



Contact for apologies: Sue Hammond
ph: 8384 0747
email: sueham@onkaparinga.sa.gov.au

Contact number for meeting venue: 8384 0614

2 September 2016

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 6 September 2016** at the Council Chamber at the Civic Centre, Ramsay Place, Noarlunga Centre at 7pm 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 Kurna.

A handwritten signature in blue ink, appearing to be "Mark Dowd".

Mark Dowd
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
PO Box 1
Noarlunga Centre
South Australia 5168
www.onkaparingacity.com

Noarlunga office
Ramsay Place
Noarlunga Centre
Ph: 8384 0666
Fax: 8382 8744

Aberfoyle Park office
The Hub
Aberfoyle Park
Ph 8384 0666
Fax: 8270 1155

Willunga office
St Peters Terrace
Willunga
Ph: 8384 0666
Fax: 08 8556 2641

Woodcroft office
175 Bains Road
Morphett Vale
Ph: 8384 0666
Fax: 08 8556 2641

Page left intentionally blank

City of Onkaparinga
Agenda for the Council meeting
to be held on 6 September 2016

Venue: Council Chamber, Civic Centre
Ramsay Place, Noarlunga Centre

Meeting commenced:

Present:

Apologies: Cr W Olsen

Leave of absence: Cr J Gunn

Absent:

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.

Page left intentionally blank

1.	Opening of meeting	7
2.	Confirmation of minutes of the Council meeting held on 16 August 2016	7
3.	Adjourned business	7
4.	Leave of absence	7
5.	Mayor's Communication	7
6.	Presentation	7
7.	Deputation	7
8.	Presentation by Committee Chairpersons and reports to Council by Council Committees.	9
8.1	Strategic Directions Committee minutes	9
9.	Reports of officers	21
9.1	2015-16 Budget Carry Forward Report	21
9.2	Council informal gatherings policy	49
9.3	Review of Code of Conduct for Council Members complaints procedure – Part 2 Behaviour	61
10.	Nominations to external bodies	87
11.	Questions on notice	87
11.1	Questions on notice - Cr Parslow - Court Resurfacing Program	87
12.	Motions	89
13.	Petitions	89
14.	Urgent business	89
15.	Confidential items	89
15.1	Chief Executive Officer Strategic Performance Objectives Annual Report	91
16.	Closure	91

Page left intentionally blank

- 1. Opening of meeting**

- 2. Confirmation of minutes of the Council meeting held on 16 August 2016**

- 3. Adjourned business**
Nil.

- 4. Leave of absence**
Nil.

- 5. Mayor's Communication**
Nil.

- 6. Presentation**
Nil.

- 7. Deputation**
Nil.

Page left intentionally blank

8. Presentation by Committee Chairpersons and reports to Council by Council Committees.

8.1 Strategic Directions Committee minutes

This is a regular or standard report.

Manager: Desma Morris, Manager Governance

Report Author: Sue Hammond, Governance Officer

Contact Number: 8384 0747

Attachments: 1. Minutes of the Strategic Directions Committee meeting held 30 August 2016 (9 pages)

A meeting of the Strategic Directions Committee was held on 30 August 2016.

The following item requires a resolution of Council:

Recommendations

1. Re 7.1 Willunga Golf Course Service Review Stage 1 – update

That Council approve the recommendations of the Willunga Golf Course Service Review as summarised through the Strategic Directions Committee report and as presented in attachment 1 to the Strategic Directions committee agenda report, as follows:

Recommendation 1

The Willunga Golf Course land remain in the ownership of the City of Onkaparinga and that it continues to operate as a golf course until such time as the outcomes of the second stage of the Service Review (Recommendation 3) is complete.

Recommendation 2

That until such time as Recommendation 3 is complete, in order to mitigate the cost associated with the continued ownership of the Course it is recommended:

- a. To refurbish and recommission the Course bore to make groundwater available to reduce the cost associated with the use of reclaimed water.**
- b. To sell a portion (30ML of the 77.44ML entitlement) of the Willunga Golf Course bore licence to generate revenue to support its refurbishment and so that the remaining volumes can be accessed.**
- c. That council assume responsibility for and prepare and implement a strategic marketing and promotion strategy to raise the profile of the Course and the services that it has to offer with a view toward:**
 - better positioning the course as a valued asset within the McLaren Vale wine region**
 - increasing patronage and associated revenue.**
- d. That council continues to assess continuous improvement of its operational practices and focus on further cost saving initiatives.**
- e. That membership and casual green fees are reviewed annually so that they are comparable with the local market averages by the end of the 2017-18 financial year.**

Recommendation 3

That a second stage of the Service Review (incorporating external professional expertise) be carried out to further explore the Willunga Golf Course as a commercial asset in greater detail and in turn potentially reconsider council's role in the management of the Course ie an asset that yields sufficient return to offset its operational costs and potentially yield a surplus for council.

Commercial options will be compared against a business as usual approach with a continued focus on innovation ie arising from Recommendations 1 and 2 and/or consideration of the Course as a community asset.

The second stage of the Service Review considerations will include (but are not limited to):

- **portion closure, sale of the land for development and creation of a 9 hole golf course**
- **third party ownership of golf business**
- **third party investment and commercialisation.**

The outcomes of the second stage of the Service Review will be presented back to the Strategic Directions Committee at the first meeting of 2017 in time for the 2017-18 budget considerations.

- 2. That Council note the remaining minutes of the Strategic Directions Committee meeting held on 30 August 2016 as attached to the agenda report.**

City of Onkaparinga
Minutes of the Strategic Directions Committee meeting
held on 30 August 2016

Venue: Council Chamber, Civic Centre
Ramsay Place, Noarlunga Centre

Meeting commenced: 7pm

Present: Mayor L F Rosenberg
Cr S Brown
Cr D Chapman
Cr J Deakin
Cr H Greaves
Cr J Gunn
Cr G Hennessy
Cr R Holtham
Cr W Jamieson
Cr G Kilby
Cr H Merritt
Cr B Nankivell
Cr L Nicholls
Cr W Olsen
Cr D Parslow
Cr P Schulze
Cr N Swann
Cr M Themeliotis
Cr H Wainwright

Apologies: Cr M Bray
Cr G Olbrich

Leave of absence:

Absent:

1. Opening of meeting

Cr Parslow officially declared the meeting open at 7pm.

2. Confirmation of minutes

Cr Swann MOVED that the minutes of the proceedings of the Strategic Directions Committee meeting held on 19 July 2016 be received and confirmed as an accurate record of those proceedings.

Seconded by Cr Themeliotis.

CARRIED

3. Adjourned business

Nil.

4. Chairperson's report

Nil.

5. Presentation

Nil.

6. Deputation

6.1 Willunga Golf Course (Graham Ormsby)

Graham Ormsby gave a deputation and answered questions from elected members in relation to the future use of the Willunga Golf Course.

7. Reports of officers

7.1 Willunga Golf Course Service Review Stage 1 - update

At 7.38pm Cr Parslow sought and was granted leave of the meeting to suspend proceedings in order to facilitate informal discussions in this matter.

Cr Parslow reconvened the meeting in the Chamber at 8.09pm with all members present that were present before the adjournment

MOVED Cr Chapman.

That the Strategic Directions Committee recommend to Council that it approve the recommendations of the Willunga Golf Course Service Review as summarised through this report and as presented in attachment 1 to the agenda report, as follows:

Recommendation 1

The Willunga Golf Course land remain in the ownership of the City of Onkaparinga and that it continues to operate as a golf course until such time as the outcomes of the second stage of the Service Review (Recommendation 3) is complete.

Recommendation 2

That until such time as Recommendation 3 is complete, in order to mitigate the cost associated with the continued ownership of the Course it is recommended:

- a. To refurbish and recommission the Course bore to make groundwater available to reduce the cost associated with the use of reclaimed water.*
- b. To sell a portion (30ML of the 77.44ML entitlement) of the Willunga Golf Course bore licence to generate revenue to support its refurbishment and so that the remaining volumes can be accessed.*
- c. That council assume responsibility for and prepare and implement a strategic marketing and promotion strategy to raise the profile of the Course and the services that it has to offer with a view toward:*
 - better positioning the course as a valued asset within the McLaren Vale wine region*
 - increasing patronage and associated revenue.*
- d. That council continues to assess continuous improvement of its operational practices and focus on further cost saving initiatives.*
- e. That membership and casual green fees are reviewed annually so that they are comparable with the local market averages by the end of the 2017-18 financial year.*

Recommendation 3

That a second stage of the Service Review be carried out to further explore the Willunga Golf Course as a commercial asset in greater detail and in turn potentially reconsider council's role in the management of the Course ie an asset that yields sufficient return to offset its operational costs and potentially yield a surplus for council.

Commercial options will be compared against a business as usual approach with a continued focus on innovation ie arising from Recommendations 1 and 2 and/or consideration of the Course as a community asset.

The second stage of the Service Review considerations will include (but are not limited to):

- third party ownership of golf business*
- third party investment and commercialisation.*

The outcomes of the second stage of the Service Review will be presented back to Council early 2017 in time for the 2017-18 budget considerations.

LAPSED for want of a seconder

MOVED Cr Greaves.

That the Strategic Directions Committee recommend to Council that it approve the recommendations of the Willunga Golf Course Service Review as summarised through this report and as presented in attachment 1 to the agenda report, as follows:

Recommendation 1

The Willunga Golf Course land remain in the ownership of the City of Onkaparinga and that it continues to operate as a golf course until such time as the outcomes of the second stage of the Service Review (Recommendation 3) is complete.

Recommendation 2

That until such time as Recommendation 3 is complete, in order to mitigate the cost associated with the continued ownership of the Course it is recommended:

- a. To refurbish and recommission the Course bore to make groundwater available to reduce the cost associated with the use of reclaimed water.*
- b. To sell a portion (30ML of the 77.44ML entitlement) of the Willunga Golf Course bore licence to generate revenue to support its refurbishment and so that the remaining volumes can be accessed.*
- c. That council assume responsibility for and prepare and implement a strategic marketing and promotion strategy to raise the profile of the Course and the services that it has to offer with a view toward:*
 - better positioning the course as a valued asset within the McLaren Vale wine region*
 - increasing patronage and associated revenue.*
- d. That council continues to assess continuous improvement of its operational practices and focus on further cost saving initiatives.*
- e. That membership and casual green fees are reviewed annually so that they are comparable with the local market averages by the end of the 2017-18 financial year.*

Recommendation 3

That a second stage of the Service Review be carried out to further explore the Willunga Golf Course as a commercial asset in greater detail and in turn potentially reconsider council's role in the management of the Course ie an asset that yields sufficient return to offset its operational costs and potentially yield a surplus for council.

Commercial options will be compared against a business as usual approach with a continued focus on innovation ie arising from Recommendations 1 and 2 and/or consideration of the Course as a community asset.

The second stage of the Service Review considerations will include (but are not limited to):

- closure and retention of land as open space*
- closure, sale of the land for development and retention of bequeathed land only*
- portion closure, sale of the land for development and creation of a 9 hole golf course*
- third party ownership of golf business*
- third party investment and commercialisation.*

The outcomes of the second stage of the Service Review will be presented back to Council early 2017 in time for the 2017-18 budget considerations.

Seconded by Cr Kilby.

Cr Jamieson MOVED an AMENDMENT.

That the Strategic Directions Committee recommend to Council that it approve the recommendations of the Willunga Golf Course Service Review as summarised through this report and as presented in attachment 1 to the agenda report, as follows:

Recommendation 1

The Willunga Golf Course land remain in the ownership of the City of Onkaparinga and that it continues to operate as a golf course until such time as the outcomes of the second stage of the Service Review (Recommendation 3) is complete.

Recommendation 2

That until such time as Recommendation 3 is complete, in order to mitigate the cost associated with the continued ownership of the Course it is recommended:

- a. To refurbish and recommission the Course bore to make groundwater available to reduce the cost associated with the use of reclaimed water.*
- b. To sell a portion (30ML of the 77.44ML entitlement) of the Willunga Golf Course bore licence to generate revenue to support its refurbishment and so that the remaining volumes can be accessed.*

Recommendation 3

That a second stage of the Service Review (incorporating external professional expertise) be carried out to further explore the Willunga Golf Course as a commercial asset in greater detail and in turn potentially reconsider council's role in the management of the Course ie an asset that yields sufficient return to offset its operational costs and potentially yield a surplus for council.

Commercial options will be compared against a business as usual approach with a continued focus on innovation ie arising from Recommendations 1 and 2 and/or consideration of the Course as a community asset.

The second stage of the Service Review considerations will include (but are not limited to):

- closure and retention of land as open space*
- closure, sale of the land for development and retention of bequeathed land only*
- portion closure, sale of the land for development and creation of a 9 hole golf course*
- third party ownership of golf business*
- third party investment and commercialisation.*

The outcomes of the second stage of the Service Review will be presented back to the Strategic Directions Committee at the first meeting of 2017 in time for the 2017-18 budget considerations.

Seconded by Cr Deakin.

Cr Chapman declared a perceived conflict of interest as a casual member of Willunga Golf Course. Cr Chapman stated he would receive no benefit or detriment,

direct or indirect, personal or pecuniary from considering and voting on this matter and chose to remain in the meeting.

The AMENDMENT was PUT and CARRIED.

Cr Chapman voted against the amendment.

The majority of members entitled to vote at the meeting voted for the amendment.

Mayor Rosenberg MOVED a further AMENDMENT.

That the Strategic Directions Committee recommend to Council that it approve the recommendations of the Willunga Golf Course Service Review as summarised through this report and as presented in attachment 1 to the agenda report, as follows:

Recommendation 1

The Willunga Golf Course land remain in the ownership of the City of Onkaparinga and that it continues to operate as a golf course until such time as the outcomes of the second stage of the Service Review (Recommendation 3) is complete.

Recommendation 2

That until such time as Recommendation 3 is complete, in order to mitigate the cost associated with the continued ownership of the Course it is recommended:

- a. To refurbish and recommission the Course bore to make groundwater available to reduce the cost associated with the use of reclaimed water.*
- b. To sell a portion (30ML of the 77.44ML entitlement) of the Willunga Golf Course bore licence to generate revenue to support its refurbishment and so that the remaining volumes can be accessed.*
- c. That council assume responsibility for and prepare and implement a strategic marketing and promotion strategy to raise the profile of the Course and the services that it has to offer with a view toward:
 - better positioning the course as a valued asset within the McLaren Vale wine region*
 - increasing patronage and associated revenue.**
- d. That council continues to assess continuous improvement of its operational practices and focus on further cost saving initiatives.*
- e. That membership and casual green fees are reviewed annually so that they are comparable with the local market averages by the end of the 2017-18 financial year.*

Recommendation 3

That a second stage of the Service Review (incorporating external professional expertise) be carried out to further explore the Willunga Golf Course as a commercial asset in greater detail and in turn potentially reconsider council's role in the management of the Course ie an asset that yields sufficient return to offset its operational costs and potentially yield a surplus for council.

