

Notice of Council Meeting

NOTICE IS HEREBY GIVEN in accordance with Sections 83 and 87 of the *Local Government Act 1999*, that a meeting of the

COUNCIL

of the

CITY OF BURNSIDE

will be held in the Council Chamber
401 Greenhill Road, Tasmore

on

Tuesday 11 September 2018
at 7.00 pm

A handwritten signature in black ink, appearing to read 'Paul Deb'.

Paul Deb
Chief Executive Officer

Council Meeting Agenda

11 September 2018 | 7.00 pm
Council Chamber
401 Greenhill Road, Tusmore

Members: Mayor David Parkin
Councillors Bagster, Bills, Cornish, Davey, Davis, Ford, Lemon,
Lord, Monceaux, Osterstock, Piggott and Wilkins

1. **Opening Prayer**
2. **Acknowledgement of those who gave their life for this Country and acknowledgement of Traditional Owners**
3. **Apologies**
4. **Leave of Absence**
Nil
5. **Confirmation of Minutes**
Recommendation
That the Minutes of the meeting of Council held on 28 August 2018 be taken as read and confirmed.
6. **Mayor's Report** p11
7. **Reports of Members, Delegates and Working Parties**
8. **Deputations**
Nil
9. **Petitions**
9.1 Penfold Park Toilet Facilities – Petition against Removal p13

10. Questions on Notice

10.1 Use of Chemicals

Councillor Bills asked the following Question on Notice:

With the recent massive compensation payout awarded to a man who contracted cancer from using Roundup/Glysohate made by Monsanto can I ask when Burnside Council will stop using this now proven carcinogenic product which potentially is putting users, residents, walkers and animal's health at considerable risk?

10.2 Road collisions and statistics

Councillor Ford asked the following Questions on Notice:

Given that since June 2017 to early 2018 four people were killed on roads in the City of Burnside, ten were severely injured, and 138 crashes resulted in minor injuries:

1. has there been engagement with DPTI or SAPOL to analyse the circumstances of all of the collisions?
2. is there a strategy to enhance road safety in the City of Burnside?

11. Motions on Notice

Nil

12. Questions without Notice

13. Motions without Notice

14. Reports of Officers***Office of the Chief Executive Officer***

- 14.1 Chief Executive Officer Report – August 2018 (Operational) p19**
Attachment A
Attachment B
Attachment C
- 14.2 Amendment to the Burnside War Memorial Hospital Constitution (Operational) p29**
Attachment A
- 14.3 Appointment of ERA Water Board Independent Chair to ERA Water Audit Committee (Operational) p61**
Attachment A

Corporate and Development

- 14.4 Minutes of Audit Committee – 20 August 2018 (Operational) p65**
Attachment A
Attachment B
- 14.5 Financial Delegations Policy – Review (Operational) p97**
Attachment A
Attachment B
- 14.6 Complaint Handling Policy – Review (Operational) p107**
Attachment A
Attachment B
- 14.7 Appointment of Independent Members to the City of Burnside Audit Committee (Operational) p129**
Attachment A
Attachment B
- 14.8 Application for Additional Loan Facilities (Operational) p143**
Attachment A
- 14.9 Expiation Fee for New By-Laws (Operational) p151**

15. Subsidiaries, Regional Subsidiaries and other Organisations/Entities

15.1 Eastern Waste Management Authority

Nil

15.2 Eastern Health Authority

Nil

15.3 Highbury Landfill Authority

Nil

15.4 ERA Water

Nil

15.5 Eastern Region Alliance

Nil

16. Council Correspondence

Nil

17. Other Business

18. Confidential Items**18.1 Legal Advice on the Remaking of Confidential Order for Confidential Topic 41.1 – Performance Of The Independent Auditor (Operational)**

Attachment A

Attachment B

Pursuant to section 90(2) of the *Local Government Act 1999*, the Council orders that all members of the public, except the Elected Members of the City of Burnside; the Chief Executive Officer; the General Manager Corporate and Development; the General Manager Urban and Community; the Principal Executive Officer and the Group Manager People and Innovation, be excluded from attendance at the meeting for Agenda Item 18.1 'Legal Advice on the Remaking of Confidential Order for Confidential Topic 41.1 – Performance Of The Independent Auditor (Operational)'.

The Council is satisfied that, pursuant to section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this Agenda Item contains legal advice on the matter of an existing confidentiality order and its appropriateness to release or otherwise.

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.

Confidentiality Recommendation

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, attachments, and audio recording relating to this Agenda item remain confidential on the basis that the disclosure of this information would involve the disclosure of legal advice pursuant to section 90(3)(h) of the *Local Government Act 1999*; and
 - 1.2 the report, attachments, and audio recording and audio recording will not be available for public inspection for the period of two 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 month period.
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 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.

18.2 Chief Executive Officer Performance Review and Remuneration Review 2017/2018 (Operational)

Attachment A
Attachment B
Attachment C
Attachment D

Pursuant to section 90(2) of the *Local Government Act 1999*, the Committee orders that all members of the public, with the exception of the Elected Members of the City of Burnside, the Chief Executive Officer; the General Manager Corporate and Development; the General Manager Urban and Community; the Principal Executive Officer and the Group Manager People and Innovation, be excluded from attendance at the meeting for Agenda Item 18.2 'Chief Executive Officer Performance Review and Remuneration Review 2017/2018'.

The Council is satisfied that, pursuant to section 90(3)(a) of the Act, that the information to be received, discussed or considered in relation to this Agenda Item is information that would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead). The information concerns the remuneration and performance review of the Chief Executive Officer and their personal attributes and the release of such information is unreasonable at this point in time.

Further, the principle that the meeting should be conducted in a place open to the public has been outweighed in the circumstances because of the public interest in maintaining the confidentiality of the personal affairs of these persons.

Confidentiality Recommendation

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 audio recording relating to this agenda item remain confidential on the basis that the disclosure of this information would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead) pursuant to Section 90(3)(a) of the *Local Government Act 1999* as the information relates to the performance of the Chief Executive Officer and the specifics of their Total Remuneration Package.
 - 1.2 the report, attachment and audio recording will not be available for public inspection for the period of 12 months at which time this order will be revoked / reviewed by the Council/Chief Executive Officer (CEO); and
 - 1.3 this confidentiality order will be reviewed by the Council/CEO at least once 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 an order made under Section 91(7) of the *Local Government Act 1999*; or
- 2.3 the CEO determines pursuant to delegated authority that the order be revoked;

any discussions of Council on the matter and any recording of those discussions are to be treated as confidential.

19. Closure

Item No: 6
To: Council
Date: 11 September 2018
Submitted by: Mayor David Parkin
Subject: MAYOR'S REPORT
Attachments: Nil

MAYORAL ACTIVITIES | 23/8/18 – 5/9/18

24 August

- Partook in interviews as a Selection Panel Member for City of Burnside Audit Committee Independent Members.

27 August

- Attended a Special Meeting of the Local Government Association (LGA) SA Executive Committee.

28-29 August

- Participated in interviews at the LGA as a member of the Selection Panel for Director - LGASA Mutual. (also on 30 August)

31 August

- Assisted with facilitating a Rate Capping Forum with the LGA at the City of Marion.

3 September

- Attended a LGA Special Audit Committee Meeting.

5 September

- Attended, as guest of the Mayor, Town of Gawler, the Metropolitan Mayor's Luncheon.
- Attended a meeting of the LGA Metropolitan Local Government Group.

Item No: 9.1
To: Council
Date: 11 September 2018
Submitted by: Paul Deb – Chief Executive Officer
Subject: PENFOLD PARK TOILET FACILITIES – PETITION AGAINST REMOVAL
Attachments: A. Petition

Petition

A petition, containing 60 signatures, was received on 23 August 2018, objecting to the proposed removal of toilet facilities from Penfold Park and outlining a basis for retaining.

Officer's Recommendation

1. That the Petition be received.
2. That Council note that, consistent with resolution C11785 provided below, no demolition will occur of this facility without the approval of Council and that a report will be provided to Council in due course outlining the options available to mitigate the current issues at the site; with a toilet facility inherent and essential in any proposed option or model.
3. That Council Administration corresponds with the head petitioner and signatories to advise of Council's consideration and this resolution.

'C11785

1. *That demolition of the Penfold Park toilets will not occur unless approved by Council.*
2. *That a report be provided to Council outlining the options for addressing the existing issues but maintaining a toilet facility at Penfold Park.'*

Dr Kevin Murphy
14 Ilfracombe Drive
Wattle Park SA 5066

21 Aug 2018

To: The Chief Executive Officer
City of Burnside Council Office,
401 Greenhill Road,
Tusmore SA 5065

Covering Letter: Petition against the removal of toilet facilities from Penfolds Park

Attached is a petition to clearly voice our community's objection to the Burnside Council's intent to remove toilet facilities from Penfolds Park without a clear plan to immediately replace them. This beautiful park is used by a variety of people and the toilets for their intended purpose; including families, children, picnickers, tennis players, netballers and many others. The vast majority of these park users need these important amenities. The toilet's complete removal is unacceptable in terms of its denial of basic human needs. The toilet facilities should not be removed in toto, but retained or immediately replaced with a contemporary equivalent. Most people who use this park cannot continue to do so if these toilets were to be removed.

On a personal level I was horrified to read a note on the toilet block indicating that, because of the alleged poor behaviour of a few rogue people, that the facilities were planned to be removed and possibly never replaced. I have a young family and we often use the park. My children; particularly my disabled child, needs this toilet facility. Without the toilet facility, we will be unable to use or access the park, further reducing our already limited contact with the community.

Sincerely,



Dr Kevin Murphy

To: The Chief Executive Officer
 City of Burnside Council Office,
 401 Greenhill Road,
 Tusmore SA 5065

Re: Petition against the removal of toilet facilities from Penfolds Park

This petition is to clearly voice our objection to the Burnside Council's intent to remove toilet facilities from Penfolds Park without a clear plan to immediately replace them. This beautiful park is used by a variety of people and the toilets for their intended purpose; including families, children, picnickers, tennis players, netballers and many others. The vast majority of these park users need these important amenities. The toilet's complete removal is unacceptable in terms of its denial of basic human needs. The toilet facilities should not be removed in toto, but retained or immediately replaced with a contemporary equivalent. People who use this park cannot continue to do so if these toilets were to be removed.

Name	Signature	Address
Michelle Bagster		28 Woodhouse Cr. Wattle Park
Rosalie Bagster		28 Woodhouse Crescent Wattle Park
Raman Sharma		33 Woodhouse Cr. Wattle Park
Shiwani Shaw		"
Emily Schultz		26 Woodhouse Crescent Wattle Park
EA Giddings		26 Woodhouse Cres Wattle Park
John Dore		26 Woodhouse Cres, Wattle Park
Kelly Giddings		7 Cole St Klemzig 5087 SA
Sophie Palmer		5A Stanford Smith St Klemzig 5087
Adam Palmer		5A Stanford Smith St Klemzig 5087
Brea Stark		14 Tifracombe Wattle Park
Sarah Bagster		28 Woodhouse Cres. Wattle Park
DAVID GILBERT		15 Darrell Avenue Wattle Park SA 5066
LIONEL RODRIGUES		9 Darrell Ave, Wattle Park SA
Joy RODRIGUES		"
LIONEL G. RODRIGUES		"
ARMY MAY		10 Darrell Ave Wattle Park
HAMPDEN MAY		" "
Morgan May		" "

To: The Chief Executive Officer
 City of Burnside Council Office,
 401 Greenhill Road,
 Tasmore SA 5065



Re: Petition against the removal of toilet facilities from Penfolds Park

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Name	Signature	Address
Anne Rowe	[Signature]	1 Ilfracombe Dr. Wattle Park
Kevin Murray	[Signature]	14 ILFRACOMBE DR, WATTLE PARK
Sarah Cabett	[Signature]	Kensington Rd, Wattle Pk.
Bronze STERK	[Signature]	6 SIMPSON RD WATTLE PARK SA
Adrian de Brenni	[Signature]	7 Ilfracombe Drive Wattle Pk SA
GEORGE WEBBER	[Signature]	17 " " "
YVONNE THAI	[Signature]	113 SYDNEY STREET GLENUNGA SA
MARCE MURPHY	[Signature]	14 ILFRACOMBE DRIVE, WATTLE PARK
Simon Bills	[Signature]	8 Ilfracombe Dr, Wattle Pk
Alice Bills	[Signature]	8 Ilfracombe Dr, Wattle Pk
Veronica Boast	[Signature]	15 Ilfracombe Dr, Wattle Park
Chris Boast	[Signature]	" " " " "
Carolyn Pyne	[Signature]	16 Ilfracombe Dr. Wattle Park.
Nan Vasilunas	[Signature]	17 Ilfracombe Drive Wattle Park
Susan Thomson	[Signature]	4 Ilfracombe Ave Wattle Park.
CHRIS GILLIS	[Signature]	21 JIKARA DR GLENOSMOND
Mike Oll	[Signature]	10 ILFRACOMBE DRIVE, WATTLE PARK
Nadia Blake	[Signature]	10 Ilfracombe Drive Wattle Park
MLiddy	[Signature]	3 Ilfracombe Dr " "

To: The Chief Executive Officer
 City of Burnside Council Office,
 401 Greenhill Road,
 Tasmore SA 5065

Re: Petition against the removal of toilet facilities from Penfolds Park

This petition is to clearly voice our objection to the Burnside Council's intent to remove toilet facilities from Penfolds Park without a clear plan to immediately replace them. This beautiful park is used by a variety of people and the toilets for their intended purpose; including families, children, picnickers, tennis players, netballers and many others. The vast majority of these park users need these important amenities. The toilet's complete removal is unacceptable in terms of its denial of basic human needs. The toilet facilities should not be removed in toto, but retained or immediately replaced with a contemporary equivalent. People who use this park cannot continue to do so if these toilets were to be removed.

Name	Signature	Address
Leo Angelikas		31 Woodhouse Cres Wattle Park.
Lei Tang		As above.
Raye Fan		As above
Sarah Gilbert		15 Darrell Avenue Wattle Park
Siwana Menechella		24 Crompton Dr Wattle Pk
JOE MENECHERA		24 CROMPTON DR WATTLE PK
Connie Rohne		26 Crompton Drive Wattle
Derek Scott		13 Darrell Avenue, Wattle Park.
Moneza		8 Crompton Drive, Wattle Park.
SHERYL GEE		7 DARRELL AVE, WATTLE PARK.
Shao Ong		6 Darrell Ave, Wattle Park
Gemma van der Wijk		2 Darrell Ave, Wattle Pk
M. Catt onae		4 DARELL AVE. WATTLE PK.
C. Butler		4 JOSEPH AVE, WATTLE PARK
K. Asokan		6 Joseph Ave, Wattle Pk
S. Sabri		27 Woodhouse Crescent Wattle Park
G. Sabri		53/2 Setty Road, Cheltenham, SA
KENTY CALDCOTT		5 JOSEPH AVE WATTLE PARK
H.		19 Woodhouse Cres Wattle Pk

Item No: 14.1
To: Council
Date: 11 September 2018
Author: Paul Deb – Chief Executive Officer
Subject: CHIEF EXECUTIVE OFFICER REPORT – AUGUST 2018
(OPERATIONAL)
Attachments: A. Monthly Financial Report – August 2018
B. Reports to Council – August 2018
C. Organisation Chart – August 2018
Prev. Resolution: C10640, 10/5/16

Officer's Recommendation

That the Report be received.

Purpose

1. To provide Council with a report of key activities and issues, aligned to Council's Strategic Plan 'Be the Future of Burnside 2025', undertaken by the Chief Executive Officer (CEO) in August 2018.
2. To provide Council with a report on the financial position of the organisation.
3. To provide Council with a list of reports which have been requested by Elected Members and the status of those reports.
4. To provide Council with a top-tier organisation chart as at August 2018.

Strategic Plan

5. The following Strategic Community Plan provisions are relevant:

"Delivery of good governance in Council business"

"A financially sound Council that is accountable, responsible and sustainable"

"An empowered Council and Administration that is visionary and innovative in meeting community needs"

Communications / Consultation

6. Communication has been undertaken with internal and with external organisations as described in the body of the report.

Statutory

7. The following legislation is relevant in this instance:

Local Government Act 1999

Policy

8. There are no policy implications with the recommendation.

Risk Assessment

9. There are no risks associated with the recommendation.

CEO Performance Indicators

10. The CEO's Performance Indicators had not been finalised for the 2018/19 financial year at the time of writing this report.

Finance

11. The August 2018 Finance Report is provided in Attachment A.
12. The Monthly Finance Report for August 2018 provides a comparison of Actual Year to Date performance to the 2018/19 Adopted Budget.
13. Council's August Actual Year to Date Operating Surplus is \$50k higher than the Adopted Budget due to lower than expected material and contract expenses. Council is on track to achieve its Adopted Budget targets.

Procurement

14. The Procurement Framework requires that Council undertakes a Select Tender between \$100k-\$200k and an Open Tender for projects amounting to over \$200k (cumulative).
15. There were no procurement dispensations greater than \$100k in August 2018.

Discussion

Monthly Activity

16. The CEO attended the following meetings in August 2018:
 - 16.1. attended a meeting with the newly appointed Members of the Brown Hill and Keswick Creeks Stormwater Board;
 - 16.2. facilitated meetings with the ERA Water Board Independent Chair and Council Executive to discuss matters relating to Council's resolution of 26 June 2018 relating to the ERA Water Annual Budget and Business Plan;
 - 16.3. attended a meeting of Eastern Region Alliance CEOs to discuss the nomination process relating to the Local Government Associations Greater Adelaide Regional Organisations of Councils;
 - 16.4. attended a Board and Audit Committee meeting of the Highbury Landfill Authority;
 - 16.5. attended the City of Burnside Audit Committee meeting;
 - 16.6. hosted a City of Burnside Citizenship Ceremony with the Mayor presiding and conferring citizenship;
 - 16.7. conducted an all staff briefing session as part of a cycle series;
 - 16.8. met with the new Economic Development Manager for the Eastern Region Alliance; and
 - 16.9. attended the August Council meetings and workshops.

Reports Outstanding List

17. The Reports Outstanding List is contained in Attachment A.
18. As at the conclusion of the Council meeting held on 28 August 2018, there are 13 reports to be presented to Council, requested through resolution. Of the 13 reports, five are anticipated to be presented as part of the agenda for consideration in September 2018. The balance will be presented as soon as information becomes available or as scheduled, taking into account the upcoming caretaker period.

Human Resources

19. As at 1 August 2018, the current Full Time Equivalent (FTE) staff count is 161.22 FTE, with two of these positions being vacant/available.
20. An available FTE within the existing count has been allocated, following the recent decision around management of the Regal Theatre site, toward the Theatre Manager role. This is within the existing approved number of FTEs.

21. The positions vacant/available and their current statuses are as follows:

Position	Status
Technical Officer Arboriculture	Recruitment for this position is anticipated to commence shortly.
Development Officer Building	Position currently being recruited.

Work Health and Safety (WHS)

22. Work has continued to implement and close out the agreed 2018 WHS and Return to Work (RTW) Plan actions. The focus on Council's processes and systems for transport related activities, to ensure compliance with Chain of Responsibility, has shifted slightly to consider the work of contractors.
23. Completion of the audit evidence tool has commenced for the WHS and Risk Management evaluation that is scheduled for mid-October 2018.

Notifiable Incidents (as defined by WHS Act)

24. Nil to report.

Insurance Issues

25. Nil to report.

Risk Management Issues

26. A comprehensive review of the City of Burnside's strategic risks was completed during the month with the Leadership group and Executive which will be presented to the Audit Committee and Council in due course.

CITY OF BURNSIDE
MONTHLY FINANCE REPORT

As at 26 August 2018

FOR THE YEAR ENDING 30 JUNE 2019

	2018/19 Year To Date			2018/19 Full Year		
	Adopted Budget \$'000	Actual Result \$'000	Variance \$'000	Adopted Budget \$'000	Q1 Review Proposed Variations \$'000	Forecast \$'000
OPERATING ACTIVITIES:						
Operating Income						
Rates Income	39,284	39,284	-	39,177	-	39,177
Grants Incomes	653	656	3	3,783	-	3,783
Other Operating Income	648	643	(5)	3,781	-	3,781
	40,585	40,583	(2)	46,741	-	46,741
<i>Less:</i>						
Operating Expenses						
Employee Costs	2,386	2,400	14	16,086	-	16,086
Materials and Contracts Expenses	2,166	2,087	(79)	20,009	-	20,009
Other Expenses	1,600	1,613	13	10,168	-	10,168
	6,152	6,100	(52)	46,263	-	46,263
Operating Surplus / (Deficit)	A 34,433	34,483	50	478	-	478
CAPITAL ACTIVITIES:						
Net Outlays on Existing Assets						
Capital Expenditure on Renewal and Replacement of Existing Assets	1,107	1,163	56	10,383	-	10,383
<i>Less: Depreciation, Amortisation & Impairment</i>	1,561	1,561	-	9,658	-	9,658
<i>Less: Proceeds from Sale of Replaced Assets</i>	B -	-	-	150	-	150
Net Outlays on Existing Assets	(454)	(398)	56	575	-	575
Net Outlays on New and Upgraded Assets						
Capital Expenditure on New and Upgraded Assets	100	99	(1)	5,470	-	5,470
<i>Less: Amounts Received Specifically for New and Upgraded Assets</i>	C -	-	-	50	-	50
<i>Less: Physical resources received free of charge</i>	D -	-	-	150	-	150
<i>Less: Proceeds from Sale of Surplus Assets</i>	-	-	-	-	-	-
Net Outlays on New and Upgraded Assets	100	99	(1)	5,270	-	5,270
Statement of Comprehensive Income						
- Net Operating Surplus/(Deficit) (A)+(B)+(C)+(D)	34,433	34,483	50	828	-	828

Notes

Year to Date Analysis (Analytical reviews performed for variances over \$100k)

As can be noted above, there are no material variances to report.

