

Council Meeting Minutes

**22 August 2017 at 7.03 pm
Council Chamber
401 Greenhill Road, Tusmore**

Members Present: Mayor David Parkin
Councillors Wilkins, Lemon, Bills, Monceaux, Osterstock, Ford,
Cornish, Davey, Piggott, Davis, Lord (from 7.11pm), Bagster (from
7.21pm)

Staff Present: Martin Cooper, A/Chief Executive Officer

The Mayor read the opening prayer.

**The Mayor acknowledged those who gave their life for this Country and also
acknowledged the Traditional Owners.**

Evacuation Procedure

The Mayor read the evacuation procedure.

Recording of Council Meetings

The Mayor advised that the Council Meeting is recorded.

Apologies

Nil

Leave of Absence

Request - Councillor Bagster (4.1)

C11347

1. That the application be deferred to the meeting of 12 September 2017 for consideration.

Moved Councillor Osterstock, Seconded Councillor Ford

CARRIED UNANIMOUSLY

Confirmation of Minutes

Recommendation

C11348 That the Minutes of the meeting of Council held on 8 August 2017 be taken as read and confirmed.

Moved Councillor Piggott, Seconded Councillor Davis

CARRIED

Mayor's Report

C11349 That the Mayor's report be received.

Moved Councillor Cornish, Seconded Councillor Davey

CARRIED

Reports of Members, Delegates and Working Parties

Councillor Monceaux undertook BRSI bank authorizations on 10 August 2017; attended the Constable Hyde Open Day and the unveiling of the Tusmore Malt Factory plaque on 19 August 2017; chaired the Eastern Health Authority's CEO Performance Review Committee on 21 August 2017; and came to the cancelled Special Meeting that was to be held on 21 August 2017.

Councillor Wilkins attended the Constable Hyde Park consultation and the unveiling of the recognition of the site of the Malt Factory on 83-85 Tusmore Ave on 19 August 2017; attended the opening of Open Gardens SA at *Dover House*, Kensington on 20 August 2017 and a meeting of the Burnside Historical Society on the history of Joyce Steele & Jessie Cooper on 21 August 2017.

Councillor Bills attended the open day for the Constable Hyde Park consultation, and then the unveiling of a plaque on Tusmore Ave for the Cooper's Malt House on 19 August 2017 and attended the SALA painting exhibition in the Council foyer on Sunday 20 August 2017.

Councillor Ford attended the Gazetted Special Meeting on 21 August 2017 and the workshop on 22 August 2017.

Councillor Cornish attended the unveiling of the Coopers Malt Factory Plaque on Tusmore Avenue and attended the Community Consultation stand for Constable Hyde Memorial Park on 19 August 2017.

Councillor Davey attended the Workshop on the Biodiversity Nursery Service Review on 8 August 2017; attended a meeting of the Quality Committee of the Burnside War Memorial Hospital on 16 August 2017; the Open Day at Constable Hyde Garden on 19 August 2017 and the 90th birthday celebrations of my mother Mary, a very long standing Burnside resident on 20 August 2017.

Deputations

Nil

Petitions**Petition to Retain and Enhance the Burnside Biodiversity Nursery at the Laurel Avenue Site – Head Petitioner Julia Ratasegaran (9.1)****Motion:**

C11350

1. That the Petition be received.
2. That Council Administration correspond with the head petitioner and advise of the outcomes of the Nursery Review Report item being discussed at the Council meeting of 22 August 2017, noting that the scope of this report refers to service provision as opposed to specific locations; the latter of which will be managed through a separate report from the Administration in due course.

Moved Councillor Bills, Seconded Councillor Davey

CARRIED

Petition to Retain and Enhance the Burnside Biodiversity Nursery at the Laurel Avenue Site – Head Petitioner Andrew Hillier (9.2)**Motion:**

C11351

1. That the Petition be received.
2. That Council Administration correspond with the head petitioner and advise of the outcomes of the Nursery Review Report item being discussed at the Council meeting of 22 August 2017, noting that the scope of this report refers to service provision as opposed to specific locations; the latter of which will be managed through a separate report from the Administration in due course.