Commercial options will be compared against a business as usual approach with a continued focus on innovation ie arising from Recommendations 1 and 2 and/or consideration of the Course as a community asset.

The second stage of the Service Review considerations will include (but are not limited to):

- *portion closure, sale of the land for development and creation of a 9 hole golf course*
- *third party ownership of golf business*
- *third party investment and commercialisation.*

The outcomes of the second stage of the Service Review will be presented back to the Strategic Directions Committee at the first meeting of 2017 in time for the 2017-18 budget considerations.

Seconded by Cr Swann.

The AMENDMENT was PUT and CARRIED.

Cr Chapman voted for the amendment.

The majority of members entitled to vote at the meeting voted for the amendment.

The MOTION, thus AMENDED, was PUT and CARRIED.

Cr Jamieson called a Division and the decision was set aside.

For:

<i>Cr Swann</i>	<i>Cr Kilby</i>	<i>Cr Schulze</i>	<i>Mayor Rosenberg</i>	<i>Cr Wainwright</i>
<i>Cr Themeliotis</i>	<i>Cr Greaves</i>	<i>Cr Nankivell</i>	<i>Cr Merritt</i>	<i>Cr Chapman</i>
<i>Cr Parslow</i>				

Against:

<i>Cr Holtham</i>	<i>Cr Deakin</i>	<i>Cr Olsen</i>	<i>Cr Jamieson</i>	<i>Cr Brown</i>
<i>Cr Gunn</i>	<i>Cr Hennessy</i>	<i>Cr Nicholls</i>		

CARRIED

At 8.50pm Cr Parslow sought and was granted leave of the meeting for a 10 minute break.

Cr Kilby left the meeting at 8.50pm.

Cr Parslow reconvened the meeting in the Chamber at 9.02pm with all members present that were present before the adjournment with the exception of Cr Kilby.

7.2 Aldinga Urban Lands DPA - Proposal to change to Proponent Led/Council Supervised Externally Funded DPA

MOVED Cr Chapman.

That the Strategic Directions Committee:

- 1. Approves the Aldinga Urban Lands Development Plan Amendment to be managed pursuant to Option 1 Proponent Funded and Proponent Led (Remen Nominees Pty Ltd) as per Council's Externally Funded Development Plan Amendment Procedure adopted 7 June 2016.*
- 2. Notes that Council retains its role and decision-making ability throughout the Development Act 1993 process during and prior to formal submission of the (externally funded) Development Plan Amendment to the Minister for Planning.*
- 3. Notes that all costs associated with an externally funded Development Plan Amendment including (but not limited to) planning and engineering*

investigations, consultant and legal fees, community engagement, and council staff project management are fully funded by an external proponent in accordance with the procedure.

Seconded by Cr Greaves.

CARRIED

7.3 Footpaths - Infrastructure Service Level Provision Review

Cr Chapman left his seat in the Chamber at 9.29pm.

Cr Chapman resumed his seat in the Chamber at 9.32pm.

MOVED Cr Schulze.

- 1. That the Strategic Directions Committee endorse the service level statement for the provision of footpaths as detailed in attachment 2 of the agenda report and note the financial implications as detailed as the Sustainable Service Level in section 4 of the agenda report (recognising the varied mix in use).*
- 2. That the Strategic Directions Committee note the proposed Footpath Resource Allocation Strategy changes as detailed in section 6 of the agenda report, which will be presented for Council's consideration as part of the 2017-18 Project and Capital Works resource allocation review process.*

Seconded by Cr Jamieson.

CARRIED

7.4 City of Onkaparinga Recreation and Commuter Cycling Study

Cr Nankivell left his seat in the Chamber at 9.45pm.

Cr Nankivell resumed his seat in the Chamber at 9.47pm.

Cr Greaves left her seat in the Chamber at 9.54pm.

Cr Greaves resumed her seat in the Chamber at 9.59pm.

Cr Hennessy left his seat in the Chamber at 10pm.

Cr Hennessy resumed his seat in the Chamber at 10.02pm.

Cr Jamieson left his seat in the Chamber at 10.06pm.

Cr Wainwright left her seat in the Chamber at 10.06pm.

Cr Jamieson resumed his seat in the Chamber at 10.07pm.

Cr Wainwright resumed her seat in the Chamber at 10.07pm.

At 10.08pm Cr Greaves MOVED that the meeting continue until 10.30pm.

Seconded by Cr Merritt.

CARRIED

MOVED Cr Olsen.

- 1. That the Strategic Directions Committee notes the City of Onkaparinga Recreation and Commuter Cycling Study.*

City of Onkaparinga
Minutes of the Strategic Directions Committee meeting held on 30 August 2016

2. *That the Strategic Directions Committee endorses the draft Trails and Cycling hierarchy and planning principles for the purposes of preparing the trails and cycling network maps for community engagement.*
3. *That the prioritised missing links on page 4 of attachment 1 modify the McLaren Vale to Kangarilla link from low to:*
 - a. *McLaren Vale to McLaren Flat as high priority*
 - b. *McLaren Flat to Kangarilla as low priority.*

Seconded by Cr Schulze.

Cr Jamieson MOVED an AMENDMENT.

1. *That the Strategic Directions Committee notes the City of Onkaparinga Recreation and Commuter Cycling Study.*
2. *That the Strategic Directions Committee endorses the draft Trails and Cycling hierarchy and planning principles for the purposes of preparing the trails and cycling network maps for community engagement.*

Seconded by Cr Nankivell.

The AMENDMENT was PUT and CARRIED. The MOTION, thus AMENDED, was PUT and CARRIED.

Cr Olsen left the meeting at 10.19pm.

Cr Chapman left the meeting at 10.19pm.

8. Closure

Cr Parslow officially declared the meeting closed at 10.30pm. Items 7.5 and 7.6 are adjourned to the next Strategic Directions Committee meeting.

Certified CorrectChair

/ /2016

Page left intentionally blank

9. Reports of officers

9.1 2015-16 Budget Carry Forward Report

Manager:	Darren Styler, Manager Finance
Report Author:	Diane Eckermann, Team Leader Management Accounting
Contact Number:	8384 0121
Attachments:	<ol style="list-style-type: none">1. Carried forwards – Project and Capital Works 2015-16 (16 pages)2. Carried forwards – Major Projects Fund 2015-16 (2 Pages)3. Carried forwards – Operating 2015-16 (4 pages)

1. Purpose

This report provides information on the 2015-16 Budget amounts proposed to be carried forward into the 2016-17 Budget.

2. Recommendation

That the carried forward budgets detailed in the agenda report and in attachments 1, 2 and 3 to the agenda report be incorporated into the 2016-17 Budget.

3. Background

As part of the end of year financial processes those budgets that need to be carried forward into the new financial year budget are identified.

Officers have undertaken the review for 2015-16 and this report provides proposed budget items to be carried forward into 2016-17 to enable the continuation and completion of the 2015-16 programs, projects and capital works.

4. Financial Implications

Carry forward amounts have increased from \$9.4m at 2014-15 to \$13.9m at 2015-16. This increase predominantly relates to the Aldinga Community Facility MPF project which has a carry forward of \$4.5m as discussed further in section 6 below.

We will continue to work towards reducing carry forward amounts to our long term target of \$7m over the coming years.

5. Risk and Opportunity Management

Risk	
Identify	Mitigation
Failure to deliver prior years approved programs, projects and capital works programs that were not completed as at 30 June 2016.	Carry forward budgets allow programs, projects and capital works not completed at 30 June 2016 to progress. This report outlines the carry forwards required.

6. Discussion

Due to a range of operational, timing and funding issues not all programs, projects and capital works can be completed in the year they were budgeted. As a result officers undertake a process to review the end of year actual income and expenditure items against the budget. Based on this review those budgets that need to be carried forward into the new financial year budget are identified.

This report provides proposed budget items to be carried forward into 2016-17 to enable the completion of the 2015-16 programs, projects and capital works.

The carry forward attachments 1, 2 and 3 to this report have a legend which describes the nature of each of the items being carried forward, as follows:

- Type 1 Works in progress, project engagement, concept or design commenced
- Type 2 Multi year project (not limited to a financial year)
- Type 3 Pending approvals/negotiation
- Type 4 Income pending
- Type 5 Related external funding.

Project and Capital Works

The following table provides a summary of proposed Project and Capital Works (PCW) carry forwards for 2015-16 compared to prior years:

	2012-13	2013-14	2014-15	2015-16
Project and Capital Works	\$9,941,155	\$8,611,538	\$6,175,301	\$5,800,181

Attachment 1 provides details of proposed PCW carry forward items for 2015-16 grouped by PCW category. Of particular note are the following items:

- Aldinga Beach kiosk car park

The 2015-16 car parks program has achieved budget savings due to varying factors including improved construction methodologies and revisions in budget estimates due to ongoing scoping throughout the design phase.

During the recent Aldinga Beach kiosk lease negotiations, council agreed to undertake car park works required to minimise and prevent damage to the leased site from stormwater runoff.

This is an existing project within the PCW Car Parks category that had been placed on hold subject to the kiosk redevelopment. Concept plans have been drafted however will be reviewed as the kiosk designs are progressed. Timing of the car park works will be aligned to development of the kiosk.

It is proposed that \$53,000 of the 2015-16 car parks program savings be carried forward to fund this project in 2016-17.

- **Jessamine Avenue/Red Cedar Drive**

The 2015-16 road works program has achieved budget savings due to varying factors including improved construction methodologies and revisions in budget estimates due to ongoing scoping throughout the design phase.

The Jessamine Avenue/Red Cedar Drive project had been scheduled for the 2016-17 road works program however was removed due to the reduction in Roads to Recovery funding.

It is proposed that \$782,717 of the 2015-16 road works program savings be carried forward to fund Jessamine Avenue/Red Cedar Drive in 2016-17 as per the pavement management modelling.

Major Projects Fund

The following table provides a summary of the proposed MPF carried forwards for 2015-16 compared to prior years:

	2012-13	2013-14	2014-15	2015-16
Major Projects Fund	\$4,284,810	\$3,210,757	\$2,056,709	\$6,842,422

Attachment 2 provides details of proposed MPF carry forward items for 2015-16. Of particular note are following items:

- **Aldinga library, main street and town square**

\$4.5m of the MPF carry forward position relates to the new Aldinga library, main street and town square project.

This challenging project requires development across three different land holdings (in addition to Council land) each of which has required complex, protracted negotiation of formal legal arrangements. This process has been guided by numerous iterations of technical designs and accompanying legal agreements negotiated with each party, including the Minister for Health regarding transfer of a portion of Aldinga GP Plus land.

While this has caused project delays, all agreements are now finalised, the new library base build is well progressed and Council construction of the library fit out, main road and town square is expected to commence by September 2016.

- **Main Road, McLaren Vale streetscape**

Improvements to the Main Road, McLaren Vale streetscape has progressed in stages over a number of years, with works between Hewitt Drive and the Victor Harbor Road overpass originally intended for completion in 2015-16.

The project budget includes \$450,000 of anticipated external income that at the time of commencing the project had not been realised, despite concerted efforts to secure funding through both federal and state government grants. As such the project proceeded with a reduced scope, between Hewitt Drive and Caffrey Street, which was recently completed.

In June 2016 the Department of Planning Transport and Infrastructure (DPTI) confirmed a funding contribution of \$182,000 towards stormwater drainage works completed in the Hewitt Drive to Caffrey Street section. This amount is still \$268,000 lower than the \$450,000 project budget and no further external income is anticipated.

In order to deliver the full scope of this project it is proposed that Council increase its own project funding by \$268,000 as part of the carry forward process, achieved through the redirection of Major Projects Fund savings in 2015-16. This will allow the final streetscape works between Caffrey Street and the Victor Harbor overpass to be completed in 2016-17.

Improvement of this gateway to McLaren Vale will address the declining condition of Main Road, improve amenity and tourism appeal to better reflect the importance of the region to local, regional and national tourism. The McLaren Vale Grape Wine and Tourism Association (600 members) and the McLaren Vale Business Association (140 members) represent strong community voices that have consistently lobbied Council to accelerate completion of the Main Road streetscape upgrade. Council's continuing advocacy and commitment to improving Main Road has also led to DPTI committing to resurface Main road over two years commencing in 2016-2017.

Operating

Operating carry forwards generally relate to externally funded activities where there is an obligation to deliver the programs and services in accordance with the conditions of funding or where programs or works have commenced and funds are committed.

The following table provides a summary of proposed operating carry forwards for 2015-16 compared to prior years:

	2012-13	2013-14	2014-15	2015-16
Operating	\$1,371,963	\$1,137,711	\$1,237,794	\$1,213,453

Attachment 3 provides details of proposed operating carried forward items for 2015-16.

Carry forward summary

The following table outlines the total carry forward items by type:

Type	Description	Budget
Type 1	Works in progress, project engagement, concept or design commenced	5,871,504
Type 2	Multi year project (not limited to a financial year)	9,526,986
Type 3	Pending approvals/negotiation	244,298
Type 4	Income pending	(97,700)
Type 5	Related external funding	(1,689,032)

Next steps

Following Council approval of carry forwards for 2015-16 they will be reflected in the 2015-16 year end financial statements in the Committed Expenditure Reserve and then transferred from this reserve to the 2016-17 Budget.