Full Year Analysis (Analytical reviews performed for approved variances over \$500k)

Administration is on target to achieve the 2018/19 Adopted Budget.

**This report contains rounded numbers and some rounding errors may occur where there is a difference between the calculated approximation of a number and its exact mathematical value.*

18/19 Capital Project Report

The 2018/19 Capital report compares the YTD Adopted Budget to the Actual YTD spend and highlights projects which are on track and those which have not progressed in line with the budgeted timings.

Project Name	Activity Description	YTD Percentage Complete*	Actual YTD Percentage Complete**	Variance (\$'000)	Variance %
Traffic Calming Program	Replacement/Renewal	1%	31%	60	30%
Open Space Renewal	Replacement/Renewal	2%	6%	13	4%
Community Buildings Program	Replacement/Renewal	6%	4%	(6)	-2%
Streetscape Signage Renewal	Replacement/Renewal	0%	1%	-	1%
Civic Centre Renewal Works	Replacement/Renewal	2%	1%	(3)	-1%
Miller Reserve - Amenities Upgrade	New/Upgrade	2%	1%	(1)	-1%
Buildings Emergency Program	Replacement/Renewal	1%	1%	(1)	-1%
Infrastructure Emergency Program	Replacement/Renewal	2%	1%	-	-1%
Road Resurfacing Program	Replacement/Renewal	42%	42%	(11)	-1%
Brownhill Keswick Creek Project	New/Upgrade	0%	0%	-	0%
Civic Centre Upgrades	New/Upgrade	1%	1%	(1)	0%
Constable Hyde Redevelopment	New/Upgrade	6%	6%	-	0%
Conyngham Street Depot	New/Upgrade	3%	3%	-	0%
Disability Discrimination Act Compliance Project	New/Upgrade	0%	0%	-	0%
Depot Pallet Racking	New/Upgrade	0%	0%	-	0%
Drainage New Program	New/Upgrade	2%	2%	-	0%
ERA Water Connection	New/Upgrade	0%	0%	-	0%
Footpath New Construction Program	New/Upgrade	2%	2%	-	0%
Kensington Gardens Masterplan & Works	New/Upgrade	10%	10%	-	0%
Magill Village Redevelopment	New/Upgrade	0%	0%	-	0%
Mobile Workforce and Device Management	New/Upgrade	0%	0%	-	0%
New Open Space Furniture and Fittings	New/Upgrade	0%	0%	-	0%
New Open Space Infrastructure	New/Upgrade	0%	0%	-	0%
Participatory Budgeting Project	New/Upgrade	0%	0%	-	0%
Skate Park Research	New/Upgrade	0%	0%	-	0%
Alexandra Prescott Conservation Management Plan Actions	Replacement/Renewal	0%	0%	-	0%
Bus Shelter Renewal Program	Replacement/Renewal	0%	0%	-	0%
Civic Centre Light Fleet Replacement	Replacement/Renewal	32%	32%	-	0%
Civic Centre Pond Pump	Replacement/Renewal	0%	0%	-	0%
Council Core Network Upgrade	Replacement/Renewal	0%	0%	-	0%
Corporate Mobile Device Refresh	Replacement/Renewal	0%	0%	-	0%
Creek Rehabilitation Works	Replacement/Renewal	1%	1%	-	0%
Plant Replacement - Depot Based Light Fleet	Replacement/Renewal	3%	3%	-	0%
Plant Replacement - Depot Based Major Plant	Replacement/Renewal	0%	0%	-	0%
Plant Replacement - Depot Based Minor Plant	Replacement/Renewal	0%	0%	-	0%
Drainage Renewal Program	Replacement/Renewal	0%	0%	-	0%
Fencing Renewal	Replacement/Renewal	0%	0%	-	0%
Footpath Renewal Program	Replacement/Renewal	6%	6%	4	0%
Hills Face Trails	Replacement/Renewal	0%	0%	-	0%
Kerb Program	Replacement/Renewal	3%	3%	-	0%
Burnside Library Collection Renewal Program	Replacement/Renewal	6%	6%	-	0%
Open Space Furniture and Fittings Renewal	Replacement/Renewal	0%	0%	-	0%
Playgrounds	Replacement/Renewal	0%	0%	-	0%
Public Lighting Renewal Program Project	Replacement/Renewal	0%	0%	-	0%
Records Management System Upgrade Project	Replacement/Renewal	0%	0%	-	0%
Retaining Walls Renewal	Replacement/Renewal	0%	0%	-	0%
Road Cracksealing Program	Replacement/Renewal	0%	0%	-	0%
Sports Field Lighting Replacement	Replacement/Renewal	0%	0%	-	0%
Tennis Courts	Replacement/Renewal	1%	1%	-	0%
Traffic Signals Light Emitting Diode (LED) Upgrade	Replacement/Renewal	0%	0%	-	0%

*Adopted Budget YTD Percentage Complete = YTD Budget Spend / Full Year Budget Spend **Actual YTD Percentage Complete = Actual YTD spend / Budget YTD Spend

Comments on projects with variances over 50% or \$100K

NIL

LEGEND:

Variance between Adopted Budget YTD % complete and Actual YTD % complete:

- more than +/- 50% variance
- +/- 10% - 50% variance
- +/- 10% variance

August YTD Adopted Budget	\$ 1,206,870
August YTD Actuals	\$ 1,262,199
August YTD Variance	\$ 55,329

18/19 Operating Project Report

The 2018/2019 Operating Project report compares the YTD Adopted Budget to the Actual YTD spend and provides commentary on Projects with more than a 50% variance.

Project Name	YTD Percentage Complete*	Actual YTD Percentage Complete**	Variance (000')	Variance %
Burnside Work For The Dole Conservation Project	0%	0%	-	0%
Canopy Action Plan - Implementation	0%	0%	-	0%
Efficiency and Effectiveness Program	0%	0%	-	0%
Mount Osmond Road Landslide Works	0%	0%	-	0%
Records Backlog Project	0%	0%	-	0%
Hard Waste Promotion	0%	0%	-	0%
Community Surveys for high profile projects	0%	0%	-	0%
Dial Before You Dig request automation	0%	0%	-	0%
Hills Face Reserve Vegetation Management Plan	0%	0%	-	0%
Pilot Project - Place Making Grants	0%	0%	-	0%
Resilient East: Regional Climate Change Action	0%	0%	(5)	0%
Community Participation Events	0%	0%	-	0%
Local History and Cultural Officer	0%	0%	-	0%
Burnside Walks Part 2	0%	0%	-	0%
Short term employee under equity & diversity	0%	0%	-	0%

*Adopted Budget YTD Percentage Complete = YTD Budget Spend/ Full Year Budget Spend **Actual YTD Percentage Complete = Actual YTD spend / Budget YTD Spend

Comments on projects with variances over 50%

NIL

LEGEND:

Variance between Adopted Budget YTD % complete and Actual YTD % complete:	
	more than +/- 50% variance
	+/- 10% - 50% variance
	+/- 10% variance

August YTD Adopted Budget	\$0
August YTD Actuals	\$5,085
August YTD Variance	-\$5,085

Reports – Requested To Be Presented To Council (September 2018) (Attachment B)

NO	MTG DATE	SUBJECT	OFFICER	TARGET DATE	STATUS
1.	10/5/16	Eastern Region Alliance Strategic Plan (C10640) – That the ERA Mayors and CEO Group provide 6 monthly reports to all ERA Councils on the activities of the Eastern Region Alliance in respect to resource sharing, regional collaboration and any other activities relevant to the ERA Strategic Plan.	CEO	Sep 2018	On track.
2.	28/11/17	Dulwich Community Centre (C11510) – That the Administration provide a further report to Council, following the endorsement of the revised Connected Community Strategy and Action Plan, which is to recommend a process for continuing the matter, including re-engaging the community to determine a preferred position and a definitive outcome.	GMUC	Dec 2018	On track.
3.	12/12/17	Lane West of Matilda Street, Eastwood – Encroachments (C11544) – That the Administration present a further report to Council detailing the outcome of the Road Process, closing the relevant portion of road, with a recommendation in relation to proposed next steps.	GMUC	Dec 2018	Updated Information Document will be sent to Members week commencing 10 September 2018 outlining status of matter and proceedings.
4.	20/2/18	Public Registers– Councillor Peter Cornish (C11583) – That the Administration provide Council with a report of all the public registers currently available, and list additional registers, detailing additional Council activity, that could be made public available in the future.	GMCD	Sep 2018	On track.
5.	26/6/18	Eastern Regional Alliance Water – Draft 2018/19 Budget and Long Term Financial Plan (CXXXX) – That the draft 2018/19 Eastern Region Alliance Water Budget and Long Term Financial Plan be re-presented to the Council for approval on receipt of responses to areas raised by the motion, including the confirmation of distribution policy concerns and analysis for increased operating costs projected.	GMCD	Sep 2018	On track.
6.	26/6/18	Review of Parking Policy – Residential Parking Permits (C11740) – That the Administration provide a report to Council in six months following continual review of parking zones taking into account the revised Parking Policy.	GMCD	Jan 2019	On track.
7.	26/6/18	Canopy Action Plan Update and Revision (C11741) – That the Administration provide a progress report to Council on the revised CAP in February 2019.	GMUC	Feb 2019	On track.

NO	MTG DATE	SUBJECT	OFFICER	TARGET DATE	STATUS
8.	10/7/18	Glenside Road Naming Request (C11749) – That following a community consultation process on the proposed road names, a report is provided to Council outlining the results and proposed next steps.	GMUC	Dec 2018	On track.
9.	10/7/18	Establishment of Selection Panel to Appoint Independent Members to the City of Burnside Audit Committee (C11750) – That the appointed Selection Panel provide a report to Council following the EOI process with recommendations for vacant positions consistent with the Terms of Reference.	GMCD	Sep 2018	Report on agenda for 11 September meeting.
10.	24/7/18	Glenunga Tennis Club – Clubrooms (C11758) – That, subject to the community consultation process undertaken, a further report be provided to Council including a recommendation in relation to a proposed lease and licence.	GMUC	Dec 2018	On track.
11.	28/8/18	Tree Corridors to support Koala habitat in City of Burnside (C11784) – That a report be brought back to Council by the 2 nd meeting in Sept 2018 which provides a high level overview of how Council can actively support safe koala movement and tree corridors through the revision of the Environment and Biodiversity Strategy.	GMUC	Sep 2018	On track.
12.	28/8/18	Penfold Park Toilets (C11785) – That a report be provided to Council outlining the options for addressing the existing issues but maintaining a toilet facility at Penfold Park.	GMUC	Oct 2018	On track.
13.	28/8/18	Confidential Topic 41.1 – Performance of the Independent Auditor (C11800) – That the Administration provide legal advice with respect to release of the document for this topic (41.1) at the next meeting of Council.	GMCD	Sep 2018	Report on agenda for 11 September meeting.

EXECUTIVE, MANAGEMENT & KEY FUNCTIONS

July 2018



Paul Deb
Chief Executive Officer
Office of the CEO Functions

- Elected Member Administration & Support
- Executive Team Administration & Support
- Council & Committee Agendas and Minutes
- Elected Member Workshop Coordination



Martin Cooper
General Manager Corporate and Development
Corporate and Development Functions

- Work Health and Safety and Risk Management
- Community Engagement and Communications
- Divisional Responsibilities



Barry Cant
General Manager Urban and Community
Urban and Community Functions

- Strategic Planning and Delivery
- Regal Theatre Cinema Management
- Divisional Responsibilities



Karishma Reynolds
Group Manager Finance and Governance
Functions

- Finance Management
- Rates and Revenue
- Procurement
- Governance



Michelle Kennedy
Group Manager Assets and Infrastructure
Functions

- Capital Projects
- Asset Planning
- Property & Facilities (includes Pepper Street)



Matt Spearman
Group Manager People and Innovation
Functions

- People Experience
- Information Management
- Innovation and Technology
- Customer Experience



Alan Harvey
Group Manager Operations and Environment
Functions

- Arboriculture
- City Clean
- City Maintenance
- City Safe
- Environmental Assets
- Natural Resources
- Parks and Reserves
- Workshop



Magnus Heinrich
Group Manager City Development & Safety
Functions

- Ranger Services
- Planning
- Traffic
- Compliance
- Building



Farlie Taylor
Group Manager Community Connections
Functions

- Community Learning (includes Library)
- Community Centres & Events
- Community Support & Wellbeing
- Swimming Centre
- Volunteers

Item Number: 14.2
To: Council
Date: 11 September 2018
Author: Paul Deb – Chief Executive Officer
Subject: AMENDMENT TO THE BURNSIDE WAR MEMORIAL HOSPITAL CONSTITUTION (OPERATIONAL)
Attachments: A. Amended Constitution of the Burnside War Memorial Hospital with tracked changes
Prev. Resolution: C10265, 14/7/15
C10382, 22/9/15
C10449, 10/11/15
C10740, 12/7/16
C11128, 11/4/17
C11152, 27/4/17

Officer's Recommendation

1. That the Report be received.
 2. That the Council approve the proposed amendments to the Burnside War Memorial Hospital Constitution.
 3. That the Chief Executive Officer confirm to the Burnside War Memorial Hospital the Council's support for the proposed amendments to the Constitution.
-

Purpose

1. The purpose of this report is to:
 - 1.1 inform the Council of the amendments that are proposed to the Burnside War Memorial Hospital ("Hospital") Constitution ("the Constitution") by the Hospital Board; and
 - 1.2 provide the Council with an overview of the proposed amendments, including possible consequences and implications arising therefrom.

Strategic Plan

2. The following Strategic Provisions are relevant:

"A community that can access a range of formal and informal education, information, health and other services and opportunities to enhance their lives"

"An empowered Council and Administration that is visionary and innovative in meeting community needs"

"Fit for purpose and cost effective infrastructure that meets community needs"

Communications/Consultation

3. The Chief Executive Officer (CEO), has reviewed the proposed amendments.
4. There is no level community consultation required as part of the process for dealing with the proposed amendments to the Constitution.

Statutory

5. The following legislation is relevant in this instance:

Local Government Act 1999 (“the LG Act”)

Associations Incorporations Act 1985 (“the AI Act”)

Income Tax Assessment Act 1997 (Cth) (“the ITA Act”)

Australian Charities and Not-for-profits Commission Act 2012 (Cth) (“the ACNPC Act”)

Policy

6. The following Council Policies are relevant in this instance:

Property Strategy Policy

Open Space Strategy Policy

Special Feature Reserves Community Land Management Plan

Risk Assessment

7. There are no legal or financial risks to Council associated with the recommendation. To the extent that it may be considered to be a risk, some of the amendments may be considered to dilute the role of the Council in its interactions with the Hospital. However, the Council will continue to retain the power to approve or refuse proposed amendments to the Hospital Constitution. Otherwise, updating the BWMH Constitution promotes current better governance practices.

CEO Performance Indicators

8. The CEO’s Performance Indicators had not been finalised for the 2018-19 financial year at the time of writing this report.

Finance

9. There are no financial implications for the City of Burnside in relation to the recommendation.

Discussion

Background

10. The BWMH is located at 120 Kensington Road, Toorak Gardens. The land is owned by the Council and leased to the Burnside War Memorial Hospital Inc., with the exception of the Attunga Gardens.
11. Clause 16 of the Constitution requires that the BWMH obtain the approval of the Council for any proposed amendments to the Constitution, as follows:

16. ALTERATION TO CONSTITUTION

Provided that the Council has, by resolution, granted its approval, the Board may from time to time, amend, repeal or add to this Constitution as thought fit.

12. In 2011, the BWMH approached Council seeking amendment of the Constitution to correct erroneous historical references as well as to remove outdated clauses such as the reference to the defunct Women's Auxiliary, reduce the Board numbers from 12 to between 8 and 10 and to remove the requirement for three Elected Members to sit on the Board.
13. At its meeting on 10 April 2012, adjourned to 24 April 2012, Council resolved, among other things (C8645):
 - 13.1 *That Burnside War Memorial Hospital Inc be informed that Council will consider amendment of the date of the Deed of Gift from "1948" to "1944" to correct an error, but otherwise does not approve of any amendments to the Constitution.*
14. In February 2017, the Council Administration received a letter from the BWMH seeking Council's consent to further proposed amendments of the Constitution for the purposes of:
 - 14.1 *maintaining its Deductible Gifts Recipient status ("DGR status") in accordance with the requirements of the ATO by addressing a compliance issue arising under the ITA Act whereby the existing Constitution does not contain an acceptable clause that deals with surplus gifts of money or property in the event that the Hospital is wound up or its DGR endorsement is revoked; and*
 - 14.2 *to make provision for an alternative fund-raising, gift recipient model to the current Burnside Hospital Foundation Inc (the Foundation).*
15. On 11 April 2017, the Council first considered the BWMH request for amendment to the Constitution. At this time, the Council resolved that the matter be presented to its meeting on 27 April 2017 with further advice about the consequences and implications of each proposed change (C11128).
16. At the Council meeting on 27 April 2017, the Council considered the proposed amendments to the Constitution, along with further advice regarding the implications and consequences of the proposed amendments to the Constitution. The matter was considered in confidence. The Council resolved to support the amendments to the Constitution. These amendments were incorporated into the Constitution on 31 May 2017.

17. Since this time, the BWMH Board (“the Board”) has undertaken a further review of the Constitution.
18. On 24 May 2018, the Board’s legal advisors wrote to Council to seek consent for further amendments to the Constitution.
19. The purpose of the proposed amendments to the Constitution are explained as seeking to improve and modernise the Board’s governance arrangements to align the Constitution with contemporary governance practices.

The Proposed Amendments to the Constitution

20. The following table sets out the proposed amendments to the Constitution:

Clause	Description of Changes
3	The title of clause 3 be amended to read “ <i>Definitions and Interpretation</i> ”. The List of terms be updated and outdated terms be removed. The proposed clause will introduce “ <i>Interpretation</i> ” which is currently contained in clause 18 of the Constitution.
4	Clause 4 currently titled “ <i>Vesting of Property</i> ” to be deleted from the proposed Constitution as property of the BWMH is dealt with in clause 6A.
5	Clause 5 titled “ <i>Object</i> ” to be moved to clause 4 and titled “ <i>Object of Hospital</i> ” in the proposed Constitution. The wording of this section remains largely unchanged with the exception of the title.
6	Clause 6 to be moved to clause 5 and the title amended to read “ <i>Powers of the Hospital</i> ”. The wording of the clause has been simplified but the powers of the Hospital remain largely the same. Of note is the removal of subclauses 6.14 and 6.15 which require Council approval in relation to amalgamation, partnerships and establishment of entities. The impact of these amendments is discussed in paragraphs 23 to 28 of this report.
6A, 6B	Clauses 6A and 6B remain unchanged.
7	Clause 7 deals with the Common Seal of the Hospital. This clause is proposed to be deleted from the Constitution. The reason this amendment is being sought is that the Hospital does not use the Common Seal in the way described in the Constitution and would like to deal with this as a matter of Board policy. Clause 7 to be replaced with “ <i>The Board</i> ”. These amendments will have the most significant impact for the Council and are discussed in further detail in paragraphs 29 to 32 of this report. Of particular note is the proposed change to the number of Board Members from a maximum of 12 to 10 Members and Elected Members on the Board proposed to be reduced from 3 to a maximum of 2.
8	Sub-clauses 8.1 “ <i>Council of Governors</i> ”, 8.2 “ <i>Ordinary Governors</i> ” and 8.3 “ <i>The President and Vice President</i> ” are proposed to be deleted. The intention is that these clauses will be replaced in clause 7 of the proposed Constitution with updated terms. Clause 8 to be replaced with “ <i>Powers and Duties of the Board</i> ”. Powers and duties of the Board are contained in clause 8.5 of the Constitution but are proposed to be reworded to incorporate current practices and

	ensure consistency in the proposed Constitution.
8A	Clause 8A to be deleted and the Indemnity moved to clause 12 of the proposed Constitution.
9	<p>Clause 9 to be amended and titled “<i>Meetings of the Board</i>”. Committees to be located at clause 13 of the proposed Constitution. The amended clause 9 to provide greater detail regarding the meeting procedures of the Board.</p> <p>Of note is the number of times the Board can meet in a year which is proposed to be amended from once per month to a minimum of six times per year. The amendment to the number of times the Board meets is said to be to allow greater flexibility for the Board. It is anticipated that the Board will still meet once per month and has been meeting 11 times per year. Board Members are also provided with powers to schedule additional meetings as required.</p> <p>Also of note is that the proposed Constitution no longer allows for a casting vote and decisions must be made by majority vote. This amendment is proposed to be incorporated into the Constitution as it is a recommended practice for not-for-profit organisations and supported by the Australian Charities and Not-for-profits Commission (“ACNC”).</p>
10, 12, 13	<p>Clauses 10, 12 and 13 relate to “<i>Visiting Medical Staff</i>”, “<i>Patients</i>” and “<i>Visitors</i>”. These clauses are proposed to be deleted from the Constitution. It is intended that these matters will be dealt with through by-laws or management policies of the Hospital.</p> <p>Clause 10 is proposed to be amended to deal with the remuneration and expenses of the Board in the Constitution.</p> <p>Clause 12 is proposed to be amended to refer to “<i>Indemnity</i>”. The wording of this clause has not changed significantly from the original wording in clause 8A of the Constitution.</p> <p>Clause 13 is proposed to deal with Committees of the Board which is currently contained in Clause 9. The wording of the clause will be amended but its operation will remain the same.</p>
11	<p>Clause 11 titled “<i>Executive and Other Staff</i>” in the Constitution to be moved to clause 14 of the proposed Constitution.</p> <p>Clause 11 to deal with “<i>Conflicts of Interest</i>” and require Board Members to declare conflicts and for conflicts to be recorded in the minutes of Board meetings.</p>
14	<p>The “Auditor” provisions currently contained in clause 14 to be deleted and reworded in clause 16 of the proposed Constitution.</p> <p>Clause 14 is proposed to be replaced with “<i>Executive and Other Staff</i>” in the Constitution. The wording of clause 14 to be amended and identify the appointment of key governance roles being the appointment of the Chief Executive Officer, Public Officer and Secretary for the Board. The role of Director of Nursing to be deleted as this is an executive management position that reports to the CEO of the Hospital and not a governance function.</p>
15	Clause 15 currently titled “ <i>Miscellaneous</i> ” in the Constitution and containing sub-clauses 15.1 “ <i>Hospital Association</i> ”, 15.2 “ <i>Application of</i>