Moved Councillor Bills, Seconded Councillor Monceaux

CARRIED

Reports of Officers

Councillor Monceaux called a Point of Order pursuant to Regulation 28 (2) of the *Local Government (Procedures at Meetings) Regulations 2013* and sought the Presiding Member to rule accordingly. Councillor Monceaux called the point of order as a result of the order of the agenda ruling on this occasion. Mayor Parkin, as Presiding Member, acknowledged the Point of Order and confirmed that as the presiding member and 'chair' of Council meetings, he has the inherent power to re-order business items on the Agenda for a meeting of the Council.

Eastern Region Alliance Water (Operational) (14.1)

This item was withdrawn by the Administration.

Delegations to the Council Assessment Panel under the Development Act 1993 and Development Regulations 2008 (Operational) (14.2)

Motion

C11352

1. That the Report be received.

Delegations made under the *Development Act 1993*:

2. In exercise of the powers contained in Section 20 and 34(23) of the *Development Act 1993* the Council delegates to the Council Assessment Panel from 1 October 2017 (when Council Assessment Panels come into operation) the powers and functions under the *Development Act 1993* and *Development Regulations 2008* contained in the proposed Instrument of Delegation (Attachment A), subject to the conditions or limitations specified in the proposed Instrument of Delegation.
3. In exercise of the powers contained in Section 44 of the *Local Government Act 1999* the powers and functions under Section 36(1) of the *Local Government Act 1999* to conduct (including but not limited to negotiating and settling) proceedings commenced under Section 86 of the *Development Act 1993* to which the Council is a respondent, and anything necessary, expedient or incidental to performing or discharging such powers and functions, and may include consulting with the Council Assessment Panel where the Council Assessment Panel made the original decision, are hereby delegated from 1 October 2017 (when Council Assessment Panels come into operation) to the person occupying the office of Chief Executive Officer of the Council subject to the conditions specified herein and such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit.

Moved Councillor Cornish, Seconded Councillor Lemon

CARRIED

Annual Report on Section 270 (Local Government Act 1999) Internal Review Applications (Operational) (14.4)**Motion**

C11353

That the Report be received.

Moved Councillor Davey, Seconded Councillor Cornish

CARRIED

Operational and Community Land Motion Register (Operational) (14.5)**Motion**

C11354

That the Report be received.

Moved Councillor Lemon, Seconded Councillor Piggott

CARRIED

Tree Islands and Tree Replacement of Glynburn Road, Kensington Park (Operational) (14.7)**Motion**

C11355

That the Report be received.

Moved Councillor Osterstock, Seconded Councillor Davey

CARRIED

Report to Release Confidential Code of Conduct Complaints (Operational) (14.3)

Mayor Parkin left the chamber at 7.16pm.

Acting Presiding Member

The Acting Chief Executive Officer called for nominations for an Acting Presiding Member.

Councillor Lord nominated Councillor Monceaux who subsequently declined the nomination.

Councillor Cornish was nominated to be Acting Presiding Member and accepted the nomination.

C11356 That Councillor Cornish be appointed as the Presiding Member.

Moved Councillor Lord, Seconded Councillor Monceaux

CARRIED

Councillor Bills declared a perceived Conflict of Interest as per Section 75 of the *Local Government Act 1999* and dealt with the manner in a transparent and accountable way by leaving the Chamber at 7.17pm.

Councillor Davey declared a perceived Conflict of Interest as per Section 75 of the *Local Government Act 1999* and dealt with the manner in a transparent and accountable way by leaving the Chamber at 7.17pm.

Councillor Lord left the Chamber at 7.18pm.