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Buildings				
Community building asset identification	15,000	Type 1	Works in progress	31/12/2016
Design - public toilets	15,000	Type 1	Works in progress	30/09/2016
Heritage buildings - review & update conservation plans	40,000	Type 1	Works in progress	30/09/2016
Jubilee Park - new toilet	237,576	Type 1	Works in progress	30/11/2016
Kangarilla recreation ground	178,649	Type 1	Works in progress	30/06/2017
Public toilet - Old Reynella	100,000	Type 1	Works in progress	30/11/2016
Remove fuel tank - field operations centre	18,000	Type 1	Works in progress	8/07/2016
School for Dogs Aldinga - replacement of shed	61,970	Type 1	Works in progress	31/08/2016
Seaford Moana neighbourhood centre	233,678	Type 1	Works in progress	30/09/2016
Southern Youth Exchange – Front façade upgrade & landscaping	70,000	Type 1	Works in progress	31/01/2017
Stage 2 McLaren Vale supper room	48,455	Type 1	Works in progress	31/10/2016

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Structural building component services audit	83,000	Type 1	Works in progress	4/08/2016
	1,101,328			
Bus Stop Infrastructure				
Bus Shelters - Disability Discrimination Act compliance	9,254	Type 1	Works in progress	30/11/2016
	9,254			
Car Parks				
Aldinga kiosk car park	53,000	Type 1	Works in progress	30/06/2017
Gull Rock car park, Port Willunga	1,000	Type 1	Works in progress	31/08/2016

Attachment 1**CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16**

Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Kangarilla Community Hall CS1002	34,939	Type 1	Works in progress	30/06/2017
	88,939			

Coastal Management				
Gordon St, Aldinga coastal cliff top stability	9,123	Type 1	Works in progress	29/08/2016
Gulf Street/Esplanade, Seaford	11,434	Type 1	Works in progress	31/10/2016
Sellicks Beach cliff top access and vegetation establishment	71,569	Type 1	Works in progress	30/06/2017
	92,126			

Commercial Activity				
Cemeteries upgrades	10,510	Type 1	Works in progress	30/06/2017
Kangarilla cemetery master plan	10,000	Type 1	Works in progress	31/12/2016
	20,510			

Community, Culture and Libraries				
Aboriginal cultural fishing project	1,822	Type 1	Works in progress	31/12/2016

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16

Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Flexible art spaces	48,957	Type 1	Works in progress	30/06/2017
Local government youth development network expense	1,845	Type 3	Pending approvals/negotiation	30/06/2017
Neporendi program expenses	17,885	Type 1	Works in progress	30/06/2017
Parkour Park – Warsaw Reserve	3,519	Type 1	Works in progress	31/10/2016
Portable music equipment expense	1,824	Type 1	Works in progress	30/09/2016
Salaries Community Development Officer – Neporendi	14,978	Type 1	Works in progress	30/06/2017
Sauerbier House arts program	5,288	Type 1	Works in progress	30/09/2016
Skate ramp upgrades	2,379	Type 1	Works in progress	31/12/2016
	98,497			

Community, Culture and Libraries Income				
Aboriginal cultural fishing project	(1,822)	Type 5	External funding	31/12/2016
Local government youth development network income	(1,845)	Type 5	External funding	30/06/2017

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Neporendi forum agreement income	(32,863)	Type 5	External funding	30/06/2017
Parkour Park Warsaw Reserve income	(3,519)	Type 5	External funding	31/10/2016
Portable music equipment income	(1,824)	Type 5	External funding	30/09/2016
Skate Ramp Upgrades Income	(2,379)	Type 5	External funding	31/12/2016
	(44,252)			

Economic and Employment Development				
Aboriginal employment program	7,770	Type 2	Multi year project	31/12/2016
Business way finding signage	20,000	Type 1	Works in progress	31/03/2017
Career development service	4,127	Type 2	Multi year project	31/12/2016
Department of State Development Employment Projects & Services 2015-16	1,555	Type 2	Multi year project	30/09/2016
Department of State Development Employment Projects & Services 2014-15	102,626	Type 2	Multi year project	30/09/2016
Digital economy strategy	32,511	Type 2	Multi year project	30/06/2017

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Investment attraction strategy	7,447	Type 2	Multi year project	3/10/2016
Onkaparinga visitor guide	84,844	Type 1	Works in progress	31/08/2016
Regions at work - salaries support	57,737	Type 2	Multi year project	30/06/2017
Small business support service	43,055	Type 1	Works in progress	30/09/2016
Tourism signage strategy	14,155	Type 2	Multi year project	30/06/2017
	375,827			

Economic and Employment Development Income				
Department of State Development Employment Projects & Services 2015-16	(19,748)	Type 5	External funding	30/09/2016
Department of State Development Employment Projects & Services 2014-15	(116,245)	Type 5	External funding	30/09/2016
Salary contribution - regions at work	(35,277)	Type 5	External funding	30/06/2017
Visitor guide income	(80,000)	Type 5	External funding	31/08/2016
	(251,270)			

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Environmental Projects				
Biodiversity interpretive signs	10,200	Type 1	Works in progress	31/08/2016
Environmental risk & compliance	43,107	Type 1	Works in progress	30/06/2017
Ramsay Place – rain garden	24,000	Type 1	Works in progress	28/10/2016
	77,307			
Environmental Projects Income				
Ramsay Place – rain garden income	(12,000)	Type 5	External funding	28/10/2016
	(12,000)			
Lighting				
Intersection of River Road & River Road Access road	41,910	Type 1	Works in progress	31/12/2016
	41,910			

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16

Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
-------------	------------------------	------	------------------	---------------------------

Open Space				
Sturt River Linear Park Trail	504,736	Type 2	Multi year project	30/06/2017
Thalassa Park, Aberfoyle Park Stage 3 new playground	243,290	Type 2	Multi year project	30/06/2017
	748,026			

Open Space Income				
Sturt River Linear Park Trail	(504,736)	Type 5	External funding	30/06/2017
Thalassa Park, Aberfoyle Park Stage 3 new playground	(241,490)	Type 5	External funding	30/06/2017
	(746,226)			

Organisational Response				
Core application enhancements	90,012	Type 1	Works in progress	30/06/2017
Corporate Wi-Fi – Noarlunga	18,032	Type 1	Works in progress	30/09/2016
Electronic capture of microfiche records	17,986	Type 2	Multi year project	31/12/2016
Finance continuous improvement project	19,173	Type 1	Works in progress	30/06/2017

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16

Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Media server	50,000	Type 1	Works in progress	30/06/2017
Microsoft Lync - unified communications	88,500	Type 2	Multi year project	30/08/2017
New website platform - Onkaparinga	42,300	Type 1	Works in progress	30/06/2017
Payroll & human resource management system	95,325	Type 3	Pending approvals/negotiation	30/06/2017
Risk project	242,831	Type 2	Multi year project	30/06/2017
System productivity - upgrade & enhance existing systems	39,637	Type 1	Works in progress	30/06/2017
System productivity email archiving system upgrade	40,000	Type 1	Works in progress	31/10/2016
	743,796			

Placemaking				
Activate Ramsay Place	14,487	Type 1	Works in progress	30/06/2017
Alexander Kelly Drive, Noarlunga	111,056	Type 1	Works in progress	28/07/2017
City-wide signage guidelines	10,000	Type 1	Works in progress	31/12/2016

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Noarlunga Regional Centre revitalisation	68,573	Type 2	Multi year project	30/06/2017
Noarlunga western precinct verge landscape works (Seaman Road and David Witton Drive)	12,255	Type 2	Multi year project	28/07/2017
Placemaking charter & corporate training program	9,687	Type 2	Multi year project	30/06/2017
Ramsay Place upgrade	225,180	Type 1	Works in progress	28/10/2016
Seaford railway station - Main Street	30,792	Type 2	Multi year project	30/06/2017
Tourism attraction signs expressway duplication	12,231	Type 1	Works in progress	30/06/2017
Tourism precinct signage	13,744	Type 1	Works in progress	30/12/2016
Wearing Street precinct plan	46,962	Type 2	Multi year project	30/06/2017
	554,967			
Roadworks General				
Education Road, Happy Valley	10,899	Type 1	Works in progress	4/07/2016
Jessamine Avenue and Red Cedar Drive	782,717	Type 1	Works in progress	30/06/2017

Attachment 1**CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16**

Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Grange Walk, Morphett Vale	2,000	Type 1	Works in progress	30/09/2016
Kerb preworks reseals program	152,632	Type 1	Works in progress	30/06/2017
Project capital works - design consultancy	54,384	Type 2	Multi year project	30/06/2017
Project capital works - productivity savings	392,864	Type 1	Works in progress	30/06/2017
Roadworks - general	849,888	Type 2	Multi year project	30/06/2017
Soil & Geotech investigations	38,624	Type 2	Multi year project	30/06/2017
	2,284,008			

Sport and Active Recreation				
Aldinga skate facility locations	11,520	Type 1	Works in progress	31/08/2016
Aldinga Sports Park - soccer stage 1	15,000	Type 1	Works in progress	31/12/2016
Aldinga Sports Park construction of oval irrigation	8,609	Type 1	Works in progress	31/10/2016
Dressage Drive, Woodcroft multi use community courts	5,000	Type 1	Works in progress	31/08/2016

Attachment 1**CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16**

Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Healthy lifestyle project	50,000	Type 2	Multi year project	31/12/2016
Kangarilla Pony Club master plan	2,730	Type 1	Works in progress	31/10/2016
Kangarilla Tennis / Netball Co	7,500	Type 1	Works in progress	31/12/2016
Onkaparinga Active community network	26,799	Type 2	Multi year project	31/12/2016
O'Sullivan Beach Sports Ground master plan	7,686	Type 1	Works in progress	31/12/2016
Peregrine Park irrigation (construction)	4,000	Type 1	Works in progress	30/07/2016
Reynella Sports Ground master plan	2,440	Type 1	Works in progress	30/11/2016
Seaford dog park	200,000	Type 1	Works in progress	30/06/2017
Southern Sporting complex	39,200	Type 1	Works in progress	31/12/2016
Sports lighting - installation & replacement	35,000	Type 1	Works in progress	12/08/2016
Tangari Park dirt BMX jumps	6,590	Type 1	Works in progress	30/11/2016

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16

Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Wilfred Taylor Reserve - Irrigation upgrade for dog club	60,000	Type 1	Works in progress	31/03/2017
	482,074			

Sport and Active Recreation Income				
Dog park Aldinga/Seaford income	(200,000)	Type 5	External funding	30/06/2017
	(200,000)			

Strategic Planning				
Community plan review	35,000	Type 2	Multi year project	30/06/2017
Development plan review	30,752	Type 1	Works in progress	30/06/2017
Development Policy service review	25,000	Type 3	Pending approvals/negotiation	31/12/2016
Environment - strategic management plans	24,118	Type 1	Works in progress	30/06/2017
Exxon Mobil Port Stanvac master plan	20,000	Type 3	Pending approvals/negotiation	30/06/2017
Kaurna cultural mapping	5,000	Type 1	Works in progress	30/06/2017

Attachment 1**CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16**

Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Local heritage incentive scheme	20,132	Type 1	Works in progress	30/09/2016
Open space plan	15,000	Type 1	Works in progress	30/06/2017
Recreational trails network strategy & action plan 2007-12	15,000	Type 1	Works in progress	30/06/2017
State and Federal Government advocacy planning	25,000	Type 1	Works in progress	30/06/2017
Strategic framework documents	10,896	Type 1	Works in progress	30/06/2017
Valuing natural resources	40,000	Type 1	Works in progress	30/06/2017
Wilfred Taylor Regional Reserve management plan	39,950	Type 1	Works in progress	28/07/2018
	305,848			

Traffic Management				
Corn Street, Old Reynella	7,000	Type 1	Works in progress	30/09/2016
Line marking new - general	7,366	Type 1	Works in progress	30/06/2017
Port Road & Bowering Hill Road Port Willunga	477,957	Type 1	Works in progress	9/12/2016

Attachment 1**CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16**

Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Signs new - general	5,724	Type 1	Works in progress	30/06/2017
Traffic precinct methodology trial	19,350	Type 2	Multi year project	30/06/2017
	517,397			

Traffic Management Income

Corn Street, Old Reynella	(3,500)	Type 5	External funding	30/09/2016
Port Road & Bowering Hill Road, Port Willunga	(466,685)	Type 5	External funding	30/06/2017
	(470,185)			

Water Resources

Flood mitigation options investigation	80,000	Type 1	Works in progress	30/06/2017
	80,000			

Water Resources Income

Catchments 27 & 28 Christies Beach	(30,000)	Type 4	Income pending	30/06/2017
Flood alert monitoring	(4,000)	Type 4	Income pending	30/06/2017

Attachment 1

CARRIED FORWARDS - PROJECT AND CAPITAL WORKS 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Flood mitigation options investigation	(40,000)	Type 4	Income pending	30/06/2017
Willunga basin watercourses catchment	(23,700)	Type 4	Income pending	30/09/2017
	(97,700)			
Project and Capital Works Carry Forwards	5,800,181			

Attachment 2

CARRIED FORWARDS - MAJOR PROJECTS FUND 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date

Major Projects Fund Expenditure				
Aldinga library/community facility	4,452,242	Type 2	Multi year project	28/07/2017
Aldinga township upgrade	388,680	Type 2	Multi year project	30/06/2017
Foreshore Access Plan - Stage 2	213,903	Type 2	Multi year project	27/07/2016
Foreshore Access Plan - Stage 5	285,411	Type 2	Multi year project	28/10/2016
Foreshore Access Plan - Stage 6	41,918	Type 2	Multi year project	30/06/2017
Foreshore Access Plan - Stage 7	46,905	Type 2	Multi year project	30/06/2017
Frank Hilton Reserve landfill	71,807	Type 2	Multi year project	30/06/2017
Kangarilla landfill remediation	111,250	Type 2	Multi year project	30/06/2017
McLaren Vale streetscape	806,350	Type 2	Multi year project	30/06/2017
Noarlunga public realm improvements	82,233	Type 2	Multi year project	30/06/2017

Attachment 2

CARRIED FORWARDS - MAJOR PROJECTS FUND 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Quinliven Road	273,725	Type 2	Multi year project	3/02/2017
Remediation contaminated land	271,490	Type 2	Multi year project	30/06/2017
Willunga Main Street	76,237	Type 2	Multi year project	23/12/2016
Wine road upgrades	66,082	Type 1	Works in progress	31/08/2016
	7,188,233			
Major Projects Fund Income				
Aldinga library/community facility	(190,000)	Type 5	External funding	30/06/2017
Foreshore Access Plan - Stage 2	(97,770)	Type 5	External funding	28/07/2017
Foreshore Access Plan - Stage 7	(25,000)	Type 5	External funding	30/06/2017
Wine road upgrades	(33,041)	Type 5	External funding	31/08/2016
	(345,811)			
Major Project Fund Carry Forwards	6,842,422			

Attachment 3

CARRIED FORWARDS - OPERATING 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date