	<p><i>Surplus Revenue</i>", 15.3 "<i>Special Trust Funds</i>" and 15.4 "<i>Statement of Accounts</i>". Sub-clauses 15.1, 15.2 and 15.3 are proposed to be deleted from the Constitution as:</p> <ul style="list-style-type: none"> • clause 15.1 is better dealt with through Board Policy; • 15.2 is dealt with under clause 6A.1 of the proposed Constitution; and • 15.3 is not desirable as the creation of separate trusts has implications for the Hospital under charity and tax law. <p>Sub-clause 15.4 to be moved to clause 16 and sub-clause 15.5 moved to clause 17 of the proposed Constitution.</p> <p>Clause 15 to be replaced with "<i>Execution of Documents</i>" and deal with how the Board can execute documents on behalf of the Hospital in accordance with standard governance practices.</p>
16	<p>Clause 16 which currently deals with "<i>Alteration to Constitution</i>" to be moved to clause 18 in the proposed Constitution.</p> <p>Clause 16 in the proposed Constitution to be titled "<i>Statement of Accounts</i>" and require the Board to prepare financial reports in accordance with its legal obligations, to capture the legal requirements for the keeping of financial records and auditing.</p>
17	<p>The by-law provisions currently contained in clause 17 to be moved to sub-clause 8.3 of the proposed Constitution.</p> <p>Clause 17 to refer to "<i>Report to Council</i>" and require the Board to report to the Council annually on 31 December each year, Under the current Constitution annual reports are provided to the Council on 30 September. The Council will still be able to request information from the Board on the basis that the information request is reasonable.</p>
18	<p>Clause 18 currently deals with "<i>Interpretation</i>" and is to be moved to clause 3 of the proposed Constitution.</p> <p>Clause 18 to refer to "<i>Amendments of the Constitution</i>". The Board would continue to be required to obtain the approval of the Council to amend the Constitution.</p>

21. The proposed amendments to the Constitution will not change the powers of the Council in respect of the following:

- 21.1 the Council's consent will continue to be required for any proposed amendments to the Constitution;
- 21.2 the Council will continue to determine which entity receives the Hospital assets in a winding up situation or the revocation of DGR status;
- 21.3 the Council will continue to determine the members of the Board;
- 21.4 the Council will continue to receive annual reports and the audited financial statements of the BWMH; and

- 21.5 the Council retains the power to request additional information on any matter concerning the BWMH at any time.
22. The proposed amendments to the Constitution that will have the most significant impact on the Council's interactions with the Board are those that are contained in clause 5 and clause 7 of the proposed Constitution.

Clause 5 Powers of the Hospital

23. Clause 5 in the proposed Constitution is proposed to be amended to simplify the wording in regard to the "*Powers of the Hospital*". While the operation and governance practices of clause 5 in the proposed Constitution remain largely the same as currently exist, it is proposed to remove sub-clause 6.14 and 6.15.
24. Sub-clauses 6.14 and 6.15 of Clause 6 to the current Constitution provide:

6 Rights, Powers, Duties and Functions of the Hospital

Pursuant to the objectives referred to in clause 5, the Hospital is empowered:

- 6.14 *subject to prior Council approval, to amalgamate or enter into partnership or into any arrangement for the sharing of surpluses, union of interest, co-operation, joint venture, management, reciprocal concession or otherwise, with any person or company so as to directly or indirectly benefit the Hospital provided that at all times the "not for profit" status of the Hospital is maintained;*
- 6.15 *subject to prior Council approval, to promote and form companies, body corporate or associations for the prosecution or execution of undertakings, works, projects or enterprises of any kind to transfer to any such company body corporate or association all or any of the property of the Hospital provided that at all times the "not for profit" status of the Hospital is maintained...*
25. In respect of sub-clause 6.14, any amalgamation between the Hospital and other party would require an amendment to the Constitution. Pursuant to clause 18 of the proposed Constitution, the Board is required to obtain the approval of the Council to amend the Constitution. In the event that the Hospital sought to amalgamate, the Council would be notified of this and given the opportunity to determine the suitability of the amalgamation by way of amendment to the Constitution.
26. Pursuant to clause 6A.1 of the proposed Constitution, the assets and income of the Hospital can only be dealt with in the furtherance of its Object. Clause 4 of the proposed Constitution provides the Object of the BWMH and includes (paraphrased):
- 26.1 to establish, maintain and conduct a hospital at Kensington Road;
- 26.2 provide and facilitate medical treatment and care;
- 26.3 provide education and training in relation to health care facilities and services;

- 26.4 act as trustee and perform and discharge its duties conducive to the attainment of the Object; and
- 26.5 do other things as incidental or conducive to the attainment of the Object.
27. Whilst the removal of clause 6.15 would see the Council relinquish some of its powers in relation to the control the Hospital assets and income, the Board would still be required to deal with these assets in accordance with the Object.
28. As discussed at paragraph 16.2 of this report, if the Hospital was wound up, the Council maintains its control over the assignment of the Hospital assets through clause 6B of the proposed Constitution.

Clause 7 The Board

29. The proposed Constitution seeks substantial amendment to the appointment and membership of the Board. The most significant of these amendments is:
- 29.1 a reduction in the total number of Board Members from nine to twelve (9 to 12) to ten (10). This includes two medical practitioners as Board Members and up to two Elected Members,
- 29.2 the membership of Elected Members on the Board is reduced from three to a maximum of two;
- 29.3 the decision as to whether the Council appoints none, one or two Elected Members to the Board will be a decision of the Council;
- 29.4 Board Members will maintain a term of three years but with a staggered rotation requirement for the purpose of 'renewal' and ensuring that appropriate skills are maintained on the Board at any given time; and
- 29.5 all Board Members continue to be appointed by the Council, having regard, as required, to the recommendations of the Board.
30. The reduction in Elected Member participation on the Board, will reduce the Council's numerical representation. However, the proposed maximum of two Elected Members on the Board is consistent with a reduction in the total number of Board Members to 10.
31. The revised Board Member numbers reduction to 10 will see a maximum Elected Member participation of 20 per cent of the Board, under the proposed Constitution. This is considered to provide fitting representation by the Council's Elected Members on the proposed Board.
32. The amendments to the Elected Member participation on the Board and flexibility to choose none, one or two Elected members is considered to also allow the Council to have more control over assigning roles in the context of a needs-based assessment and resource management.

Conclusion

33. The Hospital has submitted a request seeking the consent of the Council to amend the Constitution.
34. The proposed amendments to the Constitution do not change the governance arrangement or operation of the Board of the Hospital.
35. Importantly, the relationship between the Council, the Board and the Hospital is maintained through the Council's Board Membership and control of amendments to the Constitution.
36. The proposed changes are considered by the Board to improve the governance functions of the Board by modernising the Constitution, consistent with current and best governance practices. It is anticipated that the amendments will operate to improve the function, practice and efficiency of the Board and the operation of the Hospital.
37. It is recommended that Council approves the proposed amendments to the Hospital Constitution, as provided in Attachment A.



CONSTITUTION
OF
THE BURNSIDE WAR MEMORIAL HOSPITAL INCORPORATED

AS AMENDED ON 3 APRIL 2001 AND 31 MAY 2017

AND [insert date]

Proposed Constitution with changes for Council approval
in marked-up form

1. NAME

The name of the Hospital is “The Burnside War Memorial Hospital Incorporated.”

2. ESTABLISHMENT

The Hospital is an incorporated association in accordance with the meaning of that expression contained in the Act.

3. DEFINITIONS AND INTERPRETATIONS

3.1. Definitions

~~Act means the~~ Shall mean the Associations Incorporation Act 1985 (SA). ~~(as amended)~~

Board means the governing body of the Hospital as described in clause 7.

Board Member means a member of the Board.

Chief Executive Officer means the person engaged by the Board under Clause 14.1

~~The Chief Executive Officer shall mean the person responsible directly to the Board for the total operation of the Hospital.~~

~~**3.1. The Board**~~

~~Shall mean the Board of Governors of the Hospital.~~

~~**3.2. Commission**~~

~~Shall mean the South Australian Health Commission.~~

Council means the Corporation of the City of Burnside (ABN 66 452 640 504) and its successors and permitted assigns.

~~Shall mean the City of Burnside.~~

~~**3.3. Deductible Contributions** Shall means~~ a contribution of money or property as described in item 7 or item 8 of the table in section 30-15 of the Income Tax Assessment Act in relation to a fundraising event held for that purpose.

~~**3.4. Director of Nursing**~~

~~Shall mean the person responsible to the Chief Executive Officer for the nursing service of the Hospital.~~

~~**3.5. Financial Year**~~

~~Shall mean the twelve month period between the 1st July and the 30th June in the year following.~~

~~3.6. — Gifts~~

~~Shall mean gifts of money or property for the principal purpose of the Hospital.~~

Gift Fund

~~Shall mean~~ a fund established in accordance with clause 6A.3 for the purposes of section 30-130 of the Income Tax Assessment Act.

Hospital

~~Shall mean~~ the Burnside War Memorial Hospital Incorporated, being an incorporated association described in this Constitution and established under the Act with Registration number A1061 and ABN 84 816 192 280.

~~3.7. — Hospital By-Laws~~

~~Shall mean by-laws and local regulations in respect of the Hospital made pursuant to clause 17.~~

~~3.8. — Income Tax Assessment Act~~

~~Shall mean~~ the *Income Tax Assessment Act 1997* (Cth).

~~3.9. — Member~~

~~Shall mean a member of the Board.~~

~~3.10. — Minister~~

~~Shall mean the Minister of Health for the State of South Australia.~~

Object ~~Shall mean~~ the object of the Hospital as set out in clause 45.

Officer has the same meaning as in the Act.

Public Officer means a public officer appointed by the Board in accordance with the Act.

Secretary means the person appointed by the Board under clause 14.3.

Special Resolution means a resolution of the Board:

(a) of which at least 21 days' written notice specifying the intention to propose the resolution as a special resolution has been given to all Board Members (unless all Board Members consent to shorter notice being provided); and

(b) which has been passed by at least 75% of the Board Members present at the meeting and entitled to vote on the resolution.

3.11. — State

~~Shall mean the State of South Australia.~~

~~4. VESTING OF PROPERTY~~

~~All plant, equipment, other chattels, money and securities of all and every kind, shall be the property of the Hospital, and shall be held in the name of the Hospital.~~

3.2. Interpretation

In this Constitution, unless the context otherwise requires:

- (a) headings do not affect interpretation;
- (b) singular includes plural and plural includes singular;
- (c) words of one gender include any gender;
- (d) reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- (e) another grammatical form of a defined expression has a corresponding meaning;
- (f) mentioning anything after include, includes or including does not limit what else might be included;
- (g) a reference to the Constitution is a reference to this Constitution as amended, supplemented, varied or replaced from time to time; and
- (h) a reference to a person being present in person includes an individual participating in a meeting by technology as described in clause 9.3 (Mode of Meeting).

5.4. OBJECT OF THE HOSPITAL

In honour of the intent of the Deed of Gift between Otto Georg Ludwig von Rieben and the Council dated 14 March 1944, and in memory and honour of the sacrifice of those who gave their lives in World Wars 1 and 2, the Object of the Hospital is to:

- (a) establish, maintain and conduct a hospital at Kensington Road, Toorak Gardens in the area known as 'Attunga' or such other place or places within the City of Burnside or elsewhere;
- (b) provide and facilitate medical treatment and care, including by investing in and operating health care facilities and services;
- (c) provide education and training in professional and other fields of knowledge or expertise in relation to the provision of health services;
- (d) act as trustee and perform and discharge the duties and functions incidental thereto where this is incidental or conducive to the attainment of the Object; and
- (e) do such other things as are incidental or conducive to the attainment of the Object.

6.5. ~~RIGHTS, POWERS, DUTIES AND FUNCTIONS~~ OF THE HOSPITAL

~~Pursuant to the objectives referred to in clause 5, the Hospital is empowered:~~For the purpose of carrying out its Object, and in accordance with the Act, the Hospital has the power to:

- ~~(a) acquire, hold, deal with, and dispose of, any real or personal property;~~
- ~~(b) administer any property on trust;~~
- ~~(c) open and operate accounts with approved authorised deposit-taking institutions;~~
- ~~(d) invest its moneys in any form of investment;~~
- ~~(e) borrow money upon such terms and conditions as the Hospital thinks fit;~~
- ~~(f) give such security for the discharge of liabilities incurred by the Hospital as the Hospital thinks fit;~~
- ~~(g) appoint agents to transact any business of the Hospital on its behalf;~~
- ~~(h) enter into any other contract it considers necessary or desirable; and~~
- ~~(i) do such other acts, matters and things as may be authorised by the Act from time to time.~~

~~6.1. to provide facilities for the care and treatment of all sick people;~~

~~6.2. to engage in, carry on or provide services designed to alleviate health problems;~~

~~6.3. to provide or assist in the provision of facilities for, or in connection with education, instruction or training in such professional or other fields of knowledge or expertise relating to the provision of health service or research as the Board may think desirable;~~

~~6.4. to liaise and co-ordinate with other agencies or organisations in promoting and providing for the general health of the residents of the areas usually served by the Hospital;~~

~~6.5. to enter into any arrangement with any Government or other authority that may seem conducive to the Hospital's objectives; and to obtain from any such authority any rights, privileges and concessions which the Hospital may think it desirable to obtain;~~

~~6.6. to own, acquire or occupy any real property and without limiting the generality of that empowering provision for that purpose to take on lease or licence any real property and to sub-let or sub-licence the same;~~

- ~~6.7. to carry out construction, improvement, renovation, maintenance or otherwise to any real or personal property in which the Hospital shall have an interest to advance the Hospital's objectives;~~
- ~~6.8. to borrow money, from any person or body corporate for the purpose of carrying out any of its objects, and to secure the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Hospital, in any way and in particular but without limiting the generality of the foregoing charged upon all or any of the property (both present and future) of the Hospital; and to purchase, redeem or pay, any such security;~~
- ~~6.9. to invest or otherwise deal with the money of the Hospital not immediately required for the purpose of carrying out the objects of the Hospital;~~
- ~~6.10. to open and operate on any current account at a bank or to conduct any other lawful activity with a bank;~~
- ~~6.11. to sue or be sued in its corporate name;~~
- ~~6.12. to do all such things as are incidental or conducive to the attainment of the Hospital's objects, power and functions;~~
- ~~6.13. to have such rights, powers, authorities, functions, duties and obligations in addition to those hereinbefore provided by the Act;~~
- ~~6.14. subject to prior Council approval, to amalgamate or enter into partnership or into any arrangement for the sharing of surpluses, union of interests, co-operation, joint venture, management, reciprocal concession or otherwise, with any person or company so as to directly or indirectly benefit the Hospital provided that at all times the "not for profit" status of the Hospital is maintained;~~
- ~~6.15. subject to prior Council approval, to promote and form companies, body corporate or associations for the prosecution or execution of undertakings, works, projects or enterprises of any kind and to transfer to any such company body corporate or association all or any of the property of the Hospital provided that at all times the "not for profit" status of the Hospital is maintained; and~~
- ~~6.16. to give a guarantee or indemnity in respect of the obligations of any person or body corporate with or without security.~~

6A. APPLICATION OF INCOME AND ASSETS FOR OBJECT ONLY

6A.1 Assets and income of the Hospital

The assets and income of the Hospital:

- (a) must be applied solely in furtherance of its Object; and
- (b) may not be paid or transferred to a Board Member, former Board Member, or associate of such persons, in whole or in part, either directly or indirectly by way of dividend, bonus or otherwise.

6A.2 Payment in good faith

Clause 6A.1 does not prevent payment in good faith to a Board Member:

- (a) of reasonable remuneration or fees for services to the Hospital;
- (b) for goods supplied in the ordinary course of business;
- (c) of fair and reasonable interest on money borrowed from the Board Member;
- (d) of reasonable rent for premises let by the Board Member; or
- (e) in furtherance of the Object.

6A.3 Gift Fund

- (a) The Hospital must establish and operate a Gift Fund to be called the 'Burnside Hospital Foundation Fund', or such other name as determined by the Board.
- (b) The Gift Fund must be applied solely in furtherance of the Object.
- (c) The Gift Fund may be maintained as a management account or separate bank account, and must:
 - i. identify and record Gifts and Deductible Contributions;
 - ii. identify and record any money received by the Hospital because of those Gifts and Deductible Contributions; and
 - iii. not identify and record any other money or property.
- (d) The Gift Fund forms part of the accounts of the Hospital.

6B. WINDING UP, DEREGISTRATION OR DISSOLUTION

6B.1 Winding up, deregistration or dissolution

The Hospital may be wound up, deregistered or dissolved in the manner provided for in the Act.

6B.2 Application of Property

- (a) If any property of the Hospital remains on the winding up, deregistration or dissolution of the Hospital and after satisfaction of all its debts and liabilities, then, subject always to clause 6B.3, the Act and any court order under the Act, that property must be given or transferred to one or more funds or institutions, that:
 - i. has charitable purposes similar to, or inclusive of, the Object; and
 - ii. is a not-for-profit entity, whose governing documents prohibit the distribution of its income and property among its members (if it has members).
- (b) The funds or institutions will be determined by the Council at or before the time of winding up, deregistration or dissolution, taking into account recommendations from the Board.

6B.3 Transfer of surplus assets – deductible gift recipient

- (a) If the Hospital has been endorsed as a deductible gift recipient under Subdivision 30-BA of the Income Tax Assessment Act as an entity, where:
 - i. the Hospital is wound up, dissolved or deregistered; or
 - ii. the endorsement of the Hospital under Subdivision 30-BA of the Income Tax Assessment Act is revoked;

then any surplus asset of the Gift Fund remaining after payment of all liabilities must be transferred to one or more funds or institutions that comply with clause 6B.2 (a) and are deductible gift recipients.

- (b) The funds or institutions will be determined by the Council at or before the time of winding up, deregistration or dissolution, taking into account recommendations from the Board.

~~7. THE SEAL~~

~~7.1. The Common Seal shall be affixed to a document after a resolution has been passed by the Board, and shall be witnessed by a member of the Board and countersigned by the Chief Executive Officer, or in his absence by a person authorised by the Board in that behalf.~~

~~7.2. The Chief Executive Officer shall be responsible to ensure that the Common Seal while not in use is at all times kept under lock and key, at the Hospital, or at such other place as may be approved by the Board of Management from time to time.~~

~~7. THE BOARD~~

~~7.1 Number of Board Members~~

The Board must be comprised of not more than 10 persons, including two medical practitioners.

7.2 Appointment of Board Members by Council

- (a) The Council must appoint the Board Members from time to time, having regard to the recommendations made by the Board except in respect of the Board members referred to in clause 7.2 (c).
- (b) The Council must provide notice to the Board of a new appointment (or reappointment).
- (c) The Council may appoint up to two members of Council as Board Members.

7.3 Appointment of Chairman and Deputy Chairman

- (a) The Board must appoint from its number the Chairman and Deputy Chairman and may also determine the period for which the persons elected are to hold office.
- (b) The Chairman, or in his absence, the Deputy Chairman, must be the Chairman of all meetings of the Board.
- (c) If neither are present, or willing or able to act at a meeting of the Board, the Board must elect one of the Board Members present to act as Chairman at such meetings.

7.4 Term and retirement of Board Members

- (a) At the last meeting of the Board in a calendar year, any Board Member who has held office for 3 calendar years or more since last being appointed, must retire from office, but subject to clause 7.5 is eligible for reappointment. A retiring Board Member holds office until the conclusion of the meeting at which that Board Member retires.
- (b) The Council may increase or decrease the period of time that a Board Member holds office, and may remove any Board Member from office before the expiration of that Board Member's period of office, and may appoint another person in place of that Board Member.

7.5 Reappointment of Board Members

Board Members are entitled to seek reappointment as a Board Member on 3 occasions provided that their period of continuous service to the Hospital does not exceed a period of 12 years unless otherwise determined by the Board.

7.6 Vacation of Office

The office of a Board Member becomes vacant if the Board Member:

- (a) resigns from the office by notice in writing to the Hospital;
- (b) is not present at 3 successive meetings of the Board without leave of absence from the Chairman;

(c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

(d) becomes bankrupt;

(e) becomes prohibited, disqualified or removed from being a Board Member by reason of any order of any court of competent jurisdiction or regulator;

(f) dies; or

(a)(g) is removed by a Special Resolution of the Board (the Board Member whose removal is under consideration is not entitled to vote on the Special Resolution).