Motion

C11357

1. That the Report be received.
2. That following Council resolution C11259 on 27 June 2017, the orders made by Council under sections 90 and 91 of the *Local Government Act 1999* ("the Act") requiring the information and/or documents to be treated confidentially in relation to the following matters, revoked (or revoked in part) as follows:
 - 2.1 Topic 53 (Council Member Code of Conduct Complaint) Item 18.2 of 22 September 2015, that the order pertaining to the report, attachments and minutes per C10387 be **partially revoked**, with the following information contained in Attachment C to the Council report to remain confidential:
 - 2.1.1 private email address of the complainant; and
 - 2.1.2 pages 7, 9 – 11 (inclusive) (found in Annexures A, B and C to the preliminary assessment report that forms Attachment C);
 - 2.2 Topic 57.1 (Council Member Code of Conduct Complaint) Item 19.2 of 23 February 2016, that the order pertaining to the report, attachments and minutes per C10549 be **revoked**;
 - 2.3 Topic 57.1a (Council Member Code of Conduct Complaint) Item 19.3 of 23 February 2016, that the order pertaining to the report, attachments and minutes per C10556 be **revoked**;
 - 2.4 Topic 57.2 (Council Member Code of Conduct Complaint) item 18.1 of 10 May 2016, that the order pertaining to the report, attachments and minutes per C10648 be **partially revoked**, with the following information contained in Attachment D to remain confidential:
 - 2.4.1 page 34;
 - 2.5 Topic 63.2 (Council Member Code of Conduct Complaint (COCC 16-2)) Item 18.2 of 8 November 2016, that the order pertaining to the report, attachments, written submissions and minutes per C10934 be **partially revoked**, with the following information contained in Attachment C to remain confidential:
 - 2.5.1 name of High school student;
 - 2.6 Topic 63.3 (Council Member Code of Conduct Complaint (COCC 16-3)) Item 18.3 of 8 November 2016, that the order pertaining to the report, attachments, written submissions and minutes per C10937 be **revoked**;

- 2.7 Topic 63.4 (Council Member Code of Conduct Complaint (COCC 16-4) Item 18.4 of 8 November 2016, that the order pertaining to the report, attachments, written submissions and minutes per C10940 be **revoked**;
- 2.8 Topic 63.5 (Council Member Code of Conduct Complaint (COCC 16-5) Item 18.5 of 8 November 2016, that the order pertaining to the report, attachments, written submissions and minutes per C10943 be **partially revoked**, with the following information contained in Attachment C to remain confidential:
- 2.8.1 private email address of a member of the public;
 - 2.8.2 names of members of the public;
 - 2.8.3 residential addresses of members of the public; and
 - 2.8.4 private email address of Elected Member.
- 2.9 Topic 67.1 (Code of Conduct Complaint (COCC 16-7) Item 18.2 of 28 February 2017, that the order pertaining to the report, attachments, written submissions, and minutes per C11056 be **partially revoked**, with the following information to remain confidential:
- 2.9.1 names of members of the public in Attachment C;
 - 2.9.2 everything in the minutes for item 18.2 except:
 - 2.9.2.1 C11054; and
 - 2.9.2.2 paragraphs 1 - 4 and 6 (inclusive) of C11055;
- 2.10 Topic 67.17 Code of Conduct Complaint (COCC 17-1) Item 18.1 of 13 June 2017, that the order pertaining to the report, attachments, written submissions, and minutes per C11252 be **partially revoked**, with the following information to remain confidential:
- 2.10.1 paragraphs 18(f), 18(l), 18(m), 19 – 21 (inclusive) of the report;
 - 2.10.2 in Attachment C:
 - 2.10.2.1 paragraphs 3, 6(f), 6(l), 6(m), 7 – 9 (inclusive);
 - 2.10.2.2 the last two paragraphs of paragraph 10;
 - 2.10.2.3 Appendix A; and
 - 2.10.2.4 Appendix B.

Moved Councillor Osterstock, Seconded Councillor Wilkins CARRIED UNANIMOUSLY

Mayor Parkin and Councillors Lord, Bills and Davey returned to the Chamber and resumed their seats at 7.19pm.

Biodiversity Conservation Nursery Service Review (Strategic) (14.6)

Motion

C11358

Councillor Bagster entered the Chamber at 7.21pm.

1. That the Report be received.
2. That Council continue to provide the in-house nursery service, with a view to exploring an avenue for providing more suitable, contemporary facilities that are fit for purpose and able to accommodate both staff and volunteer programs, in order to continue delivering on Council's Environment and Biodiversity Strategy 2014-2019.

3. That Administration provide a report through Info Docs detailing the urban biodiversity sites throughout the City of Burnside, their area and if possible their estimated share of the \$160K cost of annual maintenance.