Operating Expenditure				
Asset information	265,653	Type 1	Works in progress	30/06/2017
Business Performance Improvement - service reviews	40,000	Type 1	Works in progress	30/06/2017
Certificate III Expense	90,000	Type 1	Works in progress	30/06/2017
Climate change data management	5,000	Type 1	Works in progress	30/06/2017
Community Centres consulting	15,000	Type 1	Works in progress	30/06/2017
Corporate & City Services consultants	22,517	Type 1	Works in progress	31/12/2016
Customer service initiatives	60,000	Type 1	Works in progress	31/12/2017
Digital Local Government program	36,173	Type 2	Multi year project	30/06/2017
Donations Aldinga Library	12,441	Type 1	Works in progress	30/06/2017
Financial Network Option Study Road Construction Evaluation	10,000	Type 1	Works in progress	31/12/2016

Attachment 3**CARRIED FORWARDS - OPERATING 2015-16**

Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
General consultancy	14,750	Type 1	Works in progress	30/09/2016
Human Resources restructure	70,000	Type 3	Pending approvals/negotiation	30/06/2017
Information Communications Technology contract support	166,126	Type 2	Multi year project	30/06/2017
Internal audit	38,000	Type 1	Works in progress	31/12/2016
Kangarilla landfill monitoring	80,459	Type 2	Multi year project	30/06/2017
Kookaburra Club program expenses	20,000	Type 1	Works in progress	30/06/2017
Natural Resource Management Education	33,430	Type 1	Works in progress	30/06/2017
Natural Resource Management operating expenses	3,357	Type 1	Works in progress	30/06/2017
Natural Resource Management program expenses	3,936	Type 1	Works in progress	30/06/2017
Noarlunga Library	40,000	Type 1	Works in progress	30/06/2017

Attachment 3

CARRIED FORWARDS - OPERATING 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Obesity prevention & lifestyle	11,356	Type 2	Multi year project	31/12/2016
Operating expense friendship club	30,000	Type 1	Works in progress	30/06/2017
Operating expense projects & training	106,547	Type 1	Works in progress	30/06/2017
Operating expenses youth	5,000	Type 1	Works in progress	30/09/2016
Photography	59,223	Type 1	Works in progress	30/12/2016
Positive Ageing Strategy Management Plan	32,128	Type 3	Pending approvals/negotiation	30/06/2017
Recycling promotion/education	18,509	Type 1	Works in progress	31/08/2016
Respite services	35,000	Type 2	Multi year project	30/06/2017
Service locations Technical Services	12,872	Type 2	Multi year project	30/06/2017
	1,337,477			

Attachment 3

CARRIED FORWARDS - OPERATING 2015-16				
Description	Proposed Carry Forward	Type	Type Description	Estimated Completion Date
Operating Income				
Age friendly guidelines and toolkit grant	(32,128)	Type 5	External funding	30/06/2017
Digital Local Government program	(36,173)	Type 5	External funding	30/06/2017
Natural Resource Management Education Grants	(40,723)	Type 5	External funding	30/06/2017
Neighbourhood Centres Program - Onkaparinga Community Hub Network	(15,000)	Type 5	External funding	30/06/2017
	(124,024)			
Operating Carry Forwards	1,213,453			

Page left intentionally blank

9.2 Council informal gatherings policy

This is a regular or standard report.

Manager:	Desma Morris, Manager Governance
Report Author:	Therese Brunotte, Senior Governance Officer
Contact Number:	8301 7228
Attachments:	<ol style="list-style-type: none">1. Draft Council informal gatherings policy (3 pages)2. Council informal gatherings policy - current (3 pages)3. Extract Section 90(8) <i>Local Government Act 1999</i> (2 pages)4. Letter from Minister Brock (2 pages)

1. Purpose

This report provides the draft Council informal gatherings policy (attachment 1) for consideration and adoption by Council.

2. Recommendations

1. **That the draft Council Informal Gatherings Policy as attached to the agenda report (attachment 2) be adopted with the following amendments.**
or
2. **That the current Council Informal Gatherings Policy as attached to the agenda report (attachment 1) be adopted.**

3. Background

Under Section 90(8) (attachment 3) of *Local Government Act 1999* (the Act) councils must adopt a policy on the holding of 'informal gatherings or discussions' which must comply with any requirements prescribed by regulations.

At its meeting of 22 March 2016 Council adopted the Council Informal Gatherings Policy for a period of six months. The policy is due to expire on 22 September 2016.

On 7 June 2016 the Minister for Local Government wrote to Councils indicating his intent to regulate the prescribed requirements for informal gathering policies. (Attachment 4).

At this time, no regulations have been made in relation to this section of the Act.

Since the commencement of the Council Informal Gatherings policy there has been no reported issues or effect on the holding of gatherings or events and activities arranged by elected members or staff.

The publishing of an Elected Member Sessions schedule and session agenda on our public website is the only addition to our established practice on the holding of workshops and briefings as provided for in the Code of Practice – proceedings of meetings.

4. Financial Implications

There are no financial implications in the implementation of the Council Informal Gatherings Policy.

5. Risk and Opportunity Management

Risk	
Identify	Mitigation
Non – compliance with legislative requirement	The Council Informal Gatherings Policy meets the legislative requirements of the <i>Local Government Act 1999</i> .
Transparency and accountability	The policy provides clear direction to elected members and staff in relation to holding informal gatherings and to assure the public that actual or effective decisions are not made at an informal gathering.
Opportunity	
Identify	Maximising the opportunity
Assisting elected members to carry out their functions.	Informal gatherings, where appropriate, provide a valuable opportunity to enhance the decision-making processes by providing opportunities for council members to become better informed on issues and seek further clarification.

7. Additional information

Elected members were provided the opportunity to provide feedback on the current Informal Gatherings Policy via Weekly News 4 August 2016 and preceding email from Desma Morris, Manager Governance.

As a result of the responses received from the five elected members who submitted feedback we provide the current basic policy with the following components highlighted to demonstrate what is in our current policy, the Minister’s recommendations and some suggested amendments for clarity:

- a) Provides legislative explanation and the minimum requirements to comply with legislation (highlighted in blue)
- b) reflects our current practices (highlighted in pink)
- c) incorporates the changes recommended by the Minister for Local Government (highlighted in green)
- d) suggest a few minor amendments to provide clarification (highlighted in yellow).

This draft policy is provided for Council’s consideration and may be amended by Council as required.



Draft Council policy

Council informal gatherings policy

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 Council's general position in relation to those matters, and to facilitate its aspirations wherever it is reasonable to do so.

2. Purpose

The purpose of this policy is to define the City of Onkaparinga's position in relation to holding Informal gatherings (Elected Member Sessions) and to ensure elected members have sufficient opportunity to conduct planning sessions, to receive informal briefings and educational sessions, and convene other informal gatherings without prejudicing the requirements for openness and transparency as required by the *Local Government Act 1999*.

3. Policy Principles

A provides legislative explanation. In current policy.

The *Local Government Act 1999* expressly recognises that the Council may hold 'Informal gatherings' of elected members in circumstances where there is no legal duty to gather in a place open to the public (as compared to meetings of the Council or Council committees where there is a clear and unequivocal legal duty to meet in a place open to the public).

This policy reflects the intention of the legislation for informal gatherings to be used for briefing, planning and educational sessions and is aimed at avoiding any perception that informal gatherings will be used to build consensus for council agenda items. The purpose of the Council informal gatherings includes but is not limited to allowing the Mayor, councillors and staff to:

- Exchange draft information on proposals that are being worked on by staff or ideas that need to be investigated.
- Provide a forum for discussion on proposed staff and elected member initiatives and discuss options for engaging the community in determining Council's strategic corporate direction.
- Receive briefings including, community organisations, businesses, council programs, LGA and State Government Departments.
- Social gatherings to build relationships between elected members and with staff of the City of Onkaparinga.
- Receive training including any mandatory training.

At Elected Member Sessions (for example, workshops and information sessions) members cannot make an actual or purported decision or issue a direction to staff. The Council recognises that formal decision-making may, legally, only occur at formal meetings of the Council or otherwise pursuant to the Councils' scheme of delegation.

The electronic copy is the approved version.

Before using a printed copy, verify that it is the current version.



4. Elected Member Sessions

D (1)
suggestion
for
clarification.
**May be
added.**

For the purposes of the policy Elected Member Sessions are defined as elected member workshops and briefings.

B (1)
Explains our
current
practice.
**In current
policy.**

Elected Member Sessions will not be used for the purpose of conducting the general business of the council or to stifle debate on issues that may subsequently be dealt with by the council at a formal meeting. However, Elected Member Sessions may be used to discuss issues that involve strategy or policy or other matters of council administration and to brief elected members on issues relating to their decision-making function.

Elected Member Sessions of elected members and council staff are, by their nature, a for non-compulsory meeting of the council. All elected members are encouraged to attend these sessions, particularly those designed to provide history, context or additional information to assist elected members to carry out their functions.

Those attending the Elected Member Session should be respectful and show courtesy towards the person speaking and elected members are reminded that the Code of Conduct for Council Members applies, even in this informal setting.

Both the Chief Executive Officer and the Council are responsible for ensuring Elected Member Sessions and discussions are conducted in accordance with the *Local Government Act 1999*.

Public notification

C (1)
Ministerial
recommendation.
**In current
policy.**

Where Elected Member Sessions are scheduled regularly to coincide with the council's meeting cycle and to consider matters that will form part of the council's meeting agenda, the schedule of sessions will be published on council's website and open to the public. A list of the matters to be discussed at an informal meeting may also be published on council's website.

B (2)
Explains our
current
practice.
**In current
policy. 5.**

Elected member session documents

Information/draft documentation may be provided to elected members to accompany the discussion. Elected Member Sessions will not involve a formal minute taking process.

Confidentiality

C (2)
Ministerial
recommendation.
May be added.

If a topic falls into a category that would normally be kept confidential if it arose at a Council meeting, the item will be placed last and the session will be closed.

A decision to close an Elected Member Session will consider the nature of information to be discussed including whether the content to be discussed falls within the confidentiality provisions of section 90(3) of the *Local Government Act 1999*. The reason for this decision will be briefly stated on council's website.

6. Other gatherings

The council is aware of the need to balance openness and transparency with opportunities for private discussions between elected members and elected members and staff.

C (3)
Ministerial
recommendation.
In current policy.

Public access will be determined on a case by case basis for all other informal gatherings.

The electronic copy is the approved version.

Before using a printed copy, verify that it is the current version.



Draft Council policy

D(2)
suggestion for
clarification.
**May be
added.**

Therefore council has determined the following gatherings will be closed to the public.

Training and development activities are for professional development.

Social gatherings or events and activities arranged by the Council between elected members or between elected members and staff.

Elected Member Ward briefings are held to provide elected members with information from staff and discuss issues particular to their wards.

Onsite meetings arranged by staff or elected members to provide information particular to the site of the meeting.

Informal discussions involving members who share an interest in a common topic.

7. Governance

Any legislative changes will be made automatically. Council will be informed of any legislative changes via Weekly News.

8. References

Section 90(8a) & (8b) of the *Local Government Act 1999*

LGA Informal Gatherings Model Policy

Responsible officer(s)/department(s): Manager Governance

Adopted/approved by: Council

Date approved/adopted: 22 March 2016

Next review: September 2016

DSID number:

City of Onkaparinga
PO Box 1
NOARLUNGA CENTRE SA 5168

Telephone: 8384 0666
Email: mail@onkaparinga.sa.gov.au
Website: www.onkaparingacity.com

The electronic copy is the approved version.
Before using a printed copy, verify that it is the current version.



Council informal gatherings policy

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 Council's general position in relation to those matters, and to facilitate its aspirations wherever it is reasonable to do so.

2. Purpose

The purpose of this policy is to define the City of Onkaparinga's position in relation to holding Informal gatherings (Elected Member Sessions) and to ensure elected members have sufficient opportunity to conduct planning sessions, to receive informal briefings and educational sessions, and convene other informal gatherings without prejudicing the requirements for openness and transparency as required by the *Local Government Act 1999*.

3. Policy Principles

The *Local Government Act 1999* expressly recognises that the Council may hold 'Informal gatherings' of elected members in circumstances where there is no legal duty to gather in a place open to the public (as compared to meetings of the Council or Council committees where there is a clear and unequivocal legal duty to meet in a place open to the public).

This policy reflects the intention of the legislation for informal gatherings to be used for briefing, planning and educational sessions and is aimed at avoiding any perception that informal gatherings will be used to build consensus for council agenda items.

The purpose of the Council informal gatherings includes but is not limited to allowing the Mayor, elected members and staff to:

- Exchange draft information on proposals that are being worked on by staff or ideas that need to be investigated.
- Provide a forum for discussion on proposed staff and elected member initiatives and discuss options for engaging the community in determining Council's strategic corporate direction.
- Receive briefings including, community organisations, businesses, council programs, LGA and State Government Departments.
- Social gatherings to build relationships between elected members and with staff of the City of Onkaparinga.
- Receive training including any mandatory training.

At Elected Member Sessions, for example, workshops and information sessions, elected members cannot make an actual or purported decision or issue a direction to staff. The Council recognises that formal decision-making may, legally, only occur at formal meetings of the Council or otherwise pursuant to the Councils' scheme of delegation.

The electronic copy is the approved version.

Before using a printed copy, verify that it is the current version.



These policy principles apply to all informal gatherings conducted by the Council.

4. Elected Member Session

Elected Member Sessions will not be used for the purpose of conducting the general business of the council or to stifle debate on issues that may subsequently be dealt with by the council at a formal meeting. However, Elected Member Sessions may be used to discuss issues that involve strategy or policy or other matters of council administration and to brief elected members on issues relating to their decision-making function.

Elected Member Sessions of elected members and council staff are, by their nature, a non-compulsory meeting of the council. All elected members are encouraged to attend these sessions, particularly those designed to provide history, context or additional information to assist elected members to carry out their functions.

Those attending the Elected Member Session should be respectful and show courtesy for the person that is talking and elected members are reminded that the Mandatory Code of Conduct for Council Members applies, even in this informal setting.

Both the CEO and the council are responsible for ensuring Elected Member Sessions and discussions are conducted in accordance with the *Local Government Act 1999*.

Public notification

Where Elected Member Sessions, such as workshops and information sessions, are scheduled regularly to coincide with the council's meeting cycle and to consider matters that will form part of the council's meeting agenda, the schedule of sessions will be published on council's website and open to the public. A list of the matters to be discussed at an informal meeting may also be published on council's website.