~~The management of the Hospital shall be vested in the Board consisting of not more than twelve persons and no less than nine persons. Where the maximum number exists, there shall be three "Council Governors" with the remaining members being called "Ordinary Governors".~~

~~Where there shall be a lesser number than twelve Members, the ratio of "Council Governors" to "Ordinary Governors" shall, where possible, be in the same proportion as already expressed in this section and that such ratio shall be not less than 1:4 nor greater than 1:3.~~

~~8.1 Council of Governors~~

~~The persons appointed to hold office as Council Governors shall be members of the Council and shall only hold office so long as they continue to be members of the Council. They shall otherwise hold office during the pleasure of the Council and may be appointed and removed from office from time to time by resolution of the Council.~~

~~8.2 Ordinary Governors~~

~~Where practicable, and written as criteria, not as rules, the Ordinary Governors, of whom at least two shall be men and at least two shall be women, shall be residents of the Council at the time of appointment. Based on a twelve member Board, it is desirable that the Ordinary Governors shall comprise:~~

~~8.2.1 at least one member of a Sub Branch of the Returned and Services League (RSL) operating in the Council area;~~

~~8.2.2 at least two medical practitioners;~~

~~8.2.3 at least one member of the Hospital Women's Auxiliary.~~

~~8.2.4 The Ordinary Governors shall hold office for three years and three of them shall retire at the end of each year.~~

~~8.2.5 The three Ordinary Governors required to retire at the end of each year shall be those three who have been longest in office since the date of their appointment or reappointment.~~

~~8.2.6 A retiring Ordinary Governor shall be eligible for re-appointment.~~

~~8.2.7 New appointments or reappointment for Ordinary Governors shall be made by the Council having regard to recommendations from the Board.~~

~~8.2.8 Where a casual vacancy arises, the unexpired portion of the term may be filled by an appointment made by Council having regard to the recommendation of the Board.~~

~~8.2.9 An Ordinary Governor shall not be removed from office during the term of his appointment except by resolution passed at a special meeting of the Council called for that purpose and carried by an absolute majority of the members of the Council.~~

~~8.2.10 In the event of a Member being granted leave of absence for a period of three months or more, the Board may, with the approval of the Council, appoint a substitute Member. The appointee while holding office as a substitute Member shall be entitled to receive notice of meetings and to attend and vote thereat as a Member.~~

~~8.2.11 Any appointment so made may be revoked at any time by a majority of the other Members.~~

~~8.3 The President and Vice President~~

~~The Board of Governors shall among their number appoint annually a President and a Vice President.~~

~~The President, or in his absence, the Vice President, shall be the Chairman of all meetings of the Board. If neither are present, the Board shall elect one of the Members present to act as Chairman at such meeting. Questions arising at any meeting of the Board shall be determined by a majority of votes, but the Chairman shall in every case be entitled to a deliberative vote, and in case of equality have a casting vote. Five members of the Board shall form a quorum.~~

8. POWERS AND DUTIES OF THE BOARD

8.1 Board to manage the Hospital

The Board is to manage the affairs of the Hospital in furtherance of the Object and may exercise all of the powers of the Hospital.

8.2 Delegation

(a) The Board may delegate any of its powers and functions to a committee, a Board Member, an employee (such as the Chief Executive Officer), or any other person as it considers appropriate.

(b) The power may be delegated for such time as determined by the Board and the Board may at any time revoke or vary the delegation.

(c) The delegate must exercise the powers delegated in accordance with any directions of the Board.

8.3 By-laws

(a) Subject to this Constitution, the Board may from time to time by resolution make or adopt by-laws (including rules, policies, terms of reference or guidelines) to give effect to this Constitution.

(b) By-laws are binding for the management and conduct of the business of the Hospital and must be complied with as if they are part of this Constitution.

~~8.4 — Functions of the Board~~

~~The functions of the Board shall be:~~

~~8.4.1 — to ensure the general governance of the Hospital by:~~

~~8.4.1.1 — the adoption of Hospital By-Laws in accordance with its community and regional responsibility;~~

~~8.4.1.2 — the establishment of a suitable organisation structure;~~

~~8.4.1.3 — the appointment of appropriate executive staff;~~

~~8.4.1.4 — the establishment and maintenance of procedures for the efficient conduct of the business of the Board;~~

~~8.4.2 — to establish and update policies for the Hospital;~~

~~8.4.3 — to develop and continuously update a long term plan for the Hospital and ensure that decisions are made in accordance with that plan;~~

~~8.4.4 — to monitor and evaluate the strategies including plans and programs by which these long term objectives are being reached so that they are in accord with the Hospital's overall policies and objectives;~~

~~8.4.5 — to provide for the long term financial stability of the Hospital;~~

~~8.4.6 — to ensure a harmonious relationship with Government and allied agencies;~~

~~8.4.7 — to approve the selection of visiting medical staff and ensure that it is properly organised;~~

~~8.4.8 — to ensure the evaluation of all areas of performance including the quality of patient care;~~

~~8.4.9 — to take any other actions as may be necessary to comply with its objectives.~~

~~8.5 — Meeting of the Board~~

~~8.5.1 — The Board shall meet at least once each month.~~

~~8.5.2 — The Chief Executive Officer, may at the request of the Chairman, or upon receipt of a request in writing by half the Members to do so, call a special meeting of the Board by notice in writing stating the place, time and object of the meeting.~~

~~8.5.3 At any meeting of the Board, a quorum for the purpose of transacting all business of the Board shall be five Members. If after twenty minutes after the hour appointed for the meeting a quorum is not present, such meeting may stand adjourned for a period not exceeding one week and if a quorum is not present at such adjourned meeting, the meeting shall lapse.~~

~~8.5.4 The Chief Executive Officer may, with the authority of the Chairman and by notice to each Member, alter the time and/or place of an ordinary meeting.~~

~~8.5.5 Should any Member, including the Chairman, be absent from three consecutive meetings without leave of the Board, the Member's office shall become vacant.~~

9. MEETINGS OF THE BOARD

9.1 Meetings of the Board

(a) The Board may meet together for conducting business, adjournment and otherwise regulate its meetings as it thinks fit, and must meet at least 6 times each calendar year.

(b) A Board Member may at any time, and the Secretary must on the written request of a Board Member, convene a meeting of the Board Members.

9.2 Notice of Meeting

(a) A least 7 days' notice of any Board meeting must be given to Board Members, unless all Board Members consent in writing to shorter notice. The notice must set out where and when the meeting will be held and particulars of the nature of the business to be transacted at the meeting.

(b) At least 24 hours' notice (or shorter notice as reasonably practicable in the circumstances) of a special Board meeting must be given to the Board (for example, convened to deal with an urgent or emergency matter). The notice must set out where and when the meeting will be held, and particulars of the nature of the business to be transacted at the meeting.

(c) A notice may be given to any Board Member by delivering the notice to the address last notified by the Board Member to the Hospital or by sending it by post or email to the address last notified by the Board Member.

(d) Where a notice is sent by post, service of the notice is effected if properly addressed and posted to the Board Member by ordinary prepaid mail. Where a notice is sent by email, service of the notice is effected at the time shown in a delivery confirmation report generated by the sender's email system.

(e) The Secretary may, with the authority of the Chairman and by notice to each Board Member, alter the time, date and/or place of any meeting.

9.3 Mode of Meeting

The Board may meet in person or by telephone or other instantaneous means of conferring for the dispatch of business (or by any combination of those means), provided that each Board Member who participates is able to hear each of the other

participating Board Members addressing the meeting and to address each of the other participating Board Members simultaneously.

9.4 Quorum at Board Meetings

- (a) An item of business may not be transacted at a Board Meeting unless a quorum is present when the meeting proceeds to consider it.
- (b) At any meeting of the Board, the number of Board Members whose presence in person is necessary to constitute a quorum is a majority of Board Members holding office, or 4, whichever is the greater.
- (c) If within 15 minute after the time appointed for a meeting a quorum is not present, the meeting must be dissolved or, if agreed by the Board Members present, stand adjourned to such other day, time and place as agreed by the Board Members present. If a quorum is not present at such adjourned meeting, the meeting is dissolved.

9.5 Voting at Meetings – Questions decided by Majority

- (a) Each Board Member has one vote.
- (b) Questions arising at any meeting of the Board must be determined by a majority of Board Members present and entitled to vote at the meeting, unless a Special Resolution is required under law or this Constitution.
- (c) If there is an equality of votes, then the Chairman of the meeting is not entitled to a casting vote in addition to any votes to which the Chairman is entitled as a Board Member, and consequently the resolution fails.

9.6 Written Resolution of Board Members

- (a) The Board may pass a resolution without a Board meeting being held if each of the Board Members entitled to receive notice of a meeting receives notice of the proposed resolution and not less than 75% of those Board Members sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) A resolution in those terms is for all purposes treated as having been passed at a duly convened meeting of the Board held on the date and at the time when the document is last signed by a Board Member.
- (c) For the purposes of clause 9.6 (a):

 - i. each Board member may sign a single document setting out the resolution and containing a statement that they agree to the resolution, or separate copies of a document provided that the wording of the resolution is identical in each copy; and
 - ii. a resolution may be sent by email or fax to the Board Members and the Board Members may agree to the resolution by sending a reply email or fax to that effect, including the text of the resolution in their reply.

9.7 Validity of Acts of Board Members

Subject to the Act, each act, resolution or thing performed, passed or done by, or with the participation of, a person acting as a Board Member or member of a committee in respect of whom it is later discovered there was some defect in appointment to, or continuation in, office of that person or that the person was disqualified or not entitled to perform, vote on or do the act, resolution or thing, is as valid and effective as if that Board Member or member of committee had been validly appointed, had validity continued in office, had not been disqualified and was entitled so to perform, vote or do.

10. REMUNERATION AND EXPENSES OF BOARD MEMBERS

10.1 Remuneration of Board Members

The Board Members may be paid fair and reasonable remuneration for their services as Board Members.

10.2 Expenses for Board Members

(a) A Board Member may be reimbursed out of the funds of the Hospital for such reasonable travelling, accommodation and other expenses as the Board Member may incur when travelling to or from meetings of the Board, or a committee or when otherwise engaged on the business of the Hospital.

~~(a)~~(b) Any payment to a Board Member must be approved by the Board (and this may be done by the adoption of a Board policy).

11. CONFLICTS OF INTEREST

11.1 Disclosure of Conflict of Interest

A Board Member must disclose in writing as soon as practicable to the Board the nature and extent of any actual or perceived material conflict of interest in a matter that is to be, or is being, considered at a meeting of the Board (or that is proposed in a written resolution).

11.2 Disclosure Recorded in Minutes

The disclosure of a conflict of interest by a Board Member must be recorded in the minutes of the meeting at which disclosure is made (or first held following the disclosure).

11.3 Material Personal Interest

Each Board Member who has a material personal interest in a matter that is being considered at a meeting of the Board (or that is proposed in a written resolution) must not, except as provided under clause 11.4:

(a) be present at the meeting while the matter is being discussed; or

(b) vote on the matter.

11.4 Present and Voting

A Board Member with a material personal interest in a matter may still be present and vote if:

- (a) their interest arises because they are a Board Member and the other Board Members have the same interest;
- (b) their interest relates to an insurance contract that insures, or would insure, the Board Member against liabilities that the Board Member incurs as an Officer;
- (c) their interest relates to a payment by the Hospital under clause 12, or any contract relating to an indemnity that is permitted by law;
- (d) the Board Members who do not have material personal interest in the matter pass a resolution that:
 - i. identifies the Board Member, the nature and extent of the Board Member's interest in the matter and how it related to the affairs of the Hospital; and
 - ii. says that those Board Members are satisfied that the interest should not stop the Board Member from voting or being present.

8A12. INDEMNITY

(a) ~~8A.1~~ To the extent permitted by law, the Hospital:

i. ~~_____~~

i. ~~8A.1.1~~ must indemnify each person who is, or has been, a Board Member against any liability incurred by the person as a Board Member;

~~_____ an officer of the Board against any liability incurred by the person as an officer of the Board;~~

ii. ~~8A.1.2~~ may pay a premium for a contract insuring a Board Member against that liability, ~~an officer of the Board against that liability.~~

(b) To the extent permitted by law, the Hospital may enter into an agreement or deed with a Board Member in the form, or substantially in the form, of the document in Annexure A under which the Hospital must to the extent it is permitted by law, do all or any of the following:

i. keep a set of the Hospital's records (including minute books and Board papers) and allow the Board Member and the Board Member's advisers access to the books for any period agreed;

ii. indemnify the Board Member against any liability incurred by the Board Member as a Board Member;

iii. keep the Board Member insured for any period agreed in respect of any act or omission by the Board Member while a Board Member.

13. COMMITTEES

(a) The Board may appoint committee(s) for such time and such purposes as it considers fit, deems fit, with power to invite other persons to act on such committee(s) at the Board's discretion.

~~(b) Committees formed as outlined in Clause 9.1 shall appoint a Chairman amongst their membership and the Chairman of the Board shall be an ex-officio member of all such committees. Committees must appoint a chairman amongst their membership.~~

(c) The Chairman of the Board must be an ex-officio member of all such committees.

(d) Committees must report to meetings of the Board as required.

(b)

~~9.3 Committees referred to in Clause 9.1 shall report to meetings of the Board as required.~~

~~10. VISITING MEDICAL STAFF~~

~~10.3 — Visiting medical staff to the Hospital shall be medical practitioners who are legally qualified and duly registered in South Australia.~~

~~10.2 — Each visiting Medical Staff member shall have control of the patient(s) admitted by his order. Emergency cases may be admitted by the Director of Nursing or the Nurse in Charge.~~

~~10.3 — The Board in consultation with the Chairman of the Medical Committee, may require the admission or discharge of any patient.~~

~~10.4 — The Board has the power to either restrict or remove the clinical privilege granted to a member of the Medical or Dental Staff on the recommendation of the Medical Privileges Advisory Committee.~~

14. EXECUTIVE AND OTHER STAFF

14.1 Appointment and Powers of Chief Executive Officer

(a) The Board must appoint the Chief Executive Officer on such terms as it thinks fit.

(b) The Board may delegate any of its powers to the Chief Executive Officer:

i. on the terms and subject to any restrictions they decide; and

ii. so as to be concurrent with, or to the exclusion of, the powers of the Board, and may revoke the delegation at any time.

(c) Without affecting the generality of the foregoing, the Chief Executive Officer must be delegated the power to:

i. be responsible for the operations of the Hospital;

ii. to the extent that the resources available permit, implement the policies of the Board;

iii. prepare an annual report for the Board on the work and activities of the Hospital during the preceding 12 months ending on 30 June in each year; and

iv. exercise such other functions, duties and responsibilities as may be determined from time to time by the Board.

~~11.1 The positions of Chief Executive Officer and Director of Nursing shall be appointments made by the Board, on such terms and conditions deemed appropriate by the Board having regard for relevant industrial award/agreements. 11.2 The Chairman, or in his absence the Vice Chairman, may suspend any employee of the Hospital if, in his opinion, such employee has been guilty of theft, wilful disobedience, or any other misconduct prejudicial to the interest of the Hospital, until such time as the Board shall have considered the offence and given its decision. If the Board is satisfied that the offence is of a sufficiently serious nature it may dismiss the employee as from the date of suspension. Any employee dismissed in such circumstances shall not, unless the Board decides otherwise, be entitled to any salary or wages in respect of the period of suspension.~~

~~If the Board is of the opinion that the offence is not sufficiently serious to warrant dismissal, it may direct that other lesser disciplinary action be taken.~~

14.2 Appointment of Public Officer

The Board must appoint a person as Public Officer of the Hospital in accordance with the Act. The Chief Executive Officer may be appointed as Public Officer.

14.3 Appointment of Secretary

(a) The Board must appoint at least one Secretary. The Public Officer may be appointed as Secretary.

(b) The Board may suspend or remove a Secretary from that office.

(c) A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Board. The exercise of those powers and authorities and the performance of those duties by a Secretary are subject at all times to the control of the Board.

(d) Unless otherwise determined by the Board, it is the duty of the Secretary to keep minutes of:

i. all appointments of Board Members;

ii. the names of Board Members present at a Board meeting; and

iii. all proceedings at Board meetings.

(e) Minutes of the proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

~~12. PATIENTS~~

~~12.1 The Hospital shall be open to all members of the public except that priority may be given to:~~

- ~~• the servicemen and women of World Wars 1 and 2 and their dependants;~~
- ~~• the descendants of such servicemen and women who are deceased, being resident within the Council area;~~
- ~~• members of the Burnside War Memorial Hospital Association; and~~
- ~~• other bona fide residents of the Council area.~~

~~The Board shall have due regard to the claims of poor persons.~~

~~12.2 A patient may be discharged on the direction of his Medical Officer, or his locum tenens, in consequence of wilful disobedience of the lawful requirements of the Hospital, or for misconduct.~~

~~12.3 A patient shall not be permitted to leave the premises of the Hospital without the special permission of his Medical Officer, the Director of Nursing, or Nurse in Charge. Any patient doing so shall be liable to discharge from the Hospital.~~

~~12.4 Any case of a patient being discharged as provided in Clauses 12.2 or 12.3 shall be reported forthwith to the Administrator by the Medical officer upon whose order such patient was admitted to the Hospital.~~

~~8. 13. VISITORS~~

~~The Board shall determine the days, times and conditions upon which persons may be permitted to visit patients.~~

~~14. AUDITOR~~

~~The Board shall annually appoint an Auditor, who shall not be a member of the Board or an officer of the Hospital.~~

~~The Auditor shall hold the qualifications necessary for an Auditor of Companies as required by the Corporations Law.~~

15. EXECUTION OF DOCUMENTS

Documents executed for and on behalf of the Hospital must be executed by:

(a) 2 Board Members;

(b) a Board Member and the Secretary; or

(c) such other persons as the Board by resolution appoints from time to time.

15. MISCELLANEOUS

15.1 Hospital Association

~~The Board may establish a Burnside War Memorial Hospital Association, consisting of members who, on payment of a regular subscription, will be entitled to receive treatment at the Hospital for themselves and/or their families, on such terms as may be decided. The rules of such Association must be approved by the Council.~~

15.2 Application of Surplus Revenue

~~The Hospital shall not be conducted with a view to gain, and any surplus of revenue over expenditure shall be used or applied for or towards the future maintenance, extension or improvement of the Hospital, the reduction of fees and charges, or such other purposes and objects for the benefit of the Hospital as the Board may deem fit.~~

15.3 Special Trust Funds

~~The Board may establish a Separate Trust Fund, or Funds, for any special purpose within the scope of its powers under this Constitution and may accept any real or personal property upon such conditions or trusts as may be laid down by the donors and may apply any particular such Fund together with any income therefrom for the purpose of providing for the admission, care and treatment at the Hospital of indigent ex service personnel and their immediate dependants, and for such other necessitous cases and purposes as may be determined by the Board.~~

~~15.4 Statement of Accounts~~ 16. STATEMENT OF ACCOUNTS

(a) The Board must shall prepare financial reports a Balance Sheet as at 30th June each year for the year ending on that date together with an Income and Expenditure Account for the year ending on that date.

(a)(b) The Board must cause proper financial records to be kept and, if required by a law, regulation or guideline applicable to the Hospital or otherwise considered by the Board to be appropriate, cause the accounts of the Hospital to be audited or reviewed accordingly.

17. REPORTS TO COUNCIL

(a) The Board must provide to Council, before 31 December each year, a report on the conduct and management of the Hospital and copies of the audited or reviewed

financial reports together with such other information as the Council may reasonably require.

(b) The Board must, if and when reasonably required by the Council, provide a full and detailed report in respect of any matter concerning the Hospital.

~~15.5 Annual Reports to Council~~

~~The Board shall not later than the 30th day of September in each year furnish to the Council a report on the Establishment, Conduct and Management of the Hospital together with a copy of the Balance Sheet and Income Expenditure Account and of the report of the Auditor thereon together with such other particulars as the Council may require. The Board shall also, if and when required by the Council so to do, furnish a full and detailed Report in respect of any matter concerning the Hospital.~~

~~168. ALTERATION-AMENDMENTS TO CONSTITUTION~~

(a) Provided that the Council has granted its approval, the Board may from time to time, amend, repeal or add to this Constitution by Special Resolution.

(b) The Board must not pass a Special Resolution that amends this Constitution if passing it causes the Hospital to no longer be a charity.

(c) Any modification of this Constitution takes effect on the date the Special Resolution is recorded and signed, or any later date specified, or provided for, in the Special Resolution.

~~9.—— Provided that the Council has, by resolution, granted its approval, the Board may from time to time, amend, repeal or add to this Constitution as thought fit.~~

~~10.——~~ **17. BY LAWS**

~~The Board shall have power to make such By-Laws, and local Regulations as may from time to time be found necessary, provided that they shall not be inconsistent with this Constitution.~~

~~11.—— The Burnside Council may also seek to recommend the making of By-Laws and local Regulations in respect of the Hospital.~~

~~12.——~~ **18. INTERPRETATION**

~~In this Constitution, every word in the masculine gender shall be construed as including the feminine gender.~~

Annexure A

Indemnity Form

Item No: 14.3
To: Council
Date: 11 September 2018
Author: Paul Deb – Chief Executive Officer
Subject: APPOINTMENT OF ERA WATER BOARD INDEPENDENT CHAIR TO ERA WATER AUDIT COMMITTEE (OPERATIONAL)
Attachments: A. Correspondence from former ERA Water General Manager regarding appointment of Independent Chairperson to ERA Water Audit Committee
Prev. Resolution: C11734, 26/6/18
C11736, 26/6/18

Officer's Recommendation

1. That the Report be received.
 2. That Council approve the appointment of Mr Bryan Jenkins, Independent Chairperson of ERA Water to the ERA Water Audit Committee and Councillor John Minney (City of Norwood Payneham and St Peters) as his proxy, for a two year period, effective from the date of unanimous approval of the Constituent Councils.
 3. That the Administration correspond to ERA Water to advise of Council's decision.
-

Purpose

1. To seek Council's approval to appoint the new ERA Water Independent Chairperson to the ERA Water Audit Committee for a two year period and allow for a proxy if required.