Moved Councillor Piggott, Seconded Councillor Davis

CARRIED

Street Tree Removal – Hughes Street Linden Park (Operational) (14.8)

Motion

C11359

1. That the Report be received.
2. That Council endorse the removal of one significant, six regulated and one unregulated *Eucalyptus spathulata* (Swamp Mallet) trees, eight in total, in Hughes Street Linden Park, in accordance with Attachment A of this Report.
3. That subject to Item 2, Council note that a Development Application for the removal of the significant and regulated trees will be required and this will be submitted to the City Development and Safety Department.
4. That subject to the Development Application being approved, Council endorse the replanting of tree species that are suitable to the streetscape and that maintain the recognised environmental value and amenity provided by the existing avenue of trees.
5. Species suitable for the western side of the road (under the power lines) include *Eucalyptus cosmophylla* (cup Gum) and or *Geijera parviflora* (Wilga), and species proposed for the eastern side (non-power line area) include *Angophora costata* (Smooth Bark Apple Gum) and or *Eucalyptus microcarpa* (Grey Box).
6. That subject to all approvals being secured, and following the planned community consultation to select the tree species, the tree replanting will occur in the 2018 planting season.

Moved Councillor Bills, Seconded Councillor Monceaux

CARRIED UNANIMOUSLY

Footpath Policy Review (Strategic) (14.9)

1. That the Report be received.
2. That Council approve the new footpath consultation template.
3. That Council adopt the updated Footpath Policy.

Moved Councillor Monceaux, Seconded Councillor Bills

Amended Motion:

C11360

1. That the Report be received.

2. That Council approve the new footpath consultation template.
3. That Council adopt the updated Footpath Policy.
4. That the Administration provide a report detailing the process to assess the existing footpaths when establishing the plan for renewal.

Moved Councillor Piggott, Seconded Councillor Osterstock

CARRIED

The amended motion became the motion and was

CARRIED UNANIMOUSLY

Linden Park Primary School – School Crossing / Kerb Extension on Hay Road Review (Operational) (14.10)

Motion

C11361

That the Report be received.

Moved Councillor Monceaux, Seconded Councillor Piggott

CARRIED

Subsidiaries, Regional Subsidiaries and other Organisations/Entities**Eastern Waste Management Authority**

Nil

Eastern Health Authority

Eastern Health Authority Audit Committee Report - Meeting 16 August 2017 (15.2.1)

Motion:

C11362

That the Eastern Health Authority Audit Committee Report - Meeting 16 August 2017 be received.

Moved Councillor Cornish, Seconded Councillor Lord

CARRIED

Highbury Landfill Authority

Nil

ERA Water

Council Resolution C10791 requires the CEO to provide a monthly report to Council providing information with regards to the ERA Water Project.

As at 17 August 2017 the Administration had not received any documentation from the ERA Water Board relating to the monthly progress of the project and therefore the Council Resolution highlighted above is unable to be satisfied for this meeting. As soon as these documents are received they will be presented to Council.

Eastern Region Alliance

Nil

Council Correspondence

Correspondence from Burnside Retirement Services Incorporated re Executive Appointment (14.1)

Motion:

C11363

That the Correspondence from Burnside Retirement Services Incorporated regarding the appointment of Executive staff be received.

Moved Councillor Wilkins, Seconded Councillor Osterstock

CARRIED

Motion:

C11364

That the Mayor write to Burnside Retirement Services Incorporated thanking Sue Shuttleworth for her service to the organisation.

Moved Councillor Wilkins, Seconded Councillor Osterstock

CARRIED UNANIMOUSLY

Questions on Notice

10.1 Magill Road Logo and Branding Partnership

Councillor Bills asked the following question on notice:

1. In the EC newspaper dated 2nd August, and on page 5 there is an article which states Burnside City Council will spend \$18,000 on a joint project with NPSP Council for some sort of upgrade of Magill Road, and for which the Mayor is 'more than happy', according to the EC. When will this matter actually be subject to assessment and report before full council?