Elected member session documents

Information/draft documentation may be provided to elected members to accompany the discussion. Elected Member Sessions will not involve a formal minute taking process.

Confidentiality

If a topic falls into a category that would normally be kept confidential if it arose at a Council meeting, the item will be placed last and the session will be closed.

5. Other informal gatherings

Public access will be determined on a case by case basis for all other informal gatherings such as but not limited to:

- Social gatherings.
- Ward briefings.
- Onsite meetings.
- Training.
- Discussions involving members who share an interest in a common topic.

The council is aware of the need to balance openness and transparency with opportunities for private discussions between elected members and elected members and staff.

The electronic copy is the approved version.

Before using a printed copy, verify that it is the current version.



Council policy

6. References

Section 90(8a) & (8b) of the *Local Government Act 1999*
LGA Informal Gatherings Model Policy

Responsible officer(s)/department(s): Manager Governance

Adopted/approved by: Council

Date approved/adopted: 22 March 2016

Next review: September 2016

DSID number:

City of Onkaparinga
PO Box 1
NOARLUNGA CENTRE SA 5168

Telephone: 8384 0666
Email: mail@onkaparinga.sa.gov.au
Website: www.onkaparingacity.com

The electronic copy is the approved version.
Before using a printed copy, verify that it is the current version.

31.3.2016—Local Government Act 1999
Meetings—Chapter 6
Public access to council and committee meetings—Part 3

-
- (b) cause a loss of confidence in the council or council committee; or
 - (c) involve discussion of a matter that is controversial within the council area; or
 - (d) make the council susceptible to adverse criticism.
- (5) A person who, knowing that an order is in force under subsection (2), enters or remains in a room in which a meeting of the council or council committee is being held is guilty of an offence and liable to a penalty not exceeding \$500 and if such a person fails to leave the room on request it is lawful for an employee of the council or a member of the police force to use reasonable force to remove him or her from the room.
- (6) Subsection (5) does not apply to—
- (a) a member of the council or the council committee; or
 - (b) any other person permitted to be in the room by the council or the council committee.
- (7) If an order is made under subsection (2), a note must be made in the minutes of the making of the order and specifying—
- (a) the grounds on which the order was made; and
 - (b) the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made; and
 - (c) if relevant, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest.
- (7a) A council committee meeting will be taken to be conducted in a place open to the public for the purposes of this section even if 1 or more committee members participate in the meeting by telephone or other electronic means in accordance with any procedures prescribed by the regulations or determined by the council under section 89 (provided that members of the public can hear the discussion between all committee members and subject to the qualification that a council may direct a committee not to use telephone or other electronic means for the purposes of its meetings).
- (8) The duty to hold a meeting of a council or council committee at a place open to the public does not in itself make unlawful informal gatherings or discussion involving—
- (a) members of the council or council committee; or
 - (b) members of the council or council committee and staff,
- provided that a matter which would ordinarily form part of the agenda for a formal meeting of a council or council committee is not dealt with in such a way as to obtain, or effectively obtain, a decision on the matter outside a formally constituted meeting of the council or council committee.

Examples—

The following are examples of informal gatherings or discussions that might be held under subsection (8):

- (a) planning sessions associated with the development of policies or strategies;
- (b) briefing or training sessions;

Local Government Act 1999—31.3.2016
Chapter 6—Meetings
Part 3—Public access to council and committee meetings

- (c) workshops;
 - (d) social gatherings to encourage informal communication between members or between members and staff.
- (8a) In addition, an informal gathering or discussion under subsection (8) may only be held if—
- (a) the council has adopted a policy on the holding of informal gatherings or discussions; and
 - (b) the informal gathering or discussion complies with the policy.
- (8b) A policy adopted under subsection (8a) must comply with any requirements prescribed by the regulations, and the regulations may (for example) include requirements that the policy provide for—
- (a) the imposition of limitations on the holding of informal gatherings or discussions; and
 - (b) procedures for approval of informal gatherings or discussions; and
 - (c) the capacity of the council to impose conditions on an approval.
- (8c) A council may from time to time alter its policy, or substitute a new policy.
- (8d) The council must ensure that a copy of the policy under subsection (8a) is available for inspection (without charge) at the principal office of the council during ordinary office hours and on a website determined by the chief executive officer.
- (8e) A person is entitled, on payment of a fee fixed by the council, to a copy of a policy under subsection (8a).
- (9) In this section—
- personal affairs* of a person includes—
- (a) that person's—
 - (i) financial affairs;
 - (ii) criminal records;
 - (iii) marital or other personal relationships;
 - (iv) personal qualities, attributes or health status;
 - (b) that person's employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person,
- but does not include the personal affairs of a body corporate.

Part 4—Minutes of council and committee meetings and release of documents

91—Minutes and release of documents

- (1) The chief executive officer must ensure that minutes are kept of the proceedings at every meeting of the council or a council committee.
- (2) If the chief executive officer is excluded from a meeting pursuant to Part 3, the person presiding at the meeting must ensure that minutes are kept.



Government
of South Australia

eA178962

Ms Lorraine Rosenberg
Mayor
City of Onkaparinga
PO Box 1
NOARLUNGA CENTRE SA 5168

SCANNED	Disposal Code:
	Retention:
	No:

Dear Mayor Rosenberg *LORRAINE*

On 31 March 2016 the *Local Government (Accountability and Governance) Amendment Act 2015* commenced. You may recall that the Amendment Act contained a new requirement for councils to adopt a policy in relation to informal gatherings and discussions and for these gatherings to comply with this policy.

During debate on the Amendment Act I stated my expectations for the content of informal gathering policies. I also wrote to all councils in February 2016 to reiterate my expectations, namely that policies should ensure—

1. Informal gatherings are open to the public whenever possible
2. Decisions to hold informal gatherings in confidence are made on a case-by-case basis
3. Councils publish notification details of informal gatherings on their websites, to ensure that interested members of the public can attend
4. If a council decides to hold an informal gathering in confidence, the reason for this decision is also briefly stated on the website.

These provisions are intended to ensure that, while informal gatherings are a useful tool for elected members to discuss and understand council matters, they should not be used, or be seen to be used, as a replacement for full debate and decision making at council meetings.

As informal gathering policies were a new requirement, I directed the Office of Local Government to review all council policies as they have been adopted by councils.

Minister for Regional Development
Minister for Local Government

Level 17, 25 Grenfell Street Adelaide SA 5000 | GPO Box 2557 Adelaide SA 5001 DX 667
Tel 08 8226 1300 | Fax 08 8226 0316 | pirlsa.MinisterBrock@sa.gov.au



Doc:4118128

- 2 -

The audit of council policies has found that a number of councils have adopted the Local Government Association of South Australia's Model Policy (the Model Policy), which did not contain all four points as stated in my letter. However, in adopting the Model Policy, many councils, including yours, may have believed that it complied with my requirements, and I appreciate the efforts of those councils.

Disappointingly, despite the intent of the Amendment Act, about half of all councils have continued their practice of closed informal gatherings and have adopted a policy that provides for that continued practice. This position is inconsistent with accepted standards of open and accountable government and is not consistent with my expectations or those of the South Australia community. I have also received correspondence from community members frustrated that their councils have failed to adopt transparent policies.

My original intent was to allow councils the opportunity to amend their policies and practices accordingly, without the need for regulation. However, in light of the widespread inadequacy of council informal gatherings policies, it appears necessary that regulations must now be made to prescribe requirements for informal gathering policies.

The regulations will ensure consistency across the local government sector that reflects higher standards of open and accountable government and that will enhance the confidence of the South Australian community in the decisions being made by their councils.

Yours sincerely



Hon Geoff Brock MP
Minister for Regional Development
Minister for Local Government

sh
7 June 2016

Doc:4118128

9.3 **Review of Code of Conduct for Council Members complaints procedure – Part 2 Behaviour**

This is an update on a previously reported subject, concept or issue.

Manager:	Desma Morris, Manager Governance
Report Author:	Karyn Ryan, Team Leader Civic Governance
Contact Number:	8384 0626
Attachments:	1. Draft Procedure for Investigating Complaints under the Code of Conduct for Council Members – Part 2 Behaviour (23 pages)

1. **Purpose**

The purpose of this report is for Elected Members to review and adopt an updated procedure for the purpose of investigating complaints under the Code of Conduct for Council Members - Part 2 Behaviour.

2. **Recommendation**

That Council adopts the Procedure for Investigating Complaints under the Code of Conduct for Council Members – Managing a complaint under Part 2 Behavioural Code as attached to the agenda report.

3. **Background**

Section 63(1) of the *Local Government Act 1999*, sets out that the South Australian Governor may prescribe a Code of Conduct to be observed by the members of all South Australian councils.

Prior to the introduction of the prescribed mandatory Code of Conduct for Council Members (the Code), legislation required each Council to develop and adopt their own Code of Conduct.

The prescribed mandatory Code was gazetted by the Minister for Planning on 29 August 2013. The Code consists of four parts:

- Part 1 – Higher Principles – No procedure.
- Part 2 – Behaviour – Each Council adopts its own procedure.
- Part 3 – Misconduct – complaints dealt with by Ombudsman or Office of Public Integrity.
- Part 4 – Criminal matters – Complaints referred to OPI or relevant authority.

The Code requires each Council to develop and adopt their own procedure for dealing with complaints only under Part 2 – Behaviour. Council adopted the City of Onkaparinga's Procedure for Investigating Complaints (the Procedure) on 24 September 2013 and as required by legislation, after the November 2014 local government election on 9 December 2014.

On 7 December 2015 an Elected Member Session was held at the Woodcroft Community Centre at which Mr Michael Kelledy of KelledyJones Lawyers attended

to commence the review of the current Procedure for dealing with Code of Conduct for Council Members complaints under Part 2 – Behaviour. A draft Procedure was presented to Elected Members for discussion at an Elected Member Session held on 9 August 2016.

4. Financial Implications

Costs may be incurred during the investigation of a complaint, mediation and or resolution.

Early intervention or formal mediation costs vary depending on the number of sessions required to resolve the issue. The average cost of mediation is approximately \$2000 to \$5000.

Preliminary assessments and independent investigations may also vary in costs depending on the complexity of the complaint and the number of individuals required to be interviewed or make statements. The Local Government Association Governance Panel or one of council's pre-approved legal practitioners may be engaged to undertake preliminary assessments and/or independent investigations. The average cost of a preliminary assessment is approximately \$1500 to \$2500 and the average cost of an independent investigation is approximately \$2000 to \$12000, dependant on the complexity of the allegations contained in the complaint.

Resolution recommendations may involve the subject of the complaint undertaking training in a specific area of the roles and responsibility of Elected Members. The average cost of a training module is approximately \$300 per subject depending on the availability of a suitable program.

5. Risk and Opportunity Management

Risk	
Identify	Mitigation
Council not adopting a procedure for dealing with complaints under the Code of Conduct for Council members – part 2 Behaviour	The legislation (Section 63 (1) of the <i>Local Government Act 1999</i>) intends that each council adopt a procedure for dealing with complaints under Code of Conduct for Council Members, Part 2 – Behaviour. Adopting a procedure ensures Council has considered an appropriate process which will uphold the principles of good governance.
Opportunity	
Identify	Maximising the opportunity
Reviewing the Procedure	Two Elected Members Sessions were held for Members to review, discuss and provide feedback on the draft Procedure. These sessions are designed to assist Members in exploring and understanding the draft Procedure before it is presented to Council for adoption.



Council Procedure

Procedure for Investigating Complaints under the Code of Conduct for Council Members

Managing a Complaint under Part 2 - Behavioral Code

Procedure for investigating complaints under Part 2 of the Code of Conduct for Council Members

1. Introduction.....	3
2. Purpose.....	3
3. Definitions	3
4. Procedure	9
4.1. Definition	9
4.2. Complaint management.....	9
4.3. Form of the Complaint (Stage 1)	9
4.4. Receipt of complaint and early intervention	9
4.5. Preliminary Assessor (stage 2)	10
4.6. Preliminary assessment	10
4.7. Complaints Assessment Criteria	11
4.8. Determination of Trivial, Frivolous, or Vexatious Complaints	11
4.9. Determination of Behaviour under Part 2 of Code	11
4.10. Preliminary Assessment Report	12
4.11. Recommendations	12
4.12. Allegations under Part 3 of the Code and/or Criminal or Corrupt conduct	13
4.13. Mediation (Stage 3)	14
4.14. Further Investigation (Stage 3).....	14
4.15. Conduct of Investigations	14
4.16. Written Notice of Investigation.....	14
4.17. Initial Investigation Report	15
4.18. Final Investigation Report	16
4.19. Recommendations	16
4.20. Council's Consideration of the Final Report (Stage 4)	18
5. Rights of Review	19
6. Pre-approved list of legal practitioners as Preliminary Assessors and Independent Investigators	19

Procedure for investigating complaints under Part 2 of the Code of Conduct for Council Members

1. Introduction

- 1.1 Section 63 of the *Local Government Act 1999* provides that the Governor may, by regulation, prescribe a code of conduct to be observed by members of Council.
- 1.2 A Code of Conduct for Council Members (the Code) was prescribed in accordance with the Act. The Code was Gazetted on 29 August 2013 and commenced operation on 1 September 2013. Council Members must comply with the provisions of the Code in carrying out their functions as public officials.
- 1.3 Part 2 of the Code deals with behavioural matters and the clause 2.19 of the Code provides that a complaint may be investigated and resolved in any manner which the Council deems appropriate in its process for handling alleged breaches of Part 2. This can include, but is not limited to, referral to a mediator or conciliator, the Local Government Governance Panel, a regional governance panel, or an independent investigator.
- 1.4 This procedure for Investigating Complaints (the Procedure) outlines the procedures to be observed by the Council for the purposes of addressing and processing any Complaints alleging a breach of the Code. The Procedure reflects Council's commitment to ensuring the appropriate investigation of Complaints under the Code.
- 1.5 The Procedure will apply when the Council receives a Complaint against a Council Member under the Code. A copy of the Code may be accessed on the Council's website at www.onkaparinga.sa.gov.au.
- 1.6 Breaches of the Code may relate to behaviour (in Part 2 of the Code) or misconduct (in Part 3 of the Code). Part 3 of the Code contains the mechanisms for the management of the alleged breach. This Procedure sets out the Complaint handling process for complaints made under Part 2 of the Code.
- 1.7 Criminal or corruption matters, which are subject to separate legislation, do not form part of the Code, but are referred to in the Appendix of the Code.