Strategic Plan

2. The following Strategic Plan provisions are relevant:

"Environmentally sustainable development which complements the City's character"

"Delivery of good governance in Council business"

Communications/Consultation

3. A letter has been received from the former ERA Water General Manager seeking unanimous agreement from Constituent Councils to appoint the new Chair of the ERA Water Board as a member of the Audit Committee.
4. Council was previously advised of this intention when appointments were considered and endorsed for the other Independent Members in June 2018.

Statutory

5. The following legislation is relevant in this instance:

Local Government Act 1999

Policy

6. The following Council Policy is relevant in this instance:

Water Sensitive Urban Design

Risk Assessment

7. The appointment of the new Chair to the ERA Water Audit Committee will ensure that ERA Water continues to have an independent Audit Committee, as part of the delivery of corporate governance, in place to advise the Board and CEO. The continuation of the Committee allows for an accountable, responsible and sustainable system of governance.
8. Pursuant to the ERA Water Charter (Clause 6.4), the Subsidiary must establish an Audit Committee to be comprised of between three and five persons determined or approved unanimously by the Constituent Councils.
9. The Audit Committee must also include at least two members who are not employees or Board Members of the Subsidiary, or employee or elected members of a Constituent Council.
10. An Audit Committee is required to be in place to review the financial operations of the entity and provide for appropriate controls and risk mitigation; not having a Committee established creates discernible risks.

CEO Performance Indicators

11. The CEO's Performance Indicators had not been finalised for the 2018-19 financial year at the time of writing this report.

Finance

12. There are no financial implications as the costs are borne by ERA Water. The Chair currently receives an annual fee of \$12,000 for all work associated with the position, including meetings attended and to undertake all the requirements of the role.

Discussion

Background

13. The ERA Water Audit Committee members are appointed for a two year term and at the expiry of their term are eligible for reappointment. As previously communicated to Council, Mr John O'Brien, the former Independent Chairperson of ERA Water resigned on 27 March 2018 and in his place, Mr Geoff Vogt assumed the role of Acting Independent Chairperson and was attending the Audit Committee meetings as the Board representative.
14. At the meeting held 26 June 2018, Council resolved (C11736):
 1. *That the Report be received.*
 2. *That Council endorse the reappointment of Ms Corinne Garrett, Mr Peter Holmes and Mr Roberto Bria as the Independent Members to the ERA Water Audit*

Committee for a further two year term commencing on 28 May 2018 and expiring in 28 May 2020.

3. *That Council note that a further request will be presented for consideration to appoint the incoming ERA Water Independent Chair to the Audit Committee once this appointment arrangement is finalised.*
15. Mr Bryan Jenkins has since been appointed and commenced as the Independent Chair of the ERA Water Board.
16. At its meeting on 7 August 2018, the ERA Water Board resolved to nominate the Independent Chairperson (Bryan Jenkins) as a member of the ERA Water Audit Committee, in addition to Councillor Minney being proxy, subject to the unanimous approval of the Constituent Councils. This report gives effect to Part 3 of the above resolution and is the separate process required to appoint the new Independent Chair to the Committee.

Considerations

17. The ERA Water Board has considered its Audit Committee membership and consistent with past practices, has resolved to nominate its Independent Chairman to the Audit Committee with Councillor Minney as proxy, for a two year period.
18. As this has been practice to date, there are no known or significant community or governance implications. Council could advise ERA Water that it does not support the nominations of Bryan Jenkins and Councillor Minney however there is no identifiable benefit to doing so and this could potentially delay and hinder the effective operations of the Audit Committee.
19. The Town of Walkerville, at the meeting held 20 August 2018, resolved as follows:

CNC58/18-19

1. *That Council approve the appointment of Dr. Bryan Jenkins, Independent Chairman of ERA Water to the ERA Water Audit Committee and Councillor John Minney (NPSP) as his proxy for a two-year term;*
2. *That Administration write to ERA Water advising of Councils decision.*
20. The City of Norwood Payneham and St Peters will be considering this matter at an upcoming meeting with an Officer's Recommendation consistent with this report.

Conclusion

21. At the meeting held 7 August 2018, the ERA Water Board resolved to nominate Mr. Bryan Jenkins, Independent Chair, to the ERA Water Audit Committee and Councillor John Minney as his proxy and to write to the Member Councils seeking their approval, pursuant to its Charter. It is the opinion of the ERA Water and the Administration that the preferred option and continued model would be for the Chair to be appointed as a Member of the Committee, in addition to the recent external appointments made.

ERA WATER

22 August 2018

CEO, City of Burnside
CEO, City of Norwood Payneham & St Peters
CEO, Town of Walkerville

Via email: pdeb@burnside.sa.gov.au
mbarone@npsp.sa.gov.au
kmagro@walkerville.sa.gov.au

Dear Constituent Council CEOs

Re: Appointment of ERA Water Independent Chairperson to Audit Committee

I refer to my previous letter dated 5 June 2018 in which I sought (and subsequently obtained) the unanimous agreement of the ERA Water Constituent Councils to re-appoint Corinne Garrett, Peter Holmes and Roberto Bria as members of the ERA Water Audit Committee for a further 2-year term, commencing on 28 May 2018.

In this letter I also indicated that I would be seeking unanimous agreement from your respective Councils in due course to also appoint the new Independent Chairperson of ERA Water as a member of the Audit Committee, once the appointment of the new Independent Chairperson had been confirmed.

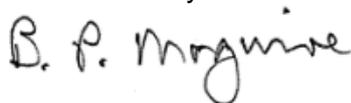
As you are aware, Mr Bryan Jenkins has now been appointed as the new Independent Chairperson of the ERA Water Board for a 2-year term, commencing on 11 July 2018.

At its meeting on 7 August 2018, the ERA Water Board resolved to nominate the Independent Chairperson (Bryan Jenkins) as a member of the ERA Water Audit Committee along with NPSP Councillor John Minney as the Chairperson's proxy, subject to the unanimous approval of the Constituent Councils.

In accordance with the ERA Water Board's resolution, I am therefore seeking unanimous agreement from your respective Councils to appoint the ERA Water Independent Chairperson (Bryan Jenkins) as a member of the ERA Water Audit Committee and NPSP Councillor John Minney as the Chairperson's proxy for a 2-year term, effective from the date of your unanimous approval.

I look forward to your early response.

Yours sincerely



Brian Maguire
General Manager
ERA Water

Item No: 14.4
To: Council
Date: 11 September 2018
Author: Martin Cooper – General Manager, Corporate and Development
General Manager and Division: Martin Cooper – General Manager, Corporate and Development
Subject: MINUTES OF AUDIT COMMITTEE – 20 AUGUST 2018 (OPERATIONAL)
Attachments: A. Audit Committee Minutes – 20 August 2018
B. Response received from Brown Hill and Keswick Creeks Stormwater Board re Business Plan
Prev. Resolution: N/A

Officer's Recommendation

1. That the Minutes of the Audit Committee held on 20 August 2018 be received.
 2. That, consistent with resolution A4120 of the Audit Committee, Council correspond with the Brown Hill and Keswick Creeks(BHKC) Stormwater Board requesting that they provide:
 - 2.1 audited financial statements for the 2017/18 financial year to be provided by 21 September 2018, in order for Council to comply with its mandated statutory financial obligations; and
 - 2.2 a schedule of implementation of mandatory governance requirements for regional subsidiaries in line with the *Local Government Act 1999*.
 3. That Council note that a response has since been received from the BHKC Stormwater Board which responds in part to this request through the provision of a proposed Business Plan.
 4. That Council note that this information, when received in totality, will be presented to Council as per standard practice and requirements for subsidiaries.
-

Audit Committee Minutes

**20 August 2018 at 6.00 pm
Council Chamber
401 Greenhill Road, Tusmore**

Members Present: Mr David Powell – Chair (Independent)
Mayor David Parkin
Mr Roberto Bria (Independent)

Staff Present: Martin Cooper, General Manager Corporate and Development
Paul Deb, Chief Executive Officer

Guests: Michael Salked, Project Director, Brown Hill Keswick Creek
Stormwater Project

Apologies

Councillor Davis

Leave of Absence

Nil

Confirmation of Minutes

Recommendation

A4119

That the attached Minutes of the Audit Committee meeting held on 18 June 2018 be taken as read and confirmed.

Moved Mayor Parkin, Seconded Roberto Bria

CARRIED

Presentation from Michael Salked, Project Director, Brown Hill Keswick Creek Stormwater Project

The Chair welcomed Michael Salked who attended the meeting as part of a rotating series of presentations from Council subsidiaries.

Motion

A4120

1. That the Audit Committee recommend to Council that Council correspond with the BHKC Board requesting that they provide:
 - 1.1 audited financial statements for the 2017/18 financial year to be provided by 21 September 2018, in order for Council to comply with its mandated statutory financial obligations; and
 - 1.2 a schedule of implementation of mandatory governance requirements for regional subsidiaries in line with the *Local Government Act 1999*.

Moved Roberto Bria, Seconded Mayor Parkin

CARRIED

Action List and Policy Tracking Table Review

Noted

Reports of Officers**Internal Audit Update – Mobile Device Management (Operational) (5.1)****Motion**

A4121

1. That the Report be received.
2. That the Audit Committee note the Internal Audit report for Mobile Device Management prepared by Galpins and the Administration's responses to the recommendations made with an update on remedial actions provided to be provided to a meeting of the Committee in 2019.

Moved Mayor Parkin, Seconded Roberto Bria

CARRIED

External Audit Update (Operational) (5.2)**Motion**

A4122

1. That the Report be received.
2. That the Audit Committee note the Interim Audit Management Letter issued by the External Auditors for the financial year ended 30 June 2018 and Administration's response to these matters, with actions against issues raised and outstanding matters provided to the Audit Committee on a bi-annual basis.

Moved Roberto Bria, Seconded Mayor Parkin

CARRIED

Application for Additional Loan Facilities (Operational) (5.3)**Motion**

A4123

1. That the Report be received.
2. That the Audit Committee considers and recommends that Council obtain an additional credit foncier loan facility of \$1.6 million specifically for the Council supported Public Lighting LED Transition Project for a period of five years with the Local Government Finance Authority of South Australia.
3. That the Audit Committee considers and recommends that Council obtain an additional credit foncier loan facility of \$2 million for a period of 15 years with the Local Government Finance Authority of South Australia.

Moved Roberto Bria, Seconded Mayor Parkin

CARRIED

Update to Procurement Policies (Operational) (5.4)**Motion**

A4124

1. That the Report be received.
2. That the Audit Committee endorse the new Procurement Policy and revised Unsolicited Proposal Treatment Policy to be presented to Council for consideration and adoption.
3. That the Audit Committee recommend to Council that the Procurement Governance Framework and Tender and Contract Engagement Policy be rescinded.

Moved Mayor Parkin, Seconded Roberto Bria

CARRIED

Financial Delegations Policy – Review (Operational) (5.5)**Motion**

A4125

1. That the Report be received.
2. That the updated Financial Delegations Policy be endorsed and presented to Council for consideration and adoption.

Moved Roberto Bria, Seconded Mayor Parkin

CARRIED



**BROWN HILL AND KESWICK CREEKS
STORMWATER BOARD**

BUSINESS PLAN 2018/19-2021/22

August 2018

FOR THE CITIES OF ADELAIDE, BURNSIDE, MITCHAM, UNLEY AND WEST TORRENS



Version 3

ms20180830a – Business Plan

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1 Introduction

The Brown Hill Keswick Creek (BHKC) stormwater project (the 'project') is a collaborative effort between the Cities of Adelaide, Burnside, Mitcham, Unley and West Torrens to mitigate significant flood risks arising from the four major watercourses of the catchment of Brown Hill and Keswick Creeks through the implementation of a stormwater management plan (SMP).

The SMP satisfies best practice outcomes for stormwater management as set out in the Stormwater Management Planning Guidelines of the Stormwater Management Authority (SMA). Achievement of the SMP and subsequent progress of the project has also involved satisfaction of governance, policies and procedures of the project councils. Overall, a major benefit to the community is that the complex cross-border project is being carried out in a collaborative manner by the five councils.

The SMP primarily includes the construction of \$140 million of infrastructure works (2016 values) along major watercourses of the catchment as well as implementation of other stormwater management measures.

In February 2017, the current SMP for the BHKC catchment was approved and gazetted. The approval includes a condition requiring, within 12 months, the establishment of a regional subsidiary (RS) to conduct the project on behalf of the constituent councils ('the councils'). In January 2018, a charter for governance of the RS was submitted to the former Minister for Local Government for the necessary approval to formalise the RS. Notice of approval by the Minister was published in the SA Government Gazette on 27 February 2018.

Under its charter, the Brown Hill and Keswick Creeks Stormwater Board ('the Authority') is required to prepare a business plan for the ensuing four years. This, the Authority's first business plan, is for the years 2018/19 to and including 2021/22.

The purposes of this Business Plan is to outline the performance targets that the Authority is to pursue; and a statement of the financial and other resources, and internal processes, that will be required to achieve the Authority's performance targets; and the performance measures that are to be used to monitor and assess performance against targets.

Relevant clauses of the charter include 14.3, 14.7, and 15. Clause 15.1 refers to Clause 24 of Schedule 2 of the Local Government Act ('the Act') which requires that the first business plan of a regional subsidiary is prepared within six months after the subsidiary is established. It also requires that business plans are prepared in consultation with the councils.

A Project Execution Plan (PEP) has been prepared and, as an internal working document, will become the guiding document to detail and manage the scope and requirements of this Business Plan.

2 Priority issues

The following issues identified in the Plan are matters requiring early attention.

- SMA annual funding: For project budgetary purposes, particularly in respect of each council's annual funding commitment, it is assumed that 50% of project capital expenditure in any year will be paid by the SMA into the project the following year. These arrangements need to be confirmed with the SMA (section 7.1)
- State funding offer: The councils will take the lead role in seeking to improve the former State Government's 50% funding offer in terms of certainty of the offer and to more closely align it with the SMP works implementation timeframe of 10 years (or preferably less time) in lieu of the current 20 year timeframe. (sections 6.6 & 7.5)
- Commonwealth funding: The councils will take the lead role in seeking Commonwealth funding assistance for construction, particularly to align it with the SMP funding model, being a one third sharing of cost between the three spheres of government. In August 2018 a funding brochure is being prepared through project resources for potential use in informing political parties prior to the forthcoming federal election. (sections 6.6 & 7.5)
- Project delivery acceleration: The former State Government's funding offer is spread over 20 years and would require some councils to borrow funds if the councils collectively commit to an accelerated program of less than 20 years. This matter was explored previously by the project but not taken further at the time. However, the issue should be reconsidered if it is assessed that a lengthy project implementation program presents significant risks or, changed circumstances warrant. (section 7.5)
- Organisation: The Authority will establish independent and 'permanent' organizational arrangements by December 2018, including staffing, accommodation and supporting services. Any arrangements involving use of a council's resources will be formalised in agreements between the parties and at the Authority's cost (if so determined). (section 8.1)
- Project execution plan: A PEP has been prepared which deals with planning and management issues across all aspects of the project, particularly in respect of project delivery. It should be updated from time to time to reflect changing outlooks and ensure that it stays relevant to project objectives. (section 8.6)
- Policies and procedures: The project generally has operated under policies and procedures of Unley Council, as well as being subject to the policies of each of its five councils insofar as activities and decisions of the project affect individual councils. It will be necessary for the Authority to determine its own policies or adapt individual council policies with application to the Authority. (section 8.2)
- Current works issues: Immediate issues concerning project works delivery are outlined in section 4.2

3 Stormwater Management Plan

The principal objective of the SMP is to substantially reduce the number of properties within the catchment that would be affected by very large flood events, as shown in the following data for a one in 100 year event.

	Number of flood affected properties			Damages (\$'000)
	Over-floor flooding	Under-floor flooding	Total	
Do nothing	1,172	917	2,089	122,220
With SMP works	6	25	31	814

The damages estimate does not account for the intangible costs to the community of trauma suffered by people affected by flooding and other social disruption due to flooding. In dollar values, intangible damages could be as much or more than the tangible damage cost. Future incidents of flooding may become politically damaging at local government, state and federal levels. There is a potential for public perception to become a driver for project priorities and thus lead to increased scope and cost.

Other benefits of planned flood mitigation works include creek rehabilitation, associated creek water quality and biodiversity improvements, as well as enhanced recreational amenity in open space areas traversed by watercourses. Works are also planned for improved quality of stormwater runoff and reduced impact on receiving waters.

Infrastructure works for flood mitigation and storm water quality improvement identified for construction in the SMP (together with estimated costs totaling \$140 M in 2016 values) are summarised in Appendix 1.

The SMP also proposes non-infrastructure flood mitigation measures, including:

- Improved planning policies and assessment processes to ensure that new development is designed to reduce flood risk and potential exposure to flooding
- Greater use of water sensitive urban design (WSUD) in streetscapes and new developments
- Increased community awareness about flood risk and flood preparedness in conjunction with the State Emergency Service (SES)
- Clarifying responsibilities and promoting good practice for maintenance of creeks

The potential adverse impacts of doing nothing could be significant within the South Australian economy. In addition to damage to residential and commercial properties, Adelaide Airport and interstate rail freight lines are located in the catchment floodplain and disruption caused to those facilities in a large flood would have significant adverse economic impact on the state.

Major community consultation programs were carried out in 2011 and 2015. Overall, from consultation surveys and other responses, there was general recognition of the importance of undertaking flood mitigation works to reduce the impacts of flooding in the catchment.

4 Services

The following services involving infrastructure works design and construction, maintenance of constructed assets, engagement with stakeholders and potential other related functions will be provided by the Authority within the timeframe of the Plan.

4.1 Infrastructure works

Design and or construction works with estimated budgets will be carried out on the following projects over the four year business planning timeframe.

2018/19	
South Park Lands detention basins – stage 1: <ul style="list-style-type: none"> Detailed design (commenced in April 2018) for completion by October 2018 Community engagement and development approval process Construction tendering process and commence construction 	\$5,000,000
Upper Brown Hill Creek – capacity upgrade works <ul style="list-style-type: none"> Stage 1 (Hawthorn Reserve) construction (\$2,300,000) Stage 2 (Everard Park) investigation (nil) 	\$2,300,000
Lower Brown Hill Creek – capacity upgrade works <ul style="list-style-type: none"> BHC modelling review 	\$50,000
Total budget	\$7,350,000

2019/20	
South Park Lands detention basins – stage 1: <ul style="list-style-type: none"> Construction progress South Park Lands detention basins – stage 2 (Glenside): <ul style="list-style-type: none"> Detailed design 	\$8,800,000
Upper Brown Hill Creek – capacity upgrade works <ul style="list-style-type: none"> BHC modelling review 	\$33,000
Lower Brown Hill Creek – capacity upgrade works <ul style="list-style-type: none"> Detailed design Land transactions Community engagement 	\$450,000
Gross pollutant traps <ul style="list-style-type: none"> Investigation and or design 	\$50,000
Total budget	\$9,333,000

2020/21	
South Park Lands detention basins – stage 1: <ul style="list-style-type: none"> • Complete construction • Commence operation of the wetland South Park Lands detention basins – stage 2 (Glenside): <ul style="list-style-type: none"> • Construction of Glenside detention basin 	\$2,953,000
Lower Brown Hill Creek – capacity upgrade works <ul style="list-style-type: none"> • Detailed design • Construction • Land transactions 	\$5,000,000
Gross pollutant traps <ul style="list-style-type: none"> • Design and construction 	\$50,000
Total budget	\$8,003,000

2021/22	
Lower Brown Hill Creek – capacity upgrade works <ul style="list-style-type: none"> • Construction 	\$8,000,000
Gross pollutant traps <ul style="list-style-type: none"> • Design and construction 	\$50,000
Total budget	\$8,050,000

4.2 Infrastructure works – current issues

Immediate issues concerning project works delivery are outlined in the Project Execution Plan, as follows:

- South Park Lands detention basins: Critical issues which will affect timing include community engagement and obtaining statutory approvals in respect of the detailed design underway in 2018. (refer PEP section 14.3.1)
- Upper Brown Hill Creek capacity upgrade: Upgrade works in the Hawthorn Reserve creek (Mitcham Council area) have been designed and are due to be constructed in 2018. (refer PEP section 14.3.3 (b))
- Upper Brown Hill Creek capacity upgrade: Upgrade works in the Everard Park section (Unley Council area) may have to be brought forward to coordinate the works with construction of a major development planned for one of the properties which span the creek. (refer PEP section 14.3.3 (e))

4.3 Asset management

It is expected that over the course of the project, all SMP infrastructure assets will be vested in and be the responsibility of the Authority. However, case by case situations will require agreements with landowners and lessees, who include private individuals, public corporations and federal, state and local governments.

In order to avoid any doubt about asset responsibility, it will be necessary to define the boundaries between the Authority and public and private landowners where infrastructure is situated on land not owned or controlled by the Authority, as will nearly always be the case. Management protocols also will be needed to ensure workable arrangements between the parties for access and carrying out maintenance.

In a number of situations, particularly where assets are located on land owned or controlled by one of the councils (such as a creek through a public reserve), it may be expedient for the Authority to enter into an agreement for the council to maintain the relevant asset at a specified standard and for an agreed price. Nevertheless, ultimate responsibility for the sustainable and 'fit for purpose' condition of the asset would reside with the Authority.

The floodplain model – the hydraulic computer model used for mapping the extent of flooding and assessing the effectiveness of proposed mitigation works – is, in effect, a key asset of the project. As part of the detailed design work to be undertaken in the major works implementation phase of the project, it is proposed to further update the model.

