, via negotiation with the council officer, as required.

Meeting cancellations

A meeting can be cancelled prior to the scheduled time, if there are no agenda items listed for the meeting, or it becomes apparent, via apologies received and the unavailability of proxy members, that a quorum will not be reached at the meeting.

Additional meetings

If unexpected or urgent matters arise such that additional meetings are required, then the Chairperson can ask the nominated senior council representative to approve a meeting of the group in addition to the scheduled meetings for that year.

Approval for holding any additional meeting and associated costs will be assessed on a case-by-case basis.

Working groups

If it is deemed at a meeting that a matter is requiring extended time and that it would be best addressed through the formation of a separate working group to focus on that matter, then the Chairperson can ask the nominated senior council representative (outside of the meeting) to approve the formation of a short-term working group.

A working group may consist of members and non-members who work on the matter between advisory group meetings and report back to the advisory group with recommendations to inform the advice of the advisory group on the matter.

Approval for the formation of a working group and associated costs will be assessed on a case-by-case basis.

Raising matters

Any member can raise a matter for discussion, either prior to the agenda for the next scheduled meeting being finalised, or during the meeting at a time allocated by the Chairperson. The Chairperson will decide if a matter is discussed by the advisory group.

The City of Onkaparinga will suggest matters (with supporting material) to Council members, or council staff non-members attending specific meetings, to raise on behalf of the City of Onkaparinga.

Advice provided by the Traditional Owner membership

All efforts should be made for advisory group advice on a matter to be provided via consensus, as managed by the Chairperson. All advice provided is non-binding and is offered in good faith to inform City of Onkaparinga decision-making.

Confidentiality

Matters discussed at advisory group meetings may be of a sensitive nature. Each matter will be considered in relation to any confidentiality requirements, as stipulated by the Chairperson, and agreed by vote of the Traditional Owner membership present.

Meeting records will not include confidential elements.

Gender specificity

Traditional Owner members, via the Chairperson, have the option to request any matters be deemed as gender specific and for consideration only by that respective gender, per Aboriginal cultural protocol. All members are to respectfully accept this and act accordingly regarding their participation in, or exclusion from, discussing those matters or elements thereof.

Costs

The City of Onkaparinga will be responsible for all agreed costs associated with the normal running of scheduled/approved advisory group meetings.

Members can seek prior approval for any foreseen additional costs and these will be forwarded on to the nominated senior council representative by the City of Onkaparinga staff member.

Approval for any additional costs will be assessed on a case-by-case basis, before the cost is incurred.

Conflicts of interest

Advisory group members must declare any conflicts of interest at the start of each meeting and this will be included in the meeting record.

If members or other attendees at advisory group meetings are deemed to have a real or perceived conflict of interest, the Chairperson may decide it appropriate that they do not participate in discussions on the matter where a conflict of interest exists.

The Chairperson may also excuse him or herself from a discussion if conflict of interest provisions apply.

Grievances

After raising any grievances with the group or individual concerned directly, any member unsatisfied with the result of doing so may, through the nominated senior council representative, raise a grievance against the advisory group, the Chairperson, any member, meeting attendee or meeting process.