2. Purpose

The Code of Conduct Complaint Procedure has been developed to establish an agreed process for handling complaints against Council Members for alleged breaches of Part 2 of the Code of Conduct for Council Members. This process applies when Council receives a complaint against a Council Member under the Code of Conduct for Council Members.

3. Definitions

- Capitalised terms appearing in this Procedure have the same meanings as those in the Code, unless otherwise expressed.
- **Act** means the *Local Government Act 1999* (SA).
- **Affected Person** has the same meaning as that set out in paragraph 4.17.3
- **Appropriate Authorities** refers to an authority that receives disclosure of public interest information, in particular:
 - a Minister of the Crown;
 - a member of the police force - where the information relates to an illegal activity;

Procedure for investigating complaints under Part 2 of the Code of Conduct for Council Members

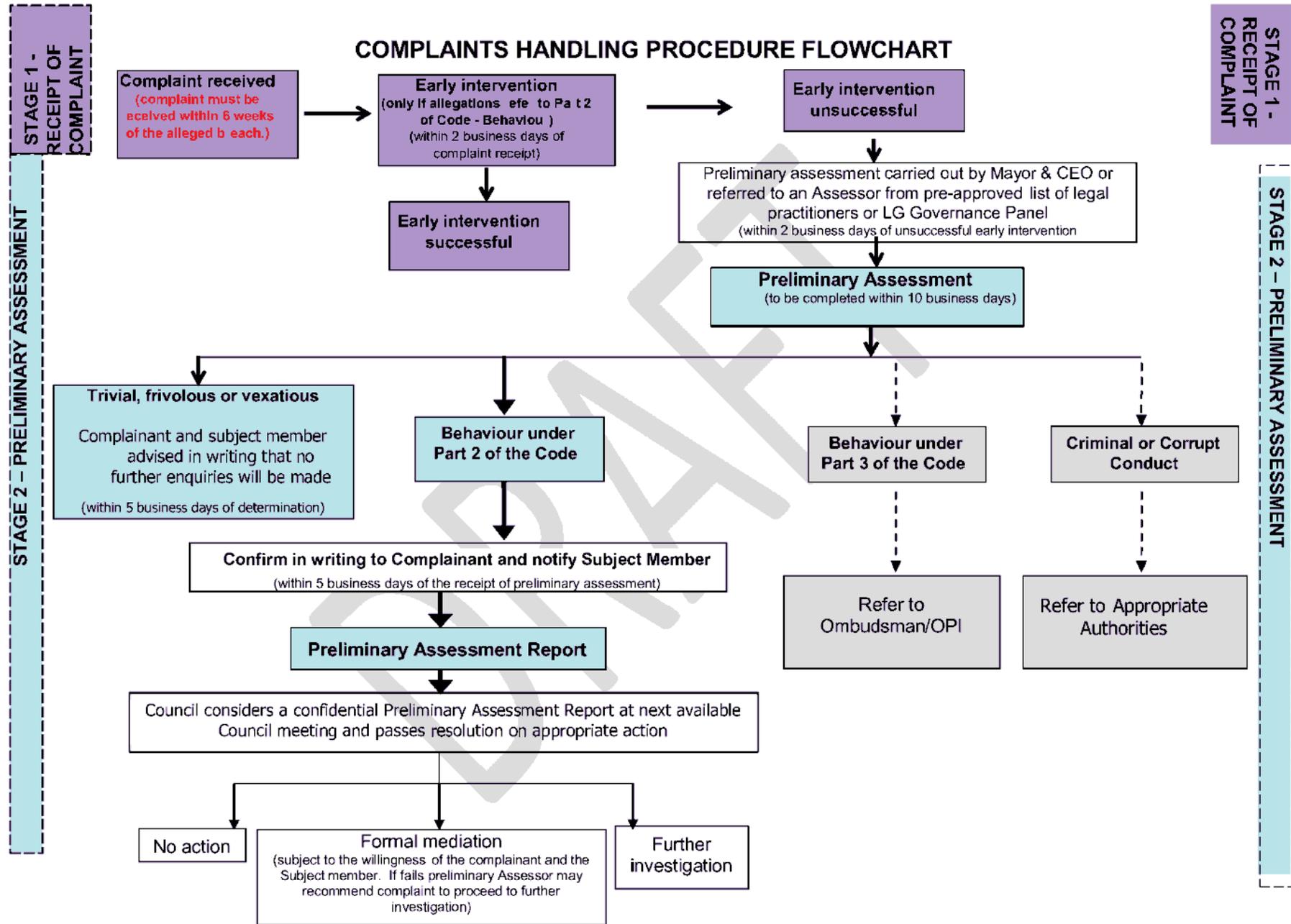
- the Auditor-General – where the information relates to the irregular or unauthorised use of public money;
 - the Ombudsman – where the information relates to a public officer;
 - the Office for Public Integrity;
 - the Independent Commissioner Against Corruption; or
 - any other person to whom, in the circumstances of the case, it is reasonable and appropriate to make the disclosure.
- **Business day** means a day that is not a Saturday, Sunday or public holiday in South Australia.
 - **Code** refers to the Code of Conduct for Council Members as published in the South Australian Government Gazette.
 - **Complaint** can take the form of either a:
 - letter;
 - email; or
 - duly completed (prescribed) form under the Procedure, but must in every instance, be in writing.
 - **Complainant** refers to the person who makes a Complaint.
 - **Corruption in public administration** as defined by the *Independent Commissioner Against Corruption Act 2012* means:
 - An offence against Part 7 Division 4 (offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
 - bribery or corruption of public officers;
 - threats or reprisals against public officers;
 - abuse of public office;
 - demanding or requiring benefit on basis of public office;
 - offences relating to appointment to public office;
 - any other offences (including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence; or
 - any of the following in relation to an offence referred to in a preceding paragraph:
 - aiding, abetting, counselling or procuring the commission of the offence;

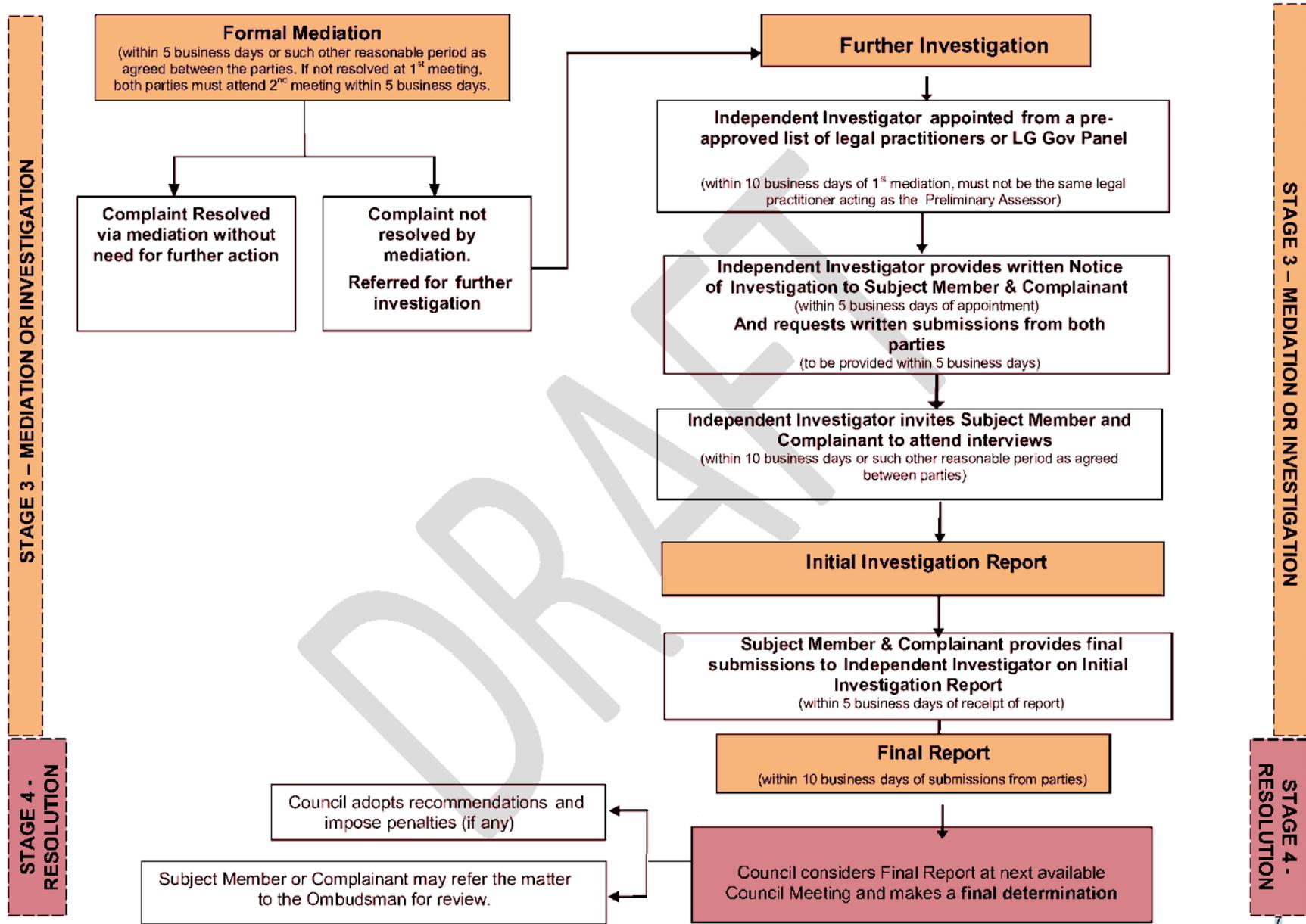
Procedure for investigating complaints under Part 2 of the Code of Conduct for Council Members

- inducing, whether by threats or promises or otherwise, the commission of the offence;
 - being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
 - conspiring with others to effect the commission of the offence.
- **Council** means the Corporation of the City of Onkaparinga established pursuant to the Act.
- **Council Member** means any of the current council members, which includes the Mayor, elected to the position at the City of Onkaparinga.
- **Directions and Guidelines** is a reference to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act, which are available on the Commissioner's website (www.icac.sa.gov.au)
- **Employee** refers to all the Council's employees and includes trainees, work experience students, volunteers, and contractors whether they are working in a full-time, part-time or casual capacity.
- **ICAC Act** is the *Independent Commissioner Against Corruption Act 2012* (SA)
- **Independent Investigator** refers to a legal practitioner who is from a different law firm to the Preliminary Assessor, and will be chosen from a pre-approved list of legal practitioners to assist the Council in undertaking the further investigation of a Complaint. If Council chooses to utilise the services of the Local Government Association Governance Panel, a different Panel member will be appointed to the Preliminary Assessor. The rationale underpinning this position is to afford the greatest level of fairness and transparency in the process to the parties involved in the Complaint.
- **Maladministration in public administration** is defined by the ICAC Act to mean:
 - conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or conduct of a public officer involving substantial mismanagement in, or in relation to, the performance of official functions; and
 - includes conduct resulting from impropriety, incompetence or negligence; and
 - is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.
- **Misconduct** in public administration defined under Section 5 of the *ICAC Act* means:
 - contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or
 - other misconduct of a public officer while acting in his or her capacity as a public officer.
- **Notice of Investigation** has the meaning given to it in paragraph 3.15
- **Office for Public Integrity ("OPI")** is the office established under the ICAC Act that has the function to:

Procedure for investigating complaints under Part 2 of the Code of Conduct for Council Members

- receive and assess complaints about public administration from members of the public;
- receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;
- make recommendations as to whether and by whom complaints and reports should be investigated; and
- perform other functions assigned to the Office by the Commissioner.
- **Ombudsman** refers to the Office of the Ombudsman established pursuant to the *Ombudsman Act 1972* (SA).
- **Preliminary Assessment Report** refers to the report produced by the Preliminary Assessor at the conclusion of the preliminary assessment.
- **Preliminary Assessor** refers to the Mayor and Chief Executive Officer or a legal practitioner chosen from a pre-approved list of legal practitioners or Local Government Association Governance Panel responsible for the Preliminary Assessment of the Complaint.
- **Public administration** is defined at section 4 of the ICAC Act and means, without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* (SA) taken to be carried out in the course of public administration.
- **Public Officer** includes:
 - an elected Member of the Council, including the Mayor;
 - an Independent member of the Council's Development Assessment Panel;
 - an Independent member of a Council Committee or a subsidiary of the Council, and
 - an Employee or Officer of the Council.
- **Subject Member** is the Council Member (which definition includes the Mayor) whose conduct is the subject of investigation under the Code and may include more than one Council Member. Reference to the singular includes the plural.





4. Procedure

4.1. Definition

For the purpose of the Procedure, a Code of Conduct Complaint is a complaint that alleges conduct on the part of a Council Member acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the Code.

4.2. Complaint management

There are four steps in the management of a Complaint under the Code:

Stage 1 - Receipt of Complaint and informal mediation

Stage 2 - Preliminary Assessment

Stage 3 - Mediation or Further Investigation

Stage 4 - Resolution

4.3. Form of the Complaint (Stage 1)

The allegation must:

- 4.3.1. be received by Council within six (6) weeks of the alleged breach.
- 4.3.2. be in writing to comply with the definition of a Complaint (Complaint form available at attachment 1)
- 4.3.3. be addressed to the CEO the Mayor or other nominated delegate
- 4.3.4. be specific and provide as much detail as possible
- 4.3.5. provide the name of the Council Member who has allegedly breached the Code
- 4.3.6. identify the provisions of the Code which are alleged to have been breached
- 4.3.7. provide as much supporting evidence as possible to assist the investigation.