Infrastructure constructed under the SMP project, including infrastructure completed before establishment of the Authority will be managed and maintained in accordance with an Asset and Infrastructure Management Plan ('Asset Plan') prepared in compliance with clauses 20.1 and 20.3.2 of the charter. The Asset Plan will be prepared within the financial year 2018/19.

4.4 Stakeholder engagement

Through its governance and management, the Authority will conduct any external communications in a transparent, timely and informative manner. As outlined in section 8 (Corporate resources and internal processes), systems are in place or proposed in order to give effect to a suitably responsive approach in communications with individuals, organisations and the general public.

It is expected that lines of communication, beyond those required for satisfaction of statutory requirements of the Act and the charter, will have to be maintained between the Authority and its constituent councils.

A project website was established in 2014 and is updated in response to project progress and key events, including the posting of media releases and latest news information briefs.

4.5 Related functions

The prime purpose of the Authority is to have the SMP works designed, constructed and maintained, subject to the councils' approval of any material changes in the design or cost of any works. The Authority's charter also includes a number of related functions or services that could be expected of the Authority including:

- Oversee the construction of stormwater infrastructure of the SMP (subject to councils' approval of any material changes in the design or cost of any works) (clause 4.1.1)
- Oversee the maintenance and repair and/or renewal of stormwater infrastructure of the SMP (clause 4.1.2)
- Oversee other works related to the SMP on behalf of and at the cost of a constituent council (clause 4.1.3)
- To "hold stormwater infrastructure" constructed by the implementation of the SMP on behalf of the constituent councils (clause 4.1.4)
- Implement non-infrastructure measures of the SMP or related measures (clause 4.1.5)
- Coordinate the assessment, planning, demolition, construction, operation and maintenance of stormwater infrastructure as part of the implementation of the SMP (clause 6.2.11)
- A constituent council may with the agreement of the Authority acquire and/or manage specific infrastructure of the SMP (clause 14.2)

5 Management of service delivery

The following subsections outline how the Authority intends to manage service delivery.

5.1 Governance

At the uppermost level, leadership of the Authority will be exercised by the board which will formally meet at not less than every three months and otherwise perform in accordance with requirements of the charter and the relevant parts of the Act, particularly those which specify specific functions of the board of management (Schedule 2 / clause 22) and board members' duty of care (Schedule 2 / clause 23).

Management by the Authority broadly encompasses the following functions, for which policies and procedures will be developed:

- Project Management oversight
- Procurement
- Records management
- Human resources
- Performance
- Asset Management

- Financial accounting and management
- Risk
- Environmental
- Communications

Human resource responsibilities include work health and safety (WHS). Performance covers a wide range of deliverables and includes quality and performance of assets, control of scope and costs, program performance, and performance against SMP objectives in general.

Compliance with legislation will feature in some policies and procedures (for example, the State Records Act).

Specific processes in managing service delivery are outlined in section 8 of this Plan (Corporate resources and internal processes).

5.2 Owners' groups

On establishment of the Authority, the project steering group (PSG), comprising council CEOs, which had governed the project, ceased to exercise its role.

It is expected that in place of the PSG the councils will create an owners' executive group to interact with the Authority's board at the governance and formal communication level and, in turn, inform elected members concerning relevant project and Authority matters.

An owners' executive group probably would comprise one senior staff member of each council – either at CEO level or direct report.

At the operational level also, it is expected that the councils will create an owners' technical group to interact with the Authority, particularly on engineering and technical matters, and to operate in a manner similar to that of the working relationship between the PSG and the technical group.

A specific role of owners' groups will be to assess and endorse engineering designs and in effect sign off on behalf the councils before the associated works are constructed by the RS.

A prime role of the councils is to be consulted about business plans produced by the Authority and approve the annual financial budget. Also, ownership of the SMP remains with the councils and it can only be amended through the joint action of the councils and the SMA.

5.3 Business planning

Provisions of the Act (Schedule 2) relevant to oversight of the Authority by the councils, include the following requirements:

- Business plan: The Authority must, in consultation with the constituent councils, prepare and adopt a business plan. The first business plan must be prepared within six months after the subsidiary is established and subsequently reviewed at any time or, as a minimum, on an annual basis. (clause 24)

- Budget: The Authority must have a budget for each financial year which is consistent with the business plan. (clause 25)
- Information: The Authority must furnish to a constituent council information or records in the possession or control of the subsidiary. (clause 27)
- Reporting: The Authority must furnish an annual report to the constituent councils, including audited financial statements. (clause 28)

The charter includes requirements also for a LTFP and an Assets and Infrastructure Plan.

6 Performance objectives

Functional performance objectives drawn from the SMP (sections 6.1 to 6.6 below), together with generally commercial objectives will be pursued by the Authority over the course of the project (major works implementation phase). Only certain specific works within the functional performance objectives are relevant to the four year planning cycle of this Plan, as outlined in section 3 (Services).

6.1 Protection from flooding

- Provide an acceptable level of protection for the community and both private and public assets from flooding. Subject to available funding and cost/ benefit justification, the objective is to provide a standard of flood protection equivalent to the 100 year ARI standard or better.
- Enhance flood mitigation infrastructure with multi-purpose outcomes including visual, aesthetic and amenity improvements for the benefit of the wider community, where it is economically and socially feasible.
- Provide flood forecasting and warnings and flood preparedness measures to help the community reduce any risk to life and residual damages to property during major flood events.
- Ensure that new stormwater infrastructure does not increase the risk of flooding in downstream areas.

6.2 Quality of runoff and effect on receiving waters

- Stormwater discharged to the marine environment should meet targets that are set from time to time including targets in the Environment Protection Authority's Adelaide Coastal Water Quality Improvement Plan.

6.3 Beneficial reuse of stormwater runoff

- Maximise the reuse of stormwater for beneficial purposes including watering of community and private open spaces where feasible.
- Where possible the drainage network should incorporate WSUD systems that aim to capture road runoff to replenish soil moisture for maintenance of street trees and plantings.

- Encourage on-site use of stormwater by installation of rainwater tanks and detention and retention systems in order to minimise adverse runoff impacts of urban infill.

6.4 Protection of watercourses and riparian systems

- Watercourses and creeks in public and private ownership should be managed to an acceptable standard.
- Where practicable and economically feasible, watercourses should be preserved in as natural condition as possible and should be revegetated and managed to maximise their ecological and biodiversity values and functions and to minimise any potential for stream erosion.
- Allow sufficient environmental flows to maintain water dependent ecosystems.

6.5 Effective planning outcomes

- Open space should be utilised to maximise permeable surfaces, on site retention and infiltration and stormwater reuse wherever possible to reduce contributory effects to flooding events from new developments.
- All new development must be built at a level that ensures buildings are not subject to inundation in a 100 year ARI flood.
- New development should be constructed so as not to cause an increase in 5 year average recurrence interval (ARI) flow rates.

6.6 Management of stormwater infrastructure

- Stormwater infrastructure is to be managed sustainably by development of asset management and other necessary plans for ongoing management, operation and maintenance of infrastructure.
- The Brown Hill and Keswick Creeks Stormwater Board has been established as a single entity responsible for management of project infrastructure.
- Financial budgeting and funding arrangements (as between councils and other potential funding contributors) necessary for the timely and effective implementation of the SMP (including construction and maintenance of infrastructure) will be established.

6.7 Governance factors

Commercial and governance objectives relate to a range of factors covering business performance and service delivery, including:

- compliance with legislation and the charter;
- good practice governance, management and administration (includes planning);
- adherence to policies and procedures;
- reliability of financial and budgetary projections;
- cost, quality and timing (compared with specifications) of individual works contracts;

- reputation in the community as well as community satisfaction;
- satisfactory interaction with councils and other stakeholders;
- environmental and sustainability standards; and
- achievement of high standards of health, safety and welfare outcomes for contractors and the community.

7 Financial resources

7.1 Project budget

Planned infrastructure works over the next four years and associated estimated expenditure are outlined in section 4.1. In June 2018, the interim board of the Authority approved the project budget for 2018/19 as part of the overall estimated expenditure and external income cash flow for a 20 year program of full project works construction – the default program at this stage. Budget figures for the next four years of the of the 20 year program are included at Appendix 2.

2018/19 budget: Expenditure and external income

(Amounts in \$'000)

Capital	Carryover from 2017/18	2018/19 budget (at June 2018)		
		Expenditure	External income	Net
South Park Lands		5,000		5,000
Lower Brown Hill Creek upgrade	(213)	50		(163)
Upper Brown Hill Creek upgrade –Hawthorn	14	2,300	(84)	2,230
Upper Brown Hill Creek upgrade – Everard Park		0		0
Others				
Total	(199)	7,350	(84)	7,067
Operating				
Maintenance		18		18
Management & administration		250		250
SMP development	(5)		(117)	(122)
SMP community consultation			(125)	(125)
Total	(5)	268	(242)	21

Amount in brackets signifies negative expenditure (ie surplus)

2018/19 budget: Council commitments:

(Amounts in \$'000)

	Maint'ce	Manage't	SMP credit	D&C works	Works credit	Carryover	Net
Adelaide	4	50	(48)	588	(7)	(16)	571
Burnside	4	50	(48)	882	(10)	(24)	853
Mitcham	4	50	(48)	735	(8)	(20)	712
Unley	4	50	(48)	1,544	(18)	(47)	1,484
West Torrens	4	50	(48)	3,602	(41)	(98)	3,468
	18	250	(242)	7,350	(84)	(204)	7,088

The full term budgets also show the estimated annual funding commitments by each council, based on a 'formula' for income received from the Stormwater Management Fund of the SMA which assumes that 50% of project capital expenditure in any year will be paid into the project the following year.

In order to make this arrangement viable for the SMA, the works have been planned so that expenditure flow is relatively smooth over the 20 year period (similarly for the 10 year program).

7.2 Financial status

Total income to 2017/18 was approximately \$14.34 million, with total expenditure of approximately \$14.08 million, comprising \$9.241 million of capital and \$4.837 million of operating. These amounts include cost components as follows:

Capital

Project	Progress	Expenditure
Ridge Park detention dam	Design & construction (completed)	\$2.834 M
DPTI culvert	Design & construction (completed)	\$5.000 M
South Park Lands basins	Concept & detailed design (in progress)	\$0.647 M
Keswick Creek diversions	Concept design (completed)	\$0.141 M
Lower Brown Hill Creek	Concept design (completed)	\$0.438 M
Upper Brown Hill Creek	Detailed design – Stage 1 (completed)	\$0.181 M

Operating

Management & administration	\$2,815 M
Maintenance of infrastructure assets	\$0
SMP development	\$1.363 M
SMP community consultation	\$0.659 M

Funding sources (to 2017/18)

SMA	\$5.08 M (capital and SMP development costs)
Commonwealth	\$0.45 M (for works concept designs)
Project councils	\$8.17 M (plus oversubscriptions of \$200,000)
Adelaide	\$1.197 M
Burnside	\$1.388 M
Mitcham	\$1.227 M
Unley	\$1.828 M
West Torrens	\$3.170 M

7.3 Capital costs

Capital costs include all costs of investigation, design and construction, including associated project management and contract administration of project design and construction of infrastructure. Capital costs may include extraordinary maintenance or premature renewal of an infrastructure asset. Financing costs (either borrowing costs or investment income) would be treated as capital.

7.4 Operating costs

Operating costs are defined as:

- costs associated with the management and administration of the project or RS (not including project management associated with design and construction of works);
- costs of routine or planned maintenance of infrastructure; and
- costs of developing the SMP (including potential future costs of amending the SMP).

7.5 Funding

As of August 2018, capital funding of project works (design and construction) is dependent on:

- the councils' paying 50% of expenditure; and

- external funding provided through the Stormwater Management Fund administered by the SMA (normally 50% of expenditure).

The agreed cost sharing between the councils for capital costs is Adelaide 8%, Burnside 12%, Mitcham 10%, Unley 21% and West Torrens 49% (each council's equitable interest). The councils, in their forward budget estimates, have provided for meeting their share of up to 50% of total project capital expenditure. However, 50% of total cost is higher than proposed in the SMP.

The former State Government, in February 2017, offered to contribute 50% of the outstanding project cost of \$130 million spread over a 20 year period – through the Stormwater Management Fund. This offer was accepted by the councils, but preferably over a shorter timeframe. The Commonwealth Government has been approached and, although it has provided funds for investigation and design works under disaster resilience programs, has not been forthcoming for construction works assistance at this time.

The councils will take the lead role in seeking to improve the external funding arrangements to more closely align with the SMP funding model, being a one third sharing of cost between the three spheres of government, and the SMP works implementation timeframe of 10 years (or preferably less time) in lieu of the current 20 year timeframe based on the state's 50% funding offer. The Authority will assist the councils in their funding endeavours as requested. In August 2018 a funding brochure is being prepared through project resources.

Operating costs are shared equally between the project councils. The management, administration and maintenance components are not assisted by external funding. Although, a 50% contribution from the SMA has applied to most of the SMP component to date. Further SMP contribution will be applied for in 2018/19.

7.6 Depreciation

The charter does not provide for the RS to accumulate funds in a depreciation account. It is assumed that the cost for asset replacement in the long-term (notionally at the end of their economic life) will be a matter for the RS and its councils to deal with at the time.

When renewal funding is required it will be identified in the Long Term Financial Plan and four year business plan. Councils will be on notice that funding is to be called in the following years rather than funded year by year in advance. This principle could also apply to unplanned or extraordinary maintenance of assets and premature asset failure.

8 Corporate resources and internal processes

8.1 Organisation

The Authority will establish independent and 'permanent' organisational arrangements by December 2018. Any arrangements involving use of a council's resources will be formalised in agreements between the parties and at the Authority's cost (if so determined). Principal tasks to be finalised before December 2018 include:

- Appointment of an Executive Officer

- Formulate policies and procedures
- Establish banking and associated services
- Arrange for a financial accounting service

These are in addition to the delivery of the sub projects for 2018/19 for which progress will be monitored by the Authority's board.

A full time equivalent resource (one person or two staff working part time) would be needed during an accelerated works delivery program. Such arrangement assumes that an administrative resource would be outsourced for provision of assistance on an as needs basis, consistent with the current project arrangement.

Other part time resources forming a core RS team will be required on a regular basis, particularly to handle procurement, contract management, financial accounting and human resource functions.

Based on project experience to date, it is likely that legal, engineering, media, marketing, community consultation and other expertise will need to be engaged from time to time on particular tasks for which the RS or its staff lack the necessary skill or capacity to handle or, where it may be prudent to seek external expert advice for due diligence purposes.

Use of external resources by the Authority could be of at least three forms (or variations thereof):

- External service providers and consultants for specific tasks or advice
- Outsourced resources from the private sector that the RS may choose to engage, typically on a term contract basis.
- Resources from the one or more of the councils provided on a nominal charge-out rate (eg for short term services from time to time) or on a term contract or task specific basis.

8.2 Policies and procedures

The project has been subject to the policies of each of its five councils insofar as activities and decisions of the project affect individual councils. It will be necessary for the Authority to determine its own policies or adapt individual council policies with application to the Authority. Policies that have applied to the project and potentially will apply to the Authority are summarised at section 4.1 (Management of service delivery).

8.3 Workplans

Workplans have been used to identify and monitor the progress of project business and actions which generally come before the PSG. It is expected that the Authority will use a similar management tool.

8.4 Risk management

Risk assessment is a key internal process.

In 2018, with the Authority having been established and the major works implementation phase of the project about to commence, the project team (PSG and technical group) carried out a risk assessment exercise, grouping outcomes in terms of strategic and operational risks.

8.5 Technical Assessment Panel (the Panel)

The charter specifies that the Panel will be appointed at the sole discretion of the board and must include the board Chairperson and the Executive Officer. To effectively deal with technical matters, particularly those of a complex nature, the Panel will also probably include a project management resource and one or more consultants.

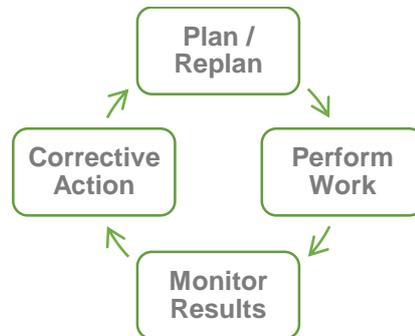
The Technical Panel could be used to review or consult on critical issues arising from project works delivery managed within the project management function. .

8.6 Project execution plan

A project execution plan (PEP) has been prepared (dated February 2018) in response to a recommendation from an Auditor-General’s examination of the project in 2016.

Content of the PEP focusses mainly on project governance, management and administration of the project leading up to 2018, in order to serve as a basis for planning issues likely to affect conduct of the project by the Authority.

The PEP is potentially a useful planning tool to supplement and fill gaps between the prescribed Plans of the charter. It would be expected to adapt over time to changing circumstances – as a result of the standard planning and review cycle, as follows:



Successful implementation of the project will be assisted by management focus on the following five main processes covered by the PEP:

- Governance
 - Organisation
 - General management
- Functionality and sustainability
 - Project objectives and scope
 - Asset management
 - Environmental management

- Financial
 - Funding
 - Financial management and business planning
- Commercial
 - Deliverables and performance measures
 - Risk management
 - Project delivery
- Communications and community expectations
 - Stakeholders
 - Communications

9 SMP performance measures

The following deliverables will be monitored to assess performance against objectives and or targets.

9.1 Stormwater Management Plan deliverables

The proposals of the SMP are designed to address all the objectives through the following strategies which involve both infrastructure works and non-infrastructure measures.

- Flood mitigation works
- Stormwater harvesting and reuse
- Stormwater quality and treatment
- Community awareness and emergency response
- Development plans / planning processes
- Creek maintenance
- Project implementation – involving governance, asset management, funding and program initiatives

Establishment of the RS is central to the governance strategy. The funding strategy is based on obtaining external funding assistance as proposed in the SMP which also plans for infrastructure works to be implemented over a maximum of 10 years.

Performance in respect of the other strategies will need to be monitored against deliverables outlined in ‘Performance targets’ – assuming that necessary funding is secured to satisfy the planned project implementation timeframe.

9.2 Flood mitigation works

Completed: The Ridge Park flood control dam incorporates recreational and aesthetic improvements along the creek in the vicinity of the works.

At whole of catchment scale, the completed works will mitigate the 100 year ARI flood conditions over most of the ‘at risk’ area of the catchment affected by the four main watercourses. Over minor areas at risk, the standard of flood protection will be significantly higher than it currently is.

The South Park Lands detention basins will incorporate a wetland which will provide enhanced amenity and recreational opportunities in the southern end of Victoria Park.

Improved management of upper Brown Hill Creek (with its high percentage of private ownership) and other watercourses, including planned ongoing maintenance, will contribute to the overall effectiveness of conveying large stormwater flows.

For the upgrade of Brown Hill Creek channel between Forestville Reserve and Anzac Highway, potential enhancement of the public reserve area which adjoins or contains the creek channel (including Wilberforce Walk) will be considered.

For the lower Brown Hill Creek channel upgrade potential amenity features and environmental enhancements along the channel reserve for a significant portion of its length will be considered.

Works involving detention of stormwater flows (Ridge Park and South Park Lands) have been or will be designed to accommodate environmental flows in accordance with advice from the Department of Environment, Water and Natural Resources.

9.3 Stormwater harvesting and reuse

Completed: A stormwater harvesting scheme utilising a managed aquifer and recharge (MAR) system has been installed by Unley Council in conjunction with the Ridge Park flood control dam.

Completed: Seven schemes, generating from 7 to 300 Megalitres per year of reuse water have been implemented in the BHKC catchment. It is estimated that currently about 12% of flows (or about 16% of urban runoff) in the four major watercourses are or will be harvested for reuse applications.

The South Park Lands detention basins will be designed to enable retrofitting of a stormwater harvesting facility (such as MAR) should the water demand in the immediate area eventuate and prove to be of value.

Specific strategies and/or targets for increasing the volume of reuse to that already established will be pursued with the Adelaide and Mount Lofty Ranges Natural Resources Management Board (AMLRNRMB) during the phase of full SMP implementation.

9.4 Stormwater quality and treatment

Completed: Stormwater harvesting initiatives at Ridge Park and Heywood Park (and the potential offered by South Park Lands) together with other stormwater harvesting schemes already established in the catchment provide a significant reduction in the volume of stormwater discharged into marine receiving waters.

A more natural ephemeral creek system will be created by the South Park Lands detention basins through the reintroduction of a range of aquatic macrophytes and riparian species, and the establishment of conditions for replenishing soil moisture stores for terrestrial plants.

In the South Park Lands project there will be an improvement in the biodiversity of each site through the inclusion of native vegetation and habitat opportunities. The wetlands

will slow down water flow and provide further treatment prior to returning water back into Parklands Creek, thereby improving water quality.

The upper Brown Hill Creek capacity upgrade works should help to reduce stream bed and bank erosion and consequent transport of sediments into the lower sections of Brown Hill Creek and, ultimately, the marine receiving waters.

Catchment councils, through the BHKC project, will take a coordinated and collaborative approach to the management and maintenance of GPTs along the major watercourses of the BHKC catchment, including the installation of new GPTs (with AMLRNRMB funding assistance), in order to further reduce adverse impacts of stormwater quality on the environment.

Currently there are 10 operational GPTs across the BHKC catchment, and the AMLRNRMB has identified the need for 11 more together with actions to improve existing GPTs.

Targets in respect of management of the quality of runoff and its effect on receiving waters will be pursued with the AMLRNRMB during the major works implementation phase.

9.5 Emergency response

The councils will continue to cooperate with the SES in any relevant recommendations resulting from a survey carried out in late 2015 of property owners along the environs of Brown Hill Creek to assess the level of flood risk awareness and response preparedness to flooding by property owners.