The matter being referred to relates to a co-partnership between the City of Norwood, Payneham and St Peters and the City of Burnside for a 'Magill Road Logo and Branding' exercise. A report on this item was tabled at the 13 June Council meeting where it was resolved (C11237):

1. *That the Report be received.*
2. *That Council does not apply a separate rate on commercial properties impacted by the Magill Road Logo and Branding Partnership and that \$17,489 be considered at the Q1 2017/18 Budget Review.*
3. *That the application of a differential rate on commercial properties across the City of Burnside be considered for the 2018/19 Budget and that a report be presented for Council consideration by April 2018.*

At the aforesaid meeting, Council expressed in-principle support for this co-partnership exercise. However, in line with the resolution above, the required funding of \$17,489 will be included in the Budget Review 1 report due to be tabled at Council in October 2017.

10.2 Elected Member Claims

Councillor Bills asked the following questions on notice:

1. How many EM's submit claims for payment by council for mileage, child minding or other claims?

All Elected Members are eligible for reimbursement of mileage and child minding expenses in line with the Elected Members Benefits and Allowances Policy.

Since the commencement of this term (2014) three Elected Members have submitted claims in accordance with their entitlements.

2. Is it appropriate that members claim for travelling when this is a legitimate deductible through the taxation system?

Yes, it is appropriate that members can claim for travelling when attending a 'prescribed meeting'.

Claiming for travel expenses is permissible both under Council's Elected Members Benefits and Allowances Policy as well as the Local Government (Members Allowances and Benefits) Regulations 2010.

Elected Members can however choose to declare it as a legitimate tax deduction instead. When claiming through Council, the Elected Member receives a full reimbursement. However, when claiming as a tax deduction, the Elected Member will receive only a tax reduction and not the full reimbursement. It is ultimately the responsibility and discretion of the Elected Member to determine their preferred option.

3. Is this double dipping?

Refer above answer (#2).

4. What was the cost to council for such claims for the period 2010 - 2014?

For the period Nov 2010-Oct 2014, the total cost for reimbursements for mileage, childcare and telecommunications was \$9,865.

5. What is the current cost to council for this term of the council?

The total cost for reimbursements for mileage and childcare for the current term of Council is \$5,880. There were no telecommunications reimbursements.

10.3 Road Statistics

Councillor Ford asked the following question on notice:

1. How many people were killed or injured on roads within the City of Burnside in 2016-17?

Injury and fatality data is only available in calendar years. The most recent data that Council can access is the data for the 2016 calendar year. There is no information available at this stage in relation to 2017. The reason for this is that incidents take some time to be investigated, and the statistics are not made available until investigations are complete and the causes of incidents known.

In the 2016 calendar year, there were no fatalities on any road in the City of Burnside.

In the same period, there were five incidents resulting in serious injuries. Four of these were on roads managed by the Department of Planning, Transport and Infrastructure (DPTI) and one on a Council managed road.

In the same period, there were 175 crashes resulting in minor injuries. Of these, 152 were on roads managed by the DPTI and 23 on a Council managed road.

For clarity, a serious injury is classed as one where somebody has been admitted to hospital.

A minor injury is where an ambulance has attended and treated or taken someone to casualty/emergency however they have been discharged without being 'admitted' to hospital.

10.4 Development Compliance

Councillor Davey asked the following questions on notice:

For each of the years 2015/16 and 2016/17 in Burnside:

1. How many random compliance inspections were undertaken of previously approved Developments, to ensure the applicant has complied within the development authorisation, including any conditions of consent, in Burnside?

For the purposes of all questions, the answers have been separated into 'planning' compliance and 'building' compliance. For the purposes of this first question, 'random' has been defined as a compliance inspection that is not the subject of a complaint from the community.

Given the high level of community questions, complaints and expectations, the planning compliance function can only respond to community reports. This is now exacerbated by the operation of the 'nuisance' component of the Local Litter and Nuisance Control Act. As such, there have been no random checks conducted in relation to planning compliance for both financial years.

The building team undertakes building inspections. These relate to building work and its compliance with the Building Code of Australia (BCA). These inspections are made upon builder's notifications, and in accordance with Council's Building Inspection Policy;

<https://www.burnside.sa.gov.au/About-Council/Policies-Laws/Policies>

In the 2015/16 year, the Administration undertook 562 building inspections, and in 2016/17, undertook 654 inspections.

2. How many non-compliances have been followed up with the applicant, land owner or contractor?

The answer to this question relates to compliance investigations that have resulted from community reaction, and as such, are not random.