4.4. Receipt of complaint and **early intervention**

- 4.4.1 Within **two (2) Business Days** of receiving a Complaint, where the allegations relate only to Part 2 (Behaviour) of the Code, the CEO, the Mayor, or nominated delegate who received the Complaint may offer to **facilitate early intervention measures**. **Early intervention can take many forms including but not limited to individual mediation or joint mediation.**
- 4.4.2 Should **early intervention** be unsuccessful and within **two (2) further Business Days**, the CEO, the Mayor, or nominated delegate who received the Complaint must refer the Complaint to a Preliminary Assessor.
- 4.4.3 In the event that the Complaint refers to, or concerns, the CEO or Mayor, within **two (2) Business Days** of receiving a Complaint, the Council administration must refer the Complaint to a Preliminary Assessor.
- 4.4.4 In the event that the allegations contained within the complaint relate to Part 3 (Misconduct) of the Code or criminal conduct, and are supported by sufficient detail, the complaint will be referred directly to the relevant authorities by the Mayor or CEO as per paragraph 4.12.
- 4.4.5 Complainants can, at any time, take the alternative option of lodging the Complaint with OPI or the Ombudsman, either of whom will direct the Complaint in accordance with the relevant legislation.

Stage 1 Receipt of complaint

4.5 Preliminary Assessor (stage 2)

- 4.5.1 The Mayor and CEO or Preliminary Assessor will be responsible for:
- 4.5.1.1 undertaking the Preliminary Assessment of the Complaint;
 - 4.5.1.2 communicating to both the Subject Member and the Complainant (where the Complainant is (or can be) identified) as to the status of the Complaint (subject to the Complaint not being related to misconduct under Part 3 of the Code, or criminal or corrupt conduct);
 - 4.5.1.3 liaising with, and providing administrative support, to the Council when required; and
 - 4.5.1.4 liaising with the Ombudsman, OPI or other Appropriate Authorities where applicable.
- 4.5.2 Should the Complaint not satisfy the requirements under paragraph 4.3, the Preliminary Assessor may request the Complainant re-submit the Complaint so that it complies with paragraph 4.3.
- 4.5.3 Within **five (5) Business Days** of receiving the Complaint, the Preliminary Assessor must confirm receipt of the Complaint to the Complainant and Subject Member in writing.
- 4.5.4 A Complaint made after **six (6) weeks** may only be accepted if the Preliminary Assessor is satisfied that there are compelling grounds for the matter to be dealt with under the Code pursuant to the Procedure.

4.6 Preliminary assessment

- 4.6.1 Within **ten (10) Business Days** of receipt of the Complaint, the Preliminary Assessor must determine whether the Complaint:
- 4.6.1.1 is trivial, frivolous, vexatious or has not been made in good faith;
 - 4.6.1.2 relates to behaviour which falls under Part 2 of the Code;
 - 4.6.1.3 relates to misconduct or reasonable suspicion of corruption and/or systemic misconduct which may trigger action under Part 3 of the Code;
or
 - 4.6.1.4 relates to criminal or corrupt behaviour.
- 4.6.2 The preliminary assessment by the Preliminary Assessor will be conducted in accordance with the requirements of natural justice. It will involve a thorough and balanced assessment of the evidence submitted regarding the alleged breach, the relevant circumstances prevailing at the time of the alleged breach and any other factors deemed relevant to making a fair and reasonable judgement about the matter.

4.7 Complaints Assessment Criteria

In undertaking the preliminary assessment of a Complaint, the Preliminary Assessor must take the following into consideration:

- 4.7.1 whether the Complaint discloses clear and obvious evidence of a breach of the Code
- 4.7.2 whether the Complaint raises issues that would be more appropriately dealt with by another agency or body
- 4.7.3 whether there is, or was, an alternative and satisfactory means of redress available to the complainant in relation to the conduct complained of, such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology
- 4.7.4 whether the issue(s) giving rise to the Complaint have previously been addressed or resolved
- 4.7.5 whether the conduct complained of forms part of a pattern of conduct
- 4.7.6 whether there were mitigating circumstances giving rise to the conduct complained of
- 4.7.7 the seriousness of the alleged conduct
- 4.7.8 the significance of the alleged conduct or the impact for the Council
- 4.7.9 how much time has passed since the alleged conduct occurred
- 4.7.10 such other considerations that the Preliminary Assessor considers may be relevant to the preliminary assessment of the Complaint.

4.8 Determination of Trivial, Frivolous, or Vexatious Complaints

4.8.1 Where the Preliminary Assessor determines a Complaint is trivial, frivolous, vexatious, or not made in good faith, the Preliminary Assessor must provide the Council with a Preliminary Assessment Report (refer to paragraphs 4.10 and 4.11).

4.8.1.1 The Preliminary Assessor must, within **five (5) Business Days** of making the determination, confirm in writing to the Complainant that the Council has decided not to enquire further into the matter and provide reasons for its decision.

4.8.1.2 The Preliminary Assessor must also, within **five (5) Business Days** of making the determination, advise the Subject Member of the receipt of a trivial, frivolous, or vexatious complaint.

4.9 Determination of Behaviour under Part 2 of Code

If the Preliminary Assessor determines that the Complaint relates to behaviour which falls under Part 2 of the Code, within **five (5) Business Days** of receiving the Complaint, the Preliminary Assessor must:

- 4.9.1 advise the Subject Member in writing of the Complaint and the allegation(s) made against him or her; and
- 4.9.2 in accordance with paragraph 4.6.2, notify the Complainant that the Complaint is under preliminary assessment;

4.9.3 following notification outlined in paragraph 4.6.2, the following details of the complaint will be recorded:

- the name of the Subject Member who has allegedly breached the Code
- the name of the Complainant (law permitting)
- the provisions of the Code which the Complainant alleges to have been breached; and
- the category and, where applicable, the status of the Complaint.

4.10 Preliminary Assessment Report

Within **ten (10) Business Days** of receiving the Complaint, the Preliminary Assessor must provide the Council with a Preliminary Assessment Report in relation to a Complaint that is trivial, frivolous, or vexatious, or relating to behaviour which falls under Part 2 of the Code.

4.10.1 The Preliminary Assessment Report must contain the following information:

- 4.10.1.1 the allegations with as much detail and supporting evidence as possible;
- 4.10.1.2 the name of the Subject Member who has allegedly breached the Code;
- 4.10.1.3 the name of the Complainant (law permitting);
- 4.10.1.4 identify the provisions of the Code which it is alleged have been breached;
- 4.10.1.5 make a determination that the alleged conduct is:
 - trivial, frivolous, vexatious or not made in good faith; or
 - constitutes a breach of the Code; or
 - does not constitute a breach of the Code; and
- 4.10.1.6 provide reasons for the determination; and
- 4.10.1.7 provide recommendations to the Council for further action (if any).

4.11 Recommendations

4.11.1 The Preliminary Assessor may only make the following recommendations within the Preliminary Assessment Report:

- 4.11.1.1 take no action (if the Complaint is found to be trivial, frivolous, vexatious or not made in good faith);
- 4.11.1.2 subject to the willingness of the Complainant and the Subject Member, resolve the Complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology;
- 4.11.1.3 provide a recommendation to proceed to further Investigation by and Independent Investigator, in the event that one or both of the parties is unwilling to resolve the complaint by alternative and appropriate strategies as outlined in 4.11.2.

Procedure for investigating complaints under Part 2 of the Code of Conduct for Council Members

Stage 2

- 4.11.1.4 to refer the Complaint for further investigation; and/or
- 4.11.1.5 if applicable, to refer the Complaint to a relevant Appropriate Authorities under the Code.
- 4.11.2 The Council is not obliged to adopt the Preliminary Assessor's recommendation(s) as set out in the Preliminary Assessment Report.
- 4.11.3 Where the Council does not adopt the Preliminary Assessor's recommendation(s), the Council must resolve not to adopt the recommendation(s) and state in its resolution the reasons for its decision.
- 4.11.4 In the event that the Preliminary Assessor is unable to resolve the issue as between the parties, or both of the parties determine that they wish the matter to be subject to further investigation, then the Preliminary Assessor must prepare the brief for the Independent Investigator which will be limited to the Complaint and supporting documentation received.
- 4.11.5 The Preliminary Assessor (or the Council) will **not** provide his/her findings, the Preliminary Assessment Report, nor any recommendations made or recorded in connection with the Preliminary Assessment to the Independent Investigator. This promotes fairness and transparency of process for all parties concerned.

4.12 Allegations under Part 3 of the Code and/or Criminal or Corrupt conduct

- 4.12.1 Complaints relating to misconduct under Part 3 of the Code must, and will, be immediately referred to the Ombudsman or the OPI in accordance with Part 3 of the Code.
- 4.12.2 Complaints relating to criminal or corrupt behaviour must be immediately referred to the relevant Appropriate Authorities.
- 4.12.2.1 Where the Complaint relates to misconduct under Part 3 and/or criminal or corrupt behaviour, a Preliminary Assessment Report will **not** be produced for the Council's consideration
- 4.12.2.2 The Complaint and its substance will be kept strictly confidential until:
- the Ombudsman has issued his final report which has been considered by Council
 - the OPI or ICAC issues a public statement or gives permission for publication of its findings in relation to a matter within its jurisdiction to be made public.
- 4.12.3 the Subject Member must not be advised of the existence of the Complaint nor any allegations made against the Subject Member. This is to ensure that the investigations conducted by the relevant Appropriate Authorities will not be compromised.

4.13 Mediation (Stage 3)

- 4.13.1 Within **five (5) Business Days** (or such other reasonable period as agreed between the parties) of Council's consideration of the Preliminary Assessor's report, the Subject Member and the Complainant, if mediation is amenable to both, the parties will commence mediation in an attempt to resolve the issue.
- 4.13.2 If the Complaint is not resolved at the first joint meeting under paragraph 4.13.1, the parties must attend a second meeting within a **five (5) Business Days** (or such other reasonable period as agreed between the parties) in an attempt to resolve the Complaint.
- 4.13.3 If, within **ten (10) Business Days** (or such other reasonable period as agreed between the parties) of the first meeting under paragraph 4.13.1 the Complaint is not resolved, the Preliminary Assessor's recommendation to Council (if adopted) under paragraph 4.11.1.3 will be enacted.

4.14 Further Investigation (Stage 3)

- 4.14.1 Where the Preliminary Assessor determines that the Complaint should be referred for further investigation, an Independent Investigator will be appointed from the pre-approved list of legal practitioners or the Local Government Governance Panel.

4.15 Conduct of Investigations

- 4.15.1 Investigations are to be undertaken without undue delay.
- 4.15.2 Investigations are to be undertaken in the absence of the public and in confidence.
- 4.15.3 The Independent Investigator must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 4.15.4 The Independent Investigator may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation, or the conduct of their investigation.
- 4.15.5 The Independent Investigator will be provided with the information set out in paragraph 4.11.4 by the Preliminary Assessor.

4.16 Written Notice of Investigation

- 4.16.1 The Independent Investigator must, at the outset of their investigation, provide a written Notice of Investigation to the Subject Member and the Complainant within **five (5) Business Days** of their appointment. The Notice of Investigation must:
- 4.16.1.1 Disclose the substance of the allegations against the Subject Member, together with a copy of the Complaint and any relevant supporting documentation;
- 4.16.1.2 Advise the parties of the relevant provisions of the Code that apply to the alleged conduct;
- 4.16.1.3 Advise of the process to be followed in investigating the matter, together with an indicative timeline;

- 4.16.1.4 Request the Subject Member to provide written submissions within **five (5) Business Days** of receipt of the Notice of Investigation from the Independent Investigator, to assist the Independent Investigator to identify the substance of the allegation(s) subject to the operation of paragraph 4.16.2 below. An Independent Investigator will only be obliged to provide such information that the Independent Investigator considers reasonably necessary for the Subject Member to identify the substance of the allegation against them.
- 4.16.1.5 Invite the Subject Member and the Complainant to separately attend a meeting, in relation to the matter within **ten (10) Business Days** (or such other reasonable period specified by the Independent Investigator in the Notice of Investigation).
- 4.16.1.6 Specify that the Subject Member and the Complainant are each entitled to bring a support person or legal advisor who will act in an advisory or support role only (Support Person). The Support Person must not speak on behalf of the Subject Member or Complainant, or otherwise interfere with, or disrupt, the meeting.
- 4.16.2 An Independent Investigator will allow an additional **five (5) Business Days** if a request under paragraph 4.16.1.4 is acceded to, and will duly notify the parties of the revised submission date in their amended Notice of Investigation.

4.17 Initial Investigation Report

- 4.17.1 The Independent Investigator must consider any written submissions received and produce an Initial Investigation Report within **five (5) Business Days** of the meeting with the Subject Member or the Complainant, whichever it the latter.
- 4.17.2 The Independent Investigator will provide the Initial Investigation Report to the Subject Member and the Complainant. Both parties will be invited to make any further written submissions within **five (5) Business Days** of receiving the Initial Investigation Report (or such other reasonable period specified by the Independent Investigator).
- 4.17.3 Where the Independent Investigator proposes to make adverse comment about any other person (Affected Person) in the Initial Investigation Report, they must also provide the Affected Person with relevant extracts of the Initial Investigation Report containing such comment, and invite the Affected Person to make a written submission in relation to those comments within **five (5) Business Days** of the production of the Initial Investigation Report (or such other reasonable period specified by the Independent Investigator).
- 4.17.4 Where the Subject Member, the Complainant or an Affected Person, fails to make a written submission in relation to the Initial Investigation Report within the period specified by the Independent Investigator, the Independent Investigator may proceed to prepare and issue a Final Report without receiving such submissions.
- 4.17.5 The Independent Investigator may accept in only the most exceptional of circumstances, written submissions in connection with the Complaint outside the period specified by the Independent Investigator at any time, prior to issuing their Final Investigation Report. The Independent Investigator's reasons for acceptance of the late written submissions must be included in the Initial Investigation Report.
- 4.17.6 Where an Independent Investigator identifies further separate possible breaches of the Code that are not related to, or arise from, the Complaint and relate to

either Part 3 of the Code or Criminal conduct, they are to report the matters separately in writing to the Mayor or CEO.

4.18 Final Investigation Report

- 4.18.1 The Independent Investigator will prepare a Final Investigation Report in relation to the matter, after finalising their consideration of the matter in accordance with the requirements of the Procedures.
- 4.18.2 The Independent Investigator will provide the Final Investigation Report to the Subject Member and invite the Subject Member to make any final written submissions within **five (5) Business Days** (or such other reasonable period specified by the Independent Investigator).
- 4.18.3 If no final written submissions are received within **five (5) Business Days** (or such other reasonable period specified by the Independent Investigator), the Final Investigation Report must be provided to the Council for consideration at its next meeting.
- 4.18.4 If the Subject Member provides final written submissions, the Independent Investigator, after having considered the final written submissions, must provide the Council with the Final Investigation Report to the Council for consideration at its next meeting.
- 4.18.5 The Final Investigation Report provided to the Council must include the final written submissions provided by the Subject Member as specified in paragraph 4.18.2 as an Appendix to the Final Investigation Report.
- 4.18.6 The Final Investigation Report must:
 - 4.18.6.1 make findings of fact in relation to the matter investigated; and,
 - 4.18.6.2 make a determination that the conduct investigated either,
 - (a) constitutes a breach of the Code, (Public report)
 - (b) does not constitute a breach of the Code, (Confidential report)
 - 4.18.6.3 provide reasons for the determination;
 - 4.18.6.4 provide recommendations in the event that paragraph 4.18.6.2(a) applies.