9.6 Development plans

Councils recognise that water sensitive urban design (WSUD) provides an opportunity to assist in the management of increased flood risk due to additional stormwater runoff from new development and urban consolidation.

Councils are incorporating WSUD systems into refurbished and new streetscape developments in response to council water conservation strategies as opportunities arise.

Councils are implementing planning policy measures which seek to limit stormwater discharge from new developments to predevelopment volumes and peak rates of discharge.

Councils will seek to obtain greater understanding of potential impacts of infill development on generation of stormwater runoff and then propose improved planning policies and controls for addressing the risks.

Councils will adopt the South Australian Planning Policy Library policies which include a Development Plan overlay showing high and medium flood hazard areas and 100 year ARI flood levels as well as other policies for use of WSUD techniques and measures to minimise impact of stormwater runoff on the local stormwater drainage network.

All catchment councils generally prohibit new development that would obstruct or interfere with a watercourse or is at high risk of flooding.

9.7 Creek maintenance

The Ridge Park flood control dam and associated MAR works incorporate stream rehabilitation and biodiversity improvements.

Along upper Brown Hill Creek the project, in collaboration with the creek property owners and the AMLRNRMB, will undertake:

- a 'one off' extraordinary creek maintenance to rehabilitate the creek towards achieving good condition, thereby assisting flow capacity for flood mitigation and improving the creek environment and geomorphology; and
- planned maintenance periodically through the life of the scheme, aimed at maintaining the creek in good condition after an initial one-off extraordinary creek maintenance is undertaken.

These works could include erosion controls, bank stabilisation and clearance of major obstructive material and are proposed to incorporate removal of exotic vegetation, thereby providing ecological benefits.

10 Strategic performance measures

10.1 Liaison with and reporting to councils

There will be on-going liaison between councils and the Authority in aspects of the project, as follows:

- Business information – budgets, business plans, annual reporting, audited financial statements
- Financial approvals
- Review of project performance
- SMA directives or proposals
- Funding
- SMP scope – variations or amendments
- Contracts for council services to the Authority (eg asset maintenance)
- Community consultation and stakeholder involvement

As outlined elsewhere it is proposed that the councils will form owners' groups to facilitate formal communications with the Authority.

10.2 Review of the Long Term Financial Plan

The Business Plan takes into account the Long Term Financial Plan, which at the Authority's outset is in the form of the alternative 10 and 20 year financial budgets considered by the interim board in July 2018. The LTFP must be reviewed within six months of the adoption of the Business Plan (and thereafter no longer than every four years).

10.3 Review of audit input

The Authority is required to establish an audit committee, appoint an auditor and provide audited financial statements to each council by 30 September.

10.4 Review of charter

Under the Act, the charter may be reviewed by the councils at any time but must in any event be reviewed at least once in every four years (Schedule 2, clause 19).

10.5 Key Performance Indicators

Critical performance indicators of the project are to:

- Not have the physical scope of the project (essentially the infrastructure works) increase significantly due to variations beyond that documented in the SMP, unless circumstances demand that material changes to the SMP are necessary;
- complete the major implementation phase within the inflation adjusted estimated cost; and
- maintain works progress in accordance with stakeholder expectations, subject to funding availability.

Considered holistically, an objective is to ensure that the project's benefit / cost ratio does not fall below the range of 0.3 to 0.5. Ratios in that range can be considered satisfactory given that significant intangible social and environmental factors are not included in the assessment.

Infrastructure works for flood mitigation and storm water quality improvement identified for construction in the SMP (together with estimated costs totaling \$140 M)

Works Of The Major Implementation Phase	
South Park Lands detention basins (\$17.4 M)	Three basins (Glenside, Victoria Park and Park 20) will reduce peak flow in Parklands Creek and reduce the flood risk in North Unley and properties surrounding the South Park Lands. Also, peak flows into Keswick Creek will be reduced.
Lower Brown Hill Creek capacity upgrade (\$39.1 M)	Creek capacity will be increased to accommodate peak flows from upper Brown Hill Creek together with high flows diverted from Keswick Creek.
Flow diversions from Keswick Creek to lower Brown Hill Creek (\$43.1 M)	High flows in Keswick Creek will be diverted into lower Brown Hill Creek to reduce the risk of flooding in western suburbs from Keswick Creek.
Upper Brown Hill Creek capacity upgrade (part \$30.8 M)	Creek capacity will be increased along critical sections totalling about 30% of its full length.
Upper Brown Hill Creek rehabilitation (part \$30.8 M)	Along the full length, a 'one off' maintenance will be carried out to restore the creek to good condition and improve its flow carrying capacity.
Glen Osmond Creek minor works (\$0.8 m)	The watercourse will be upgraded at flow restriction points along concrete lined open channel sections and at two road bridges.
Gross pollutant traps (GPTs) (\$1 M)	Additional GPTs will be installed (at locations not yet determined) and existing ones upgraded along principal watercourses of the catchment in collaboration with the AMLRNRMB
Completed Works	
Ridge Park flood control dam (\$2.8 M)	Situated on Glen Osmond Creek, immediately downstream of its rural catchment, the dam will assist in reducing peak flows downstream in Glen Osmond and Keswick Creeks.
Brown Hill Creek diversion culvert by DPTI (\$5 M)	In 2013, as part of its Goodwood Junction railway upgrade project, DPTI diverted part of Brown Hill Creek through a 360 m long culvert, which superseded the need for other works proposed by the BHKC project.
Mount Osmond interchange dam modification	This modification improves the effectiveness of the flood detention dam constructed as part of the Adelaide Crafers Road upgrade project.

Item No: 14.5
To: Council
Date: 11 September 2018
Author: Karishma Reynolds – Group Manager, Finance and Governance
General Manager and Division: Martin Cooper – General Manager, Corporate and Development
Subject: FINANCIAL DELEGATIONS POLICY – REVIEW (OPERATIONAL)
Attachments: A. Financial Delegations Policy (Tracked Changes)
B. Financial Delegations Policy (New Version)
Prev. Resolution: A4125, 20/8/18

Officer's Recommendation

1. That the Report be received.
 2. That Council adopt the revised Financial Delegations Policy.
-

Purpose

1. To provide Council with a revised Financial Delegations Policy for consideration and adoption.

Strategic Plan

2. The following Strategic Plan provision is relevant:

"A financially sound Council that is accountable, responsible and sustainable"

Communications/Consultation

3. The following communication / consultation has been undertaken:
 - 3.1. discussion with the Finance and Procurement Teams and General Manager, Corporate and Development in addition to an Information Document for Elected Members; and
 - 3.2. the Policy was endorsed at the 20 August 2018 Audit Committee meeting.

Statutory

4. The following legislation is relevant in this instance:

Local Government Act 1999

Policy

5. The recommended adoption of this specific Policy is discussed in the 'Discussion' section of the report.

Risk Assessment

6. Not having adequate financial delegations and monitoring in place could hinder the smooth operation of Council's day to day activities.

CEO Performance Indicators

7. The CEO's Performance Indicators had not been finalised for the 2018/19 financial year at the time of writing this report.

Finance

8. There are no direct financial or budgetary implications associated with the establishment of this Policy. The Policy provides Council with a framework to ensure that officers have appropriate levels of authority to expend funds on behalf of the Council.

Discussion

9. The Financial Delegations Policy has been reviewed and the following amendments have been made as a result:
 - 9.1 changes to position titles have been amended to reflect the new organisational structure, with the Interpretations section in the Policy containing additional clarification;
 - 9.2 credit Card Holders' delegation limit has been amended to reflect the maximum transaction limit held of \$5,000; and
 - 9.3 relevant title and documentation references have been updated where applicable.
10. On 20 August 2018, the Audit Committee considered the revised Policy and resolved (A4125) :
 1. *That the Report be received.*
 2. *That the updated Financial Delegations Policy be endorsed and presented to Council for consideration and adoption.*

Conclusion

11. It is recommended that Council adopt the updated Financial Delegations Policy.

Financial Delegations Policy

Classification:	Council Policy
Policy Name:	Financial Delegation Policy
First Issued / Approved:	13 September 2016 (C10807)
Last Reviewed:	13 September 2016 (C10807)
Next Review:	August 2020
ECM Tracking No.:	2934317
Responsible Officer:	Group Manager, Finance and Procurement Governance
Relevant Legislation:	Local Government Act, 1999 Local Government (Financial Management) Regulations 2011
Related Policies:	General Ledger Financial Information Policy Procurement Policy

1 Introduction

This Policy outlines Council’s principles for delegating, reviewing and updating financial authority. The Policy provides a framework in order to ensure that delegated officers have appropriate authority to conduct their activities and that all transactions incurred are appropriately authorised.

2 Strategic Plan Desired Outcomes

- 2.1 Strategic Desired Outcomes are;
- 2.1.1 Protecting public funds and assets ensuring all transactions are appropriately authorised.
 - 2.1.2 Delivery of good governance in Council business.
 - 2.1.3 A financially sound Council that is accountable, responsible and sustainable.

3 Legislative Requirements and Corporate Policy Context

- 3.1 This Policy is directly related to Section 137 (Expenditure of funds) of the Local Government Act, 1999 (the Act) gives Council the power to expend its funds in the exercise, performance or discharge of its powers, functions or duties under the Act or any other Act.
- 3.2 Council has delegated this power, with limitations, to the Chief Executive Officer (CEO) in accordance with Section 44 of the Act and this power is further sub-delegated in accordance with Section 101 of the Act.

4 Interpretation

4.1 For the purpose of this policy:

4.1.1 **“Council”** means the City of Burnside Council.

4.1.2 **“Delegating Authority”** means the person and/or Committee that makes a delegation to another person and/or Committee.

4.1.3 **“Delegated Officers”** are the holders of those positions which have been approved to hold and exercise a financial delegation.

4.1.4 **“Financial delegation”** is a delegation of power made under Sections 44 and 101 of the Act to expend approved budgeted funds and to source funds on behalf of Council in accordance with Sections 137 and 133 respectively.

4.1.5 **“Junior Officer”** represents the financial delegation provided to the most Senior Officer below the Team Leader or Coordinators role. This financial delegation would be provided at the Managers' discretion based on their position.

4.1.6 **“Legislation”** means all relevant State and Commonwealth legislation and Council By-Laws.

4.1.7 **“Senior Officer”** represents a Team Leader in the Corporate and Development division and Community Connections department or and Coordinators in the Assets and Infrastructure and Operations and Environment departments. At the Managers' discretion this financial delegation will be applied to a Non-Team Leader or Coordinator based on their position requirements.

~~4.1.4~~ **“Junior Officer”** represents the financial delegation provided to the most Senior Officer below the Team Leader or Coordinators role. This financial delegation would be provided at the Managers' discretion based on their position.

5 Policy

5.1 A financial delegation prescribes the dollar amount up to which an officer is authorised to commit and/or make expenditure in respect of an individual transaction.

Any member of staff may ~~create~~raise a purchase requisition (request an order) however this request must ~~then~~ be authorised by an officer with sufficient financial delegation to ~~become an actual~~generate a purchase order for goods/services. This also applies to verbal or other orders not made through Council's purchasing system.

5.2 A financial delegation allows an employee to:

5.2.1 Authorise a purchase requisition or other type of purchase request by another officer (an employee should not approve their own purchase requisition, this ensures adequate segregation of duties)

5.2.2 Authorise expenses, invoices and payments (including petty cash). Approval of transactions and/or payments must not exceed the delegated officers' financial delegation limit per transaction.

5.2.3 A single large transaction, which may exceed the delegated

limit of authority for an officer cannot be split into multiple, smaller, transactions that then fall within the levels of delegated authority for that officer.

5.3 Applying for a financial delegation

5.3.1 — With the exception of the Chief Executive Officer, an application for a financial delegation must be completed using the finance request form on the intranet or via email. The application for a financial delegation should adhere to the set limits listed in the table below and should be endorsed by the relevant Manager or General Manager.

5.3.1

Financial Delegation		
Position	Delegating Authority	Maximum Limit per transaction (excluding GST)
Chief Executive Officer	Council	In Line with the Act
GM	Chief Executive Officer	300,000
Managers (Urban Services)	General Manager	100,000
Managers (Other Departments)	General Manager	50,000
Senior Officer	General Manager/ Manager	20,000
Junior Officer	General Manager/ Manager	10,000
Credit Card Holders	CEO/General Manager/ Manager	5,000

5.3.2 In case of a temporary financial delegation, the dates during which the delegation will apply need to be clearly indicated on the request form.

5.4 Financial Delegation Register

5.4.1 A Financial Delegations register will be kept and maintained by the Finance department. This register indicates the financial delegations by department including the name of the employee and the standard limit delegated to the employee as prescribed under section 5.3.1 above.

5.4.2 The Financial Delegations register will be updated for:

- 5.4.2.1 The appointment or termination of an employee;
- 5.4.2.2 If there is a change in the position of an employee (both temporary and permanent); and
- 5.4.2.3 If a variation is required to the current financial delegation of an employee per the CEO's request.

5.5 Reviewing the Financial Delegation Register

5.5.1 Per the Local Government Act, 1999 section 44 (6) of the Act provides that the Council must cause a separate record to be kept of all delegations made under Section 44, and should at least once

in every financial year review the delegations for the time being in force under Section 44.

- 5.5.2 At least quarterly, the Finance team will prepare a report and distribute to all managers for review.
- 5.5.3 Any changes are required to be communicated in a timely manner to the Finance team. Any amendments will require appropriate approvals by their Manager or General Manager.
- 5.5.4 The financial delegations register will be reviewed for appropriateness on an annual basis.

6 Availability

- 6.1 The Policy is available to be downloaded, free of charge, from Council's website www.burnside.sa.gov.au
- 6.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Burnside Civic Centre
401 Greenhill Road, Tusmore SA 5065

Telephone; 8366 4200
Fax; 8366 4299
Email; burnside@burnside.sa.gov.au

Office hours: Monday to Friday, 8.30am to 5.00pm (except public holidays)

Financial Delegations Policy

Classification:	Council Policy
Policy Name:	Financial Delegation Policy
First Issued / Approved:	13 September 2016 (C10807)
Last Reviewed:	13 September 2016 (C10807)
Next Review:	August 2020
ECM Tracking No.:	2934317
Responsible Officer:	Group Manager, Finance and Governance
Relevant Legislation:	Local Government Act, 1999 Local Government (Financial Management) Regulations 2011
Related Policies:	General Ledger Financial Information Policy Procurement Policy

1 Introduction

This Policy outlines Council's principles for delegating, reviewing and updating financial authority. The Policy provides a framework in order to ensure that delegated officers have appropriate authority to conduct their activities and that all transactions incurred are appropriately authorised.

2 Strategic Plan Desired Outcomes

- 2.1 Strategic Desired Outcomes are;
- 2.1.1 Protecting public funds and assets ensuring all transactions are appropriately authorised.
 - 2.1.2 Delivery of good governance in Council business.
 - 2.1.3 A financially sound Council that is accountable, responsible and sustainable.

3 Legislative Requirements and Corporate Policy Context

- 3.1 This Policy is directly related to Section 137 (Expenditure of funds) of the Local Government Act, 1999 (the Act) gives Council the power to expend its funds in the exercise, performance or discharge of its powers, functions or duties under the Act or any other Act.
- 3.2 Council has delegated this power, with limitations, to the Chief Executive Officer (CEO) in accordance with Section 44 of the Act and this power is further sub-delegated in accordance with Section 101 of the Act.

4 Interpretation

- 4.1 For the purpose of this policy:
- 4.1.1 **“Council”** means the City of Burnside Council.
 - 4.1.2 **“Delegating Authority”** means the person and/or Committee that makes a delegation to another person and/or Committee.
 - 4.1.3 **“Delegated Officers”** are the holders of those positions which have been approved to hold and exercise a financial delegation.
 - 4.1.4 **“Financial delegation”** is a delegation of power made under Sections 44 and 101 of the Act to expend approved budgeted funds and to source funds on behalf of Council in accordance with Sections 137 and 133 respectively.
 - 4.1.5 **“Junior Officer”** represents the financial delegation provided to the most Senior Officer below the Team Leader or Coordinators role. This financial delegation would be provided at the Managers’ discretion based on their position.
 - 4.1.6 **“Legislation”** means all relevant State and Commonwealth legislation and Council By-Laws.
 - 4.1.7 **“Senior Officer”** represents a Team Leader in the Corporate and Development division and Community Connections department or Coordinator in the Assets and Infrastructure and Operations and Environment departments. At the Managers’ discretion this financial delegation will be applied to a Non-Team Leader or Coordinator based on their position requirements.

5 Policy

- 5.1 A financial delegation prescribes the dollar amount up to which an officer is authorised to commit and/or make expenditure in respect of an individual transaction.
- Any member of staff may create a purchase requisition (request an order) however this request must be authorised by an officer with sufficient financial delegation to generate a purchase order for goods/services. This also applies to verbal or other orders not made through Council's purchasing system.
- 5.2 A financial delegation allows an employee to:
- 5.2.1 Authorise a purchase requisition or other type of purchase request by another officer (an employee should not approve their own purchase requisition, this ensures adequate segregation of duties)
 - 5.2.2 Authorise expenses, invoices and payments (including petty cash). Approval of transactions and/or payments must not exceed the delegated officers’ financial delegation limit per transaction.
 - 5.2.3 A single large transaction, which may exceed the delegated limit of authority for an officer cannot be split into multiple, smaller, transactions that then fall within the levels of delegated authority for that officer.

5.3 Applying for a financial delegation

- 5.3.1 With the exception of the Chief Executive Officer, an application for a financial delegation must be completed using the finance request form on the intranet or via email. The application for a financial delegation should adhere to the set limits listed in the table below and should be endorsed by the relevant Manager or General Manager.
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 - 5.4.2.2 If there is a change in the position of an employee (both temporary and permanent); and
 - 5.4.2.3 If a variation is required to the current financial delegation of an employee per the CEO's request.

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Office hours: Monday to Friday, 8.30am to 5.00pm (except public holidays)

Item No: 14.6
To: Council
Date: 11 September 2018
Author: Mary Harper – Manager – Customer Experience
General Manager and Division: Martin Cooper – General Manager, Corporate and Development Services
Subject: COMPLAINT HANDLING POLICY – REVIEW (OPERATIONAL)
Attachments: A. Complaint Handling Policy (Tracked Changed)
B. Complaint Handling Policy (Revised Version)
Prev. Resolution: C10693, 14/6/16
C11159, 27/4/17
C11659, 25/4/18

Officer's Recommendation

1. That the Report be received.
 2. That Council adopt the revised Complaint Handling Policy.
-

Purpose

1. To provide Council with a revised Complaint Handling Policy for consideration and adoption.

Strategic Plan

2. The following Strategic Plan provision is relevant:
"Delivery of good governance in all Council business".

Communications/Consultation

3. The following communication / consultation has been undertaken:
 - 3.1. reviewed by the City of Burnside Leadership Team; and
 - 3.2. the draft Policy was provided to Elected Members for comment through an Information Document in August 2018.

Statutory

4. The following legislation is relevant in this instance:
Development Act 1993
Expiation of Offences Act 1996
Freedom of Information Act 1991
Independent Commissioner Against Corruption Act 2012

Local Government Act 1999

Ombudsman Act 1972

Privacy Act 1988 (Commonwealth)

State Records Act 1997

Whistleblower's Protection Act 1993

Policy

5. The following Council Policies are relevant in this instance:

Code of Conduct for Council Members

Code of Conduct for Council Employees

Code of Conduct for Volunteers

Customer Service and Public Interactions

Fraud and Corruption Prevention

Home Support Program Compliments, Complaints and Appeals

Internal Review of Council Decisions (Section 270)

Records Management Policy

Request for Service

Whistleblower's Protection

Risk Assessment

6. Regular reviews of the Council's policy framework are an important risk management tool in ensuring the Administration is appropriately empowered to undertake the business of the Council in the manner that the Elected Body determines and ensures legislative compliance.

CEO Performance Indicators

7. The CEO's Performance Indicators had not been finalised for the 2018/19 financial year at the time of writing this report.

Finance

8. There are no financial implications for the City of Burnside in respect of the recommendation.

Discussion

Background

9. On 2 April 2018, the *Local Government (General) Regulations 2013* were amended by the *Local Government (General) (Employee Code of Conduct) Variation Regulations 2018* which necessitated a review of the Complaint Policy; made under Section 270 of the *Local Government Act 1999*.
10. At the meeting held 24 April 2018, Council was advised of this review and that a revised Policy would be presented to Elected Members for consultation in accordance with the standard process.

Discussion

11. The Policy has been reviewed by the Administration, with the majority of amendments relating to the new Code of Conduct for Council Employees as well as editorial changes.
12. The revised Policy was circulated to Elected Members for comment in August 2018 and no comments were received.
13. A summary of the changes made to the existing Complaints Handling Policy are as follows:
 - 13.1. updates to include current policies, protocols and the Desired Outcomes and Approaches from Council's strategic community plan;
 - 13.2. updates to include relevant legislation, including the management of complaints relating to the Code of Conduct for Council Employees;
 - 13.3. updates to include operational changes to position titles and responsibility;
 - 13.4. the Policy's flowchart has been updated as a quick reference; and
 - 13.5. general formatting, page numbers and reordering of list items has been corrected/updated.

Conclusion

14. It is recommended that Council adopt the revised Complaints Handling Policy.
15. To complement the Policy the Administration is in the process of finalising an internal Complaint Handling Procedure which will be circulated via an Information Document for noting purposes.