In relation to planning compliance, there were 79 complaints followed up in 2015/16, and 64 in 2016/17.

In the same years, the equivalent building related follow ups were 71 and 65.

3. Has any legal enforcement action been taken by Burnside Council against any person for non-conformance or non-compliance with the Development Act or Development Regulations?

This question has been taken to mean any formal action under Section 69, Section 84 or Section 85 (or other relevant section) of the Development Act.

In relation to planning compliance, the respective numbers for the 2015/16 and 2016/17 years are 15 and 10.

In relation to building compliance, the respective numbers for the 2015/16 and 2016/17 years are 9 and 4.

10.5 Hazardous Waste Disposal

Councillor Davey asked the following questions on notice:

1. In the interest of residential and community safety for disposal of same, when was the last local (collective eastern suburbs) Hazardous Waste collection made available in Burnside?

The last Household Hazardous Waste Collection Day in the eastern region was held at the Campbelltown Council Depot on the 2nd May 2015. Previous to that it was held at the Burnside Depot on the 17th May 2014.

2. Alone, or in partnership with the 5 other Councils who make up the Eastern Regional Alliance, as the nearest depot facility to drop off Hazardous Waste is available once per month at Dry Creek, when can a Hazardous Waste collection for household waste such as solvents, pesticides, chemicals, photographic & pool chemicals etc. be made available for more convenient access to Burnside residents?

The Household Hazardous Waste Collection is a joint venue between the City of Burnside, Campbelltown Council and the Norwood Payneham and St Peters Council. The next Household Hazardous Waste Collection Day will be held on the 28th October 2017 at the Norwood Payneham and St Peters Council Depot. This information will be advertised on Council's website and via social media.

Motions on Notice**Reports of Members, Delegates and Working Parties (Operational) –
Councillor Graham Bills (11.1)**

That Council Resolution (C11341) of 8 August 2017:

That effective forthwith the Council will not accept for inclusion in the meeting minutes that portion of a report, from an elected member that makes either a direct or indirect reference to a Council staff member or an elected member, without that person's written consent.

Be rescinded.

Moved Councillor Bills, Seconded Councillor Monceaux

Formal motion

That the question be put.

Moved Councillor Osterstock, Seconded Councillor Lemon

TIE

Motion:

That Council Resolution (C11341) of 8 August 2017:

That effective forthwith the Council will not accept for inclusion in the meeting minutes that portion of a report, from an elected member that makes either a direct or indirect reference to a Council staff member or an elected member, without that person's written consent.

Be rescinded.

Moved Councillor Bills, Seconded Councillor Monceaux

LOST

A Division was called by Councillor Monceaux.

IN FAVOUR

Councillor Monceaux
Councillor Bagster
Councillor Bills
Councillor Lord
Councillor Ford

AGAINST

Councillor Osterstock
Councillor Lemon
Councillor Wilkins
Councillor Davis
Councillor Piggott
Councillor Davey
Councillor Cornish

The Division resulted in the Motion being

LOST

**Miller Reserve Works (Operational) –
Councillor Anne Monceaux (11.2)**

Councillor Bagster left the room at 8.59pm and returned at 9.00pm.

Motion:

C11365

1. That Council urgently increases the number of toilet facilities, or provide an additional temporary toilet block plumbed in at Miller Reserve, Beaumont to ensure the health and safety of all users of this reserve, particularly the two main sporting club users, Burnside Lacrosse Club and Beaumont Tennis Club. This is to service the large number of players and spectators (up to 200 at a time) who use this reserve throughout the year.
2. That Council urgently fixes the drain that causes major flooding of the pedestrian walkway in front of the Beaumont Tennis Club clubhouse and Burnside Lacrosse House which poses a slip and accident risk to all users, as well as equipment damage.
3. Council further engage about pruning of the lillypilly tree and report to Council by the 12 September 2017 meeting.

Moved Councillor Monceaux, Seconded Councillor Bagster CARRIED UNANIMOUSLY

Adjournment of Meeting

C11366 That the Council Meeting be adjourned at 9.10pm for a refreshment break of 10 minutes before recommencing at 9.20pm.