4.19 Recommendations

- 4.19.1 Where the Independent Investigator determines that the conduct investigated constitutes a breach of the Code, the Independent Investigator may make one or more of the following recommendations:
 - 4.19.1.1 take no action;
 - 4.19.1.2 pass a censure motion in respect of the Council Member;
 - 4.19.1.3 request a public apology, whether written or verbal;
 - 4.19.1.4 request the Subject Member to attend training on the specific topic found to have been subject of the breach;
 - 4.19.1.5 resolve to remove or suspend the Subject Member from a position within the Council (does not extend to the Subject Member's elected

Procedure for investigating complaints under Part 2 of the Code of Conduct for Council Members

Stage 3 Mediation or further investigation

- position on Council);
- 4.19.1.6 request the member to repay monies (e.g. legal fees, investigation or mediation costs etc) to the Council;
- 4.19.1.7 refer the matter to the relevant Appropriate Authorities for further investigation and/or action; and/or
- 4.19.1.8 any other relevant action in the Independent Investigators opinion would be an appropriate response to the breach.
- 4.19.2 Where the Independent Investigator determines that the conduct investigated does not constitute a breach of the Code, the Independent Investigator may make one or more of the following recommendations:
 - 4.19.2.1 that the Council takes no action;
 - 4.19.2.2 that the Council revise any of its policies or procedures; or
 - 4.19.2.3 that a person or persons undertake any training or other education.
- 4.19.3 In making a recommendation under paragraph 4.19.1, the Independent Investigator may have regard to the following:
 - 4.19.3.1 the seriousness of the breach;
 - 4.19.3.2 whether the breach can be easily remedied or rectified;
 - 4.19.3.3 whether the Subject Member has remedied or rectified their conduct;
 - 4.19.3.4 whether the Subject Member has expressed contrition;
 - 4.19.3.5 whether there were any mitigating circumstances;
 - 4.19.3.6 the age, physical or mental health or special infirmity of the Subject Member or the Complainant;
 - 4.19.3.7 whether the breach is technical or trivial only;
 - 4.19.3.8 any previous breaches committed by the Subject Member;
 - 4.19.3.9 whether the breach forms part of a pattern of conduct;
 - 4.19.3.10 the degree of reckless intention or negligence of the Subject Member;
 - 4.19.3.11 the extent to which the breach has affected other parties, or the Council as a whole;
 - 4.19.3.12 the harm or potential harm to the reputation of the Council or local government arising from the conduct;
 - 4.19.3.13 whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny;
 - 4.19.3.14 whether an educative approach would be more appropriate than a punitive one;
 - 4.19.3.15 the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal action; and
 - 4.19.3.16 what action or remedy would be in the public interest even if there are no adverse findings against the Subject Member, but where it has

been identified that training or other education may improve the quality of communications for the Subject Member in the future.

- 4.19.4 The Council must provide a copy of the Final Investigation Report to the Subject Member and the Complainant following the determination of the Final Investigation Report and the passing of the relevant resolution by the Council.

4.20 Council's Consideration of the Final Report (Stage 4)

- 4.20.1 A breach of Part 2 of the Code must be the subject of a Final Investigation Report to a public meeting of the Council. For the avoidance of doubt, when the Final Investigation Report is considered by the Council, the Subject Member (and, if applicable, the Complainant if the Complainant is a Council Member) has a material conflict of interest in the matter pursuant to section 73 of the *Local Government Act, 1999*. The Subject Member and the Complainant must disclose the interest, leave the Chamber and not participate in the Council's discussion, and consideration of the matter.
- 4.20.2 The role of the Council in relation to a Final Investigation Report is to consider imposing the recommended sanction (if any) where the Independent Investigator has determined that there has been a breach of the Code (or where it has been determined that training or education could benefit the Subject Member) and has made a recommendation in the Final Investigation Report.
- 4.20.3 The Council is not obliged to adopt the Independent Investigator's recommendation(s) as set out in the Final Investigation Report. Where the Council does not adopt the Independent Investigator's recommendation(s), the Council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.
- 4.20.4 If, following investigation by the Independent Investigator, a breach of Part 2 of the Code is found, the Council may resolve within a specified time, pursuant to clause 2.25 of the Code, take any of the following actions:
- take no action;
 - pass a censure motion in respect of the Subject Member;
 - request a public apology, whether written or verbal;
 - request the Subject Member to attend training on the specific topic found to have been breached;
 - resolve to remove or suspend the Subject Member from a position within the Council (which does not extend to the Subject Member's elected position on Council);
 - request the member to repay costs to the Council; and
- for the avoidance of doubt, it is also open to the Council to resolve to refer the matter to the relevant Appropriate Authority for further investigation and/or action.
- 4.20.5 If the Subject Member fails to comply with the sanctions imposed by the Council within a specified time, this will result in the Council elevating the Complaint to the Ombudsman under Part 3 of the Code.
- 4.20.6 The Council must not invite oral submissions from other persons for the purpose of seeking to re-hear evidence previously considered by the Independent Investigator.

Stage 4 Resolution

- 4.20.7 Prior to imposing a sanction (if any), the Council has the capacity to ask the Independent Investigator additional questions. The Council may, by resolution, request that the Independent Investigator make additional enquiries and/or provide additional information to it in the form of a Supplementary Report (Supplementary Report).
- 4.20.8 The Council may, by resolution, defer further consideration of the matter pending the receipt of a Supplementary Report from the Independent Investigator.
- 4.20.9 The Independent Investigator may make additional enquiries for the purpose of preparing a Supplementary Report.
- 4.20.10 Where the Independent Investigator prepares a Supplementary Report, they must provide copies of this Supplementary Report to the Council.
- 4.20.11 The Independent Investigator is not obliged to notify or consult with any person prior to submitting the Supplementary Report to the Council.
- 4.20.12 Where the Council passes a resolution of its final determination in connection with the Final Investigation Report, and the sanctions (if any), that will be imposed, the Council must notify the Subject Member and the Complainant of its decision in writing in accordance with paragraph 4.19.4.

5. Rights of Review

In the event that the Subject Member or the Complainant disagrees with the final determination (resolution) of the Council, it is open to either party to refer the matter to the Ombudsman for review.

6. Pre-approved list of legal practitioners as Preliminary Assessors and Independent Investigators

- 6.1 Legal practitioners will be appointed on a rotational basis and be selected from the legal practices included in Council's legal services agreement with Council Solutions to assist the Council in the investigation of the Complaint.
- 6.2 The Local Government Governance Panel may also be selected to conduct preliminary investigations and/or investigations as an alternative.
- 6.3 Legal practitioners appointed to the pre-approved list will hold senior positions within their respective firms and will have specialised knowledge of the legislation applicable to Local Government.
- 6.4 The Preliminary Assessor, or the practice which employs the Preliminary Assessor, who undertook the Preliminary Assessment of the Complaint must not be involved in Stage 3 – Mediation or Further Investigation.

Procedure for investigating complaints under Part 2 of the Code of Conduct for Council Members

Responsible officer(s)/department(s):	Manager Governance
Adopted/approved by:	Council
Date approved/adopted:	Code of Conduct for Council Members Gazetted August 2013 City of Onkaparinga's procedure for investigating complaints adopted by Council . 6 September 2016
Next review:	Appendix 2 – City of Onkaparinga's procedure for investigating complaints The Procedure will be reviewed within twelve months of each Council general election. The Council may otherwise review and alter the Procedure (or substitute a new procedure) at any time as deemed appropriate.
Date(s) of previous reviews:	City of Onkaparinga's procedure for investigating complaints adopted by Council: 24 September 2013 9 December 2014.
DSID number:	24 September 2013 -2493625 9 December 2014 - XXXXXX
Availability of Procedure:	The Procedure is available to be downloaded, free of charge, from Council's website at www.onkaparinga.sa.gov.au . The Procedure will be available for inspection, without charge, at the City of Onkaparinga Civic Centre during ordinary business hours, and a copy may be purchased at a fee as set annually by the Council.

Attachment – 1 Code of Conduct Complaint Form

Please note that ALL fields must be filled in.

COMPLAINANT DETAILS	
Title:	
Given Name:	
Family name:	
Street Address:	
Postal Address: (if different to street address)	
Contact	
Mobile	
Email Address:	
COMPLAINT DETAILS	
*Please note that the complaint must be made in relation to the Conduct of a Council	
Council Member (s)	
Please provide the section(s) of the Code of Conduct for Council	
Details of the Complaint: (attach additional pages if required)	Date of the alleged incident:
	Location of the alleged incident:
	Other parties involved:

Procedure for investigating complaints under Part 2 of the Code of Conduct for Council Members

	Potential witnesses who may be contacted to corroborate the Complaint:
	Details of the incident:

DRAFT

Procedure for investigating complaints under Part 2 of the Code of Conduct for Council Members

<p>List and provide a brief description of the supporting documentation attached to this Complaint:</p> <p>(Please attach any relevant supporting documentation to this application. Adequate material to support the allegation and investigate the Complaint is required.)</p>	
---	--

Acknowledgement

I _____ acknowledge that the information contained herein is true and correct.

.....
Signature

.....
Date

Privacy Statement: Please note that the Corporation of the City of Onkaparinga is committed to protecting your privacy and takes reasonable steps to comply with all relevant legislation. The information is collected by the Council for the purpose of processing your application. Your personal information will be stored in accordance with relevant legislation and will only be accessed by authorised Council Staff. If you do not provide information, Council may not be able to process your application.

Office Use Only

Complaint Received by:

Date received:

Action taken or required:

Date action completed:

Signature

The electronic version of this document is the controlled version.
Before using a printed copy, verify that it is the current version.
onka0001_150203_025.docx

Page left intentionally blank

10. Nominations to external bodies

Nil.

11. Questions on notice

11.1 Questions on notice - Cr Parslow - Court Resurfacing Program

The Flagstaff Hill Tennis Club (FHTC) is concerned about the escalation of the Court Resurfacing Program and maintenance costs and its impact on their contribution. We are advised the proposed agreement is for 7 years amounting to \$64800 for their 6 courts.

FHTC advise there has been no consultation with major Clubs in the Southern Area although a letter to them dated 19 July 2016 para 4 states there was no significant feedback from Clubs.

1. Will you please advise details of the proposed future Court Resurfacing and Maintenance program?
2. Which Clubs were consulted?
3. How did the consultation process take place?
4. How was the costs/fee decided upon?
5. How many clubs are involved in the Court Acrylic recoating program across the City of Onkaparinga?
6. Do clubs that comply with star club receive any discounts towards fees?

The agreement requires a court must be available for "Community use at a nominated time"

7. What is the definition of community?
8. What time and days do the courts need to be made available for community use?
9. Within this requirement there is the concern of net and tennis equipment damage ie tennis posts and winders and the club being required to pay repair/replacement costs Will Council assist with damaged property replacement damaged by public during social use?

Recoating

10. Has a tender gone out to find a cheaper provider of this service?

Clubs have been given 2 weeks to sign and return agreement

11. Will Council allow clubs additional time to speak with user groups about the new agreement and how new fee structure will impact club finances?
12. Clubs are unable to apply for grants through Rec and Sport to assist with recoating fees as they cannot apply for a grant once you have already paid for the service. Grants cannot reimburse costs already paid out. - What assistance can Council provide clubs who rely on grants through rec and sport to help pay court recoating fees?
13. Will an annual scheduled maintenance type fee hinder applying for possible Rec and Sport grants to assist with costs?

Issues with Flagstaff Hill Courts 1 & 2 as last time they were coated/cleaned using contaminated hot mix.

14. Could you please provide an update into this issue?
15. What has council done so far? How will this issue be resolved

The responses to these questions will be emailed to elected members, a hard copy made available to all elected members at the meeting and will be included in the minutes of the meeting.

12. Motions

Nil.

13. Petitions

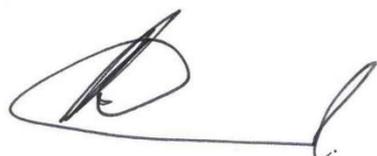
Nil.

14. Urgent business

15. Confidential items

Confidential Clause

If Council so determines item 15.1 may be considered in confidence under Section 90(2) of the *Local Government Act 1999* on grounds contained in the Recommendations below.



Mark Dowd
Chief Executive Officer

Page left intentionally blank

15.1 Chief Executive Officer Strategic Performance Objectives Annual Report

1. 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 receive and discuss 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);**
 - 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.**
- 3. That the matter of Chief Executive Officer Strategic Performance Objectives Annual Report 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 Chief Executive Officer Strategic Performance Objectives Annual Report agenda report and minutes of the Council be kept confidential until considered by Council, but that the discussion relating to the subject matter be kept confidential until 30 April 2027.**
 - 4. 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.**
 - 5. 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.**

16. Closure

Page left intentionally blank

Conflict of Interest Disclosure Form

To be completed and given to meeting minute taker prior to the meeting.

Councillor: _____

Date: _____

Council Meeting
Agenda Item/s no: _____

Strategic Directions Committee Meeting
Agenda Item/s no: _____

Audit Risk Value & Efficiency Committee
Agenda Item/s 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 I intend to **stay** in the meeting

4. The reason I intend to stay for an ACTUAL or PERCEIVED conflict is:

That I will receive no benefit or detriment direct or indirect, personal or pecuniary from considering and voting on this matter.

Other *(describe reason)*

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.

The following ordinary business matters are prescribed under Regulation 8AAA of the *Local Government (General) Regulations 2013*.

- the conduct and consideration of a review under section 12 of the Act (Elector Representation Review)
- the adoption or alteration of a training and development policy under section 80A of the Act
- the adoption or amendment of a strategic management plan under section 122 of the Act
- the adoption or revision of an annual business plan or budget under section 123 of the Act
- the declaration of rates (other than a separate rate) or a charge with the character of a rate.

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.