Moved Councillor Lemon, Seconded Councillor Wilkins CARRIED

Resumption of Meeting

C11367 That the meeting be resumed at 9.20pm.

Moved Councillor Bills, Seconded Councilor Cornish CARRIED

Confidential Items**Department of Planning Transport and Infrastructure – Partial Civic Centre Land Acquisition (Operational) (18.1)**

C11368

Councillor Cornish declared a material conflict of interest in accordance with Section 73(3) of the *Local Government Act 1999* because he is an employee of the Department of Planning Transport and Infrastructure and left the Chamber at 9.23pm.

Pursuant to section 90(2) and (3) of the *Local Government Act 1999*, the Council orders that all members of the public be excluded, with the exception of the Elected Members of the City of Burnside; the Acting Chief Executive Officer; and in the Executive Boardroom, the General Manager Urban Services; the Acting General Manager Corporate Services; the Executive Officer; the Principal Governance Officer and the Group Manager People and Innovation, on the basis that it will receive and consider Item 18.1 '*Department of Planning Transport and Infrastructure – Partial Civic Centre Land Acquisition (Operational)*'.

The Council is satisfied that pursuant to section 90(3)(i) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is information relating to litigation involving the Council that the Council believes on reasonable grounds will take place involving the Council and DPTI (Commissioner of Highways) in the Supreme Court on the assessment of compensation if an agreement is not reached.

The Council is also satisfied that pursuant to section 90(3)(h) of the *Local Government Act 1999*, the information to be discussed contains legal advice on the options available to Council and likelihood of success in its ongoing negotiations with DPTI.

The Council is also satisfied that pursuant to section 90(3)(b) of the *Local Government Act 1999*, the information to be discussed includes strategy, legal advice and assessment of compensation the information the disclosure of which could reasonably confer a commercial advantage on DPTI with whom the Council is in ongoing negotiations for compensation for DPTI's proposed compulsory acquisition of Council land. Disclosure would prejudice the commercial position of the Council as this information is only known to the Council and would frustrate Council's bargaining position and its ability to achieve appropriate value and beneficial returns for the loss of Council land by compulsory acquisition.

Further the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because disclosure of this information may compromise the Council's position in the ensuing litigation.

Further the Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because Council needs to be able to maintain privilege in its legal advice.

Moved Councillor Piggott, Seconded Councillor Osterstock

CARRIED

Motion:

C11369

1. Confidential Resolution
2. Confidential Resolution
- 2.1 to 2.3 Confidential Resolution

Councillor Osterstock left the Chamber at 9.27pm and did not return.

Confidentiality Recommendation:

C11370

1. That, having considered the matter in confidence, pursuant to section 91(7) and (9) of the *Local Government Act 1999*, the Council orders that:
 - 1.1 the report, attachment and minutes relating to this agenda item remain confidential on the basis that the disclosure of this information:
 - 1.1.1 would confer a commercial advantage on DPTI with whom the Council is in ongoing negotiations for compensation for DPTI' s compulsory acquisition of Council land; pursuant to section 90(3)(b) of the Act;
 - 1.1.2 would involve the disclosure of Council's privileged legal advice which may compromise Council's negotiating position with DPTI; pursuant to section 90(3)(h) of the Act;
 - 1.1.3 would involve the unreasonable disclosure of information concerning litigation that the Council believes on reasonable grounds will take place involving the Council, pursuant to section 90(3)(i) of the Act; and
 - 1.2 the report, attachments and minutes will not be available for public inspection for the period of five years at which time this order will be reviewed by the Council, and
 - 1.3 this confidentiality order will be reviewed by the Council at least once in every 12 months.
2. That for the item named in clause 1 and associated sub clauses, unless:
 - 2.1 the period in respect of any order made under Section 91(7) of the *Local Government Act 1999* lapses; or
 - 2.2 Council resolves to revoke/CEO revokes an order made under Section 91(7) of the *Local Government Act 1999*;any discussions of Council on the matter and any recording of those discussions are also confidential.

Moved Councillor Wilkins, Seconded Councillor Davey

CARRIED

Councillor Cornish returned at 9.34pm.

Nil

Nil

Nil

The meeting concluded at 9.35pm.

Minutes confirmed this day of 2017

Mayor / Presiding Member