Complaint Handling

Classification:	Council Policy
Policy Name:	Complaint Handling
First Issued / Approved:	13 May 2014 C971022 22 May 2012 C8719
Last Reviewed:	13 May 2014 C971022 14 June 2016 C10693 27 April 2017 C11159 ## August 2018 CXXXXX
Next Review:	April 2019 August 2020
ECM Tracking No.:	1453094
Responsible Officer:	General Manager, Community and Development Services Corporate and Development
Relevant Legislation:	Development Act 1993 or Expiation of Offences Act, 1996 Freedom of Information Act 1991 Independent Commissioner Against Corruption Act 2012 Local Government Act 1999 Ombudsman Act 1972 Privacy Act 1988 (Commonwealth) State Records Act 1997 Freedom of Information Act 1991 Privacy Act 1988 (Commonwealth) Whistleblower's Protection Act 1993 Independent Commissioner Against Corruption Act 2012
Related Policies and Internal Procedures / Protocols:	Code of Conduct for Council Members Code of Conduct for Council Employees, Staff and Associates Code of Conduct for Volunteers Complaint and Compliments Procedure Customer Service and Public Interactions Policy Employee Conduct Pprotocol Fraud and Corruption Prevention HACC Compliments, Complaints and Appeals Home Support Program Compliments, Complaints and Appeals Internal Review of Council Decisions (Section 270) Procedure Records Management Policy Request for Service <u>P</u>olicy Whistleblower's Protection Customer Service and Public Interactions
Related Procedures	Complaints and Compliments Excellence in Customer Service

1. Introduction

- 1.1. Local Government provides an extensive range of services and infrastructure to the community and discharges obligations under many pieces of legislation.

- 1.2. Council is committed to the provision of quality service to customers and regards complaints as an opportunity to improve practices and procedures as well as resolve the matter.
- 1.3. The aim of this Policy is to provide a fair, consistent and structured process for Council's customers if they are dissatisfied with a Council action or service and wish to make a complaint.
- 1.4. The Policy and the associated procedures apply where Council has failed to meet the normal standards for a service which has been, or should have been, delivered.

2. Strategic Plan Desired Outcomes

- 2.1. ~~The community's views are heard, understood, genuinely valued and reflected in Council business~~ Delivery of good governance in all Council business.
- 2.2. ~~Leading best practice and compliance in Council business~~

3. Our Approach

- 3.1. ~~Facilitate the involvement of the community in Council's decision making processes~~ Regularly review, update and adopt leading governance, risk management and administrative practices.
- 3.2. ~~Remain compliant with all relevant legislation, standards and codes through effective risk management.~~
- 3.3. ~~Ensure provision of Council services meets community needs.~~

4. Legislative Requirements

- 4.1. The Policy is required under Section 270(a1)(b) of the *Local Government Act 1999*. Its purpose is the management of complaints (as defined below). Requests for service or the review of a Council decision are dealt with under separate policies and procedures.

5. Interpretation

- 5.1. For the purpose of **this Policy**:
 - 5.1.1. **"Complaint"** means an expression of dissatisfaction with a product or service delivered by the Council, or its representatives, that has failed to reach the standard stated, implied or documented. This includes complaints about a request for service that has ~~been, or been or~~ should have been delivered.
 - 5.1.2. **"Complainant"** is a person who makes a complaint. Complaints may originate from residents, ratepayers, ~~or~~ members of the public, elected members, contractors or staff.
 - 5.1.3. **"Council"** means the City of Burnside.

Comment [MC1]: Re-order alphabetically

- 5.1.4. **“Business day”** means Monday to Friday inclusive (except for public holidays).
- 5.1.5. **“Employee”** means a person employed by the Council and includes the Chief Executive Officer (CEO).
- 5.1.6. **“Staff and associates”** means a person engaged through an employment agency, a contractor, volunteer, or a committee member appointed by Council under Section 41 of the Act, and other person who acts or works on behalf of Council.
- 5.1.7. **“The Act”** means the *Local Government Act 1999*.
- 5.1.8. **“Request for service”** means an application to have Council or its representative take some form of action to provide a Council service.
- 5.1.9. **“Feedback”** can take the form of comments, both positive and negative, about services provided by Council without necessarily requiring a corrective action, change of services or formal review of a decision. Feedback may, however, influence future service reviews and delivery methods.

6. Policy

- 6.1. The City of Burnside is committed to the provision of quality service to customers and regards complaints as an opportunity to resolve the matters and then to improve practices, procedures and the level of customer service if applicable.
- 6.2. The purpose of this Policy is to ensure that complaints regarding a Council product or service are examined fairly and objectively and resolved as far as possible to the Complainant’s satisfaction.
- 6.3. Staff should assess the risk to Council, the community and the Complainant and take action as appropriate.
- 6.4. If there is a likelihood of publicity, then corporate communications and the relevant departmental Group Manager and General Manager should be immediately notified as appropriate.
- 6.5. Emphasis will be placed on resolving complaints as quickly as possible. Where complaints cannot be settled in the first instance, Council will ensure that they are dealt with through appropriate, more formal procedures by staff with the authority to make decisions.
- 6.6. Council will aim to use findings from the complaint management process as a way of improving services and programs as applicable wherever possible.
- 6.7. Council also receives service requests and feedback across all areas of operations and clarification may be necessary to make these distinctions for the purpose of this policy.

Policy Does Not Apply

- 6.8. There are also other complaint procedures that apply to particular types of complaints received by Council. Where the complaint ~~would be more properly should be~~ dealt with by another process this will be explained to the Complainant at the outset. For example:
- 6.8.1. ~~c~~Complaints against a Councillor or the Chief Executive Officer;~~;~~
 - 6.8.2. ~~i~~nsurance claims;~~;~~
 - 6.8.3. ~~d~~Decisions made under legislation other than the *Local Government Act*, such as the *Development Act 1993* or *Expiation of Offences Act, 1996*;~~;~~
 - 6.8.4. ~~c~~Complaints that are determined to be about matters that are not Council's responsibility, such as those of a personal or private nature between neighbours;~~;~~
 - 6.8.5. ~~w~~here a complaint or dispute mechanism is available under the auspices of a program such as the ~~Home and Community Care Program (HACC)~~ Commonwealth Home Support Programme;
 - 6.8.6. ~~r~~Referral to a formal internal review of a Council decision conducted under Section 270(1) of the Act and the Internal Review of Council Decisions (Section 270) Procedure; ~~and~~;
 - 6.8.7. ~~a~~A complaint made under the Whistleblower's Protection Policy and *Whistleblower's Protection Act 1993*.
- 6.9. All customer complaints will be assessed and recorded. Where a complaint is found to be frivolous, malicious, or vexatious, and the CEO has agreed with the assessment no further action will be taken on the complaint and the Complainant will be advised accordingly.

7. Anonymous Complaints

- 7.1. All anonymous complaints will be examined provided there is sufficient information to enable an investigation to be undertaken. It is acknowledged that Complainants have a right to make an anonymous complaint, it is preferred that Complainants provide their name and contact details so that the Complainant may be advised of the outcome of the complaint, which in turns allows them to dispute the outcome if they so wish.

8. How to Make a Complaint

- 8.1. A complaint may be made;~~;~~
- 8.1.1. ~~i~~n person at the Civic Centre, Library, George Bolton Swimming Centre Burnside, Glenunga Hub and Pepper Street Arts Centre;~~;~~ ~~or~~
 - 8.1.2. ~~By completing the Customer Service Complaint form on the Council website~~ Online Services on Council's website;~~;~~ ~~or~~
 - 8.1.3. ~~By t~~ Telephone;~~;~~ ~~or~~
 - 8.1.4. ~~e~~ Email;~~;~~ ~~or~~

~~8.1.4-8.1.5. Letter addressed to The City of Burnside; or~~

~~8.1.5-8.1.6. By ffax or letter addressed to the Manager Customer Service.~~

8.2. To assist the Council administration to process the complaint, the Complainant should include the following details if relevant:

8.2.1. Date, time and location of event(s);

8.2.2. Description of the event(s);

8.2.3. Names of Council employee(s) to whom the Complainant spoke and dates;

8.2.4. Copies or references to letters or documents relevant to the complaint; ~~and;~~

8.2.5. The outcome the Complainant hopes to achieve.

8.3. For contact details see “Availability” at clause 17 below.

9. Timeframe for Response

9.1. Where a complaint cannot be resolved immediately, the Complainant will be advised of the process to be undertaken.

9.2. The Complainant will be advised of the likely timeframe required to investigate and resolve a complaint and regularly updated as to progress as appropriate.

9.3. Council will acknowledge receipt of the complaint within three (3) business days.

10. Remedies

10.1. Where a complaint is found to be justified Council will, where practicable, remedy the situation in a manner which is consistent and fair for ~~both-Complainant, Council, Council~~ and any other parties if possible. The solution chosen will aim to be proportionate and appropriate to the circumstances.

10.2. Where appropriate, Complainants will be provided with an explanation of changes proposed or made as a result of the investigation of their complaint.

10.3. The complaint should in the first instance be investigated by the relevant line manager of the area to which the complaint pertains.

10.4. If the complaint cannot be resolved by the relevant line ~~manager~~manager, then the complaint will be escalated to the next level of decision making within Council as required and in accordance with all relevant policies and protocols.

11. Using Complaints to Improve Service

11.1. Quality of service is an important measure of Council’s effectiveness. Council will review and evaluate the information gained through its complaints handling process to identify systemic issues and opportunities for improvements to service.

11.2. A report on the number and nature of complaints will be provided to Council at least once a year.

12. Record Keeping

12.1. All complaints will be captured and maintained in Council's electronic document records management system (EDRMS) in accordance with the *State Records Act, 1997* and Council's Records Management Policy.

13. Privacy and Confidentiality

13.1. Complainants have a right to expect that their complaint will be investigated confidentially, to the extent possible. The identity of Complainants will be made known only to those who need to know in the process of investigating and resolving the complaint. The complaint should not be revealed or made public by the Council, except where required by law or at the request of the Complainant.

13.2. All complaints lodged with Council are subject to the *Freedom of Information Act, 1997* and confidentiality cannot be guaranteed under the provisions of that legislation.

13.3. Information may be disclosed publicly in a de-identified format for annual reporting, employee training and other purposes required by legislation.

14. Other Forms of Resolution

14.1. While Council prefers to work with its customers to resolve complaints quickly and effectively, a Complainant will always retain the right to seek other forms of resolution, such as a facilitator, Office for Public Integrity, Independent Commission Against Corruption, contacting the Ombudsman, or taking legal action at any time. Note as a general rule, the Ombudsman prefers a complaint to be addressed by Council in the first instance, unless this is inappropriate in the circumstances.

15. Unreasonable Complainant Conduct

15.1. All complaints received by Council will be treated seriously and Complainants will be treated fairly and courteously.

15.2. Occasionally the conduct of a Complainant may be 'unreasonable'. This may take the form of unreasonable persistence, unreasonable demands, lack of cooperation, argumentative, or aggressive behaviour. What can be termed 'unreasonable' will vary depending on a number of factors and Council seeks to manage these situations in a fair manner.

15.3. Where a Complainant's behaviour consumes an unwarranted amount of Council resources or impedes the investigation of their complaint, or is considered to be a work, health and safety hazard, a decision may be made to apply restrictions on contact with the Complainant. Before making any decision to restrict contact, the Complainant will be warned that, if the specified behaviour(s) or actions continue, restrictions may be applied.

15.4. In the event that after a warning the behaviour continues, the CEO or delegate may take action to mitigate the risk to Council and any Employee. This action will

be communicated in writing to the Complainant. Please refer to the Customer Service and Public Interaction Policy.

16. Complaints relating to the Code of Conduct for Council Employees

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16.1. Where a person alleges:–

16.1.1. an employee (or a relative of an employee) has sought or received a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or to influence the employee in the performance or discharge of the employees' functions or duties; or

16.1.2. an employee has failed to record, or correctly record, details of a gift or benefit received by the employee (or a relative of an employee) on the gift and benefits register; or

16.1.3. the CEO has not appropriately maintained a register for gifts and benefits received by employees of the council,

they may submit a complaint alleging that an employee of council has contravened or failed to comply with the Code of Conduct for Council Employees, as prescribed in Schedule 2A of the *Local Government (General) Regulations 2013*.

16.2. The complaint must be given to the CEO and will be investigated and resolved according to the industrial and human resource procedures of Council.

16.3. In the case of a complaint against the CEO, a complaint must be given to the principal member of the council, except in circumstance where it would be inappropriate to do so (such as where legislation requires the matter to which the complaint relates to remain confidential).

16.17. Review and Authority

16.17.1. In order to ensure Council continues to provide the best possible complaints handling service for its customers, this Policy will be subject to periodic evaluation and review. This Policy will be reviewed biennially-annually in accordance with Council's Policy and Procedure Framework.

17.18. Availability

17.18.1. The Policy and the Customer Service Complaint form are available to be downloaded, free of charge, from Council's internet site www.burnside.sa.gov.au.

17.18.2. The Policy will be available for inspection without-free of charge at the Civic Centre Customer Service desk during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

17.3. A copy of the Customer Service Complaint form may be obtained from the Civic Centre Customer Service desk.

City of Burnside Civic Centre

401 Greenhill Road, Tasmore SA 5065

[Enquiries may be directed to the Manager Customer Service](#)

Telephone; 8366 4200

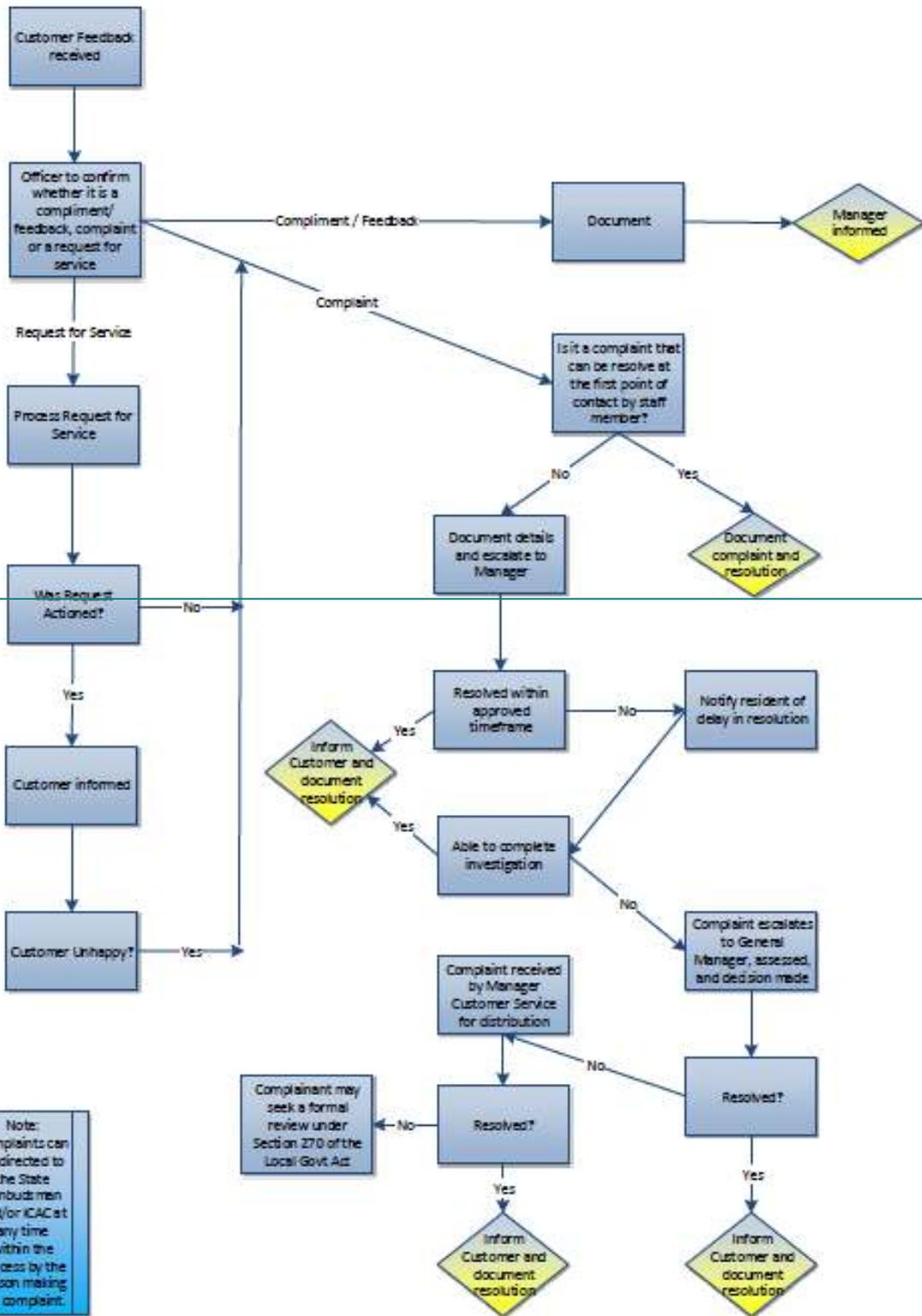
Fax; 8366 4299

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~~Civic Centre~~ Office hours: Monday to Friday, 8.30am to 5.00pm (except public holidays)

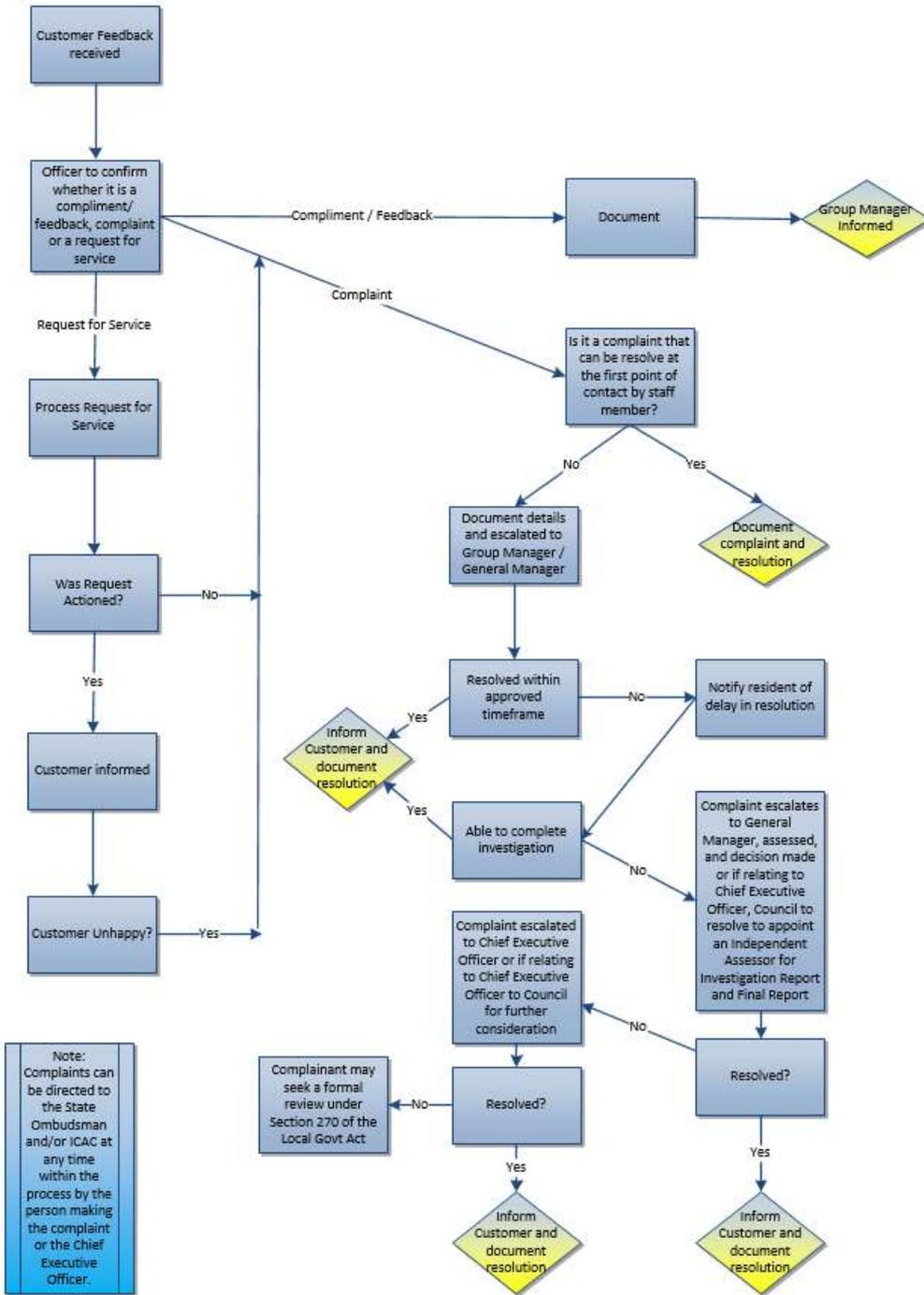
[Enquiries regarding this policy may be directed to the Group Manager People and Innovation.](#)

CUSTOMER FEEDBACK PROCESS



Note: Complaints can be directed to the State Ombudsmen and/or ICAC at any time within the process by the person making the complaint.

CUSTOMER FEEDBACK PROCESS



Complaint Handling

Classification:	Council Policy
Policy Name:	Complaint Handling
First Issued / Approved:	22 May 2012 C8719
Last Reviewed:	13 May 2014 C971022 14 June 2016 C10693 27 April 2017 C11159 ## August 2018 CXXXXX
Next Review:	August 2020
ECM Tracking No.:	1453094
Responsible Officer:	General Manager, Corporate and Development
Relevant Legislation:	<i>Development Act 1993 or Expiation of Offences Act, 1996 Freedom of Information Act 1991 Independent Commissioner Against Corruption Act 2012 Local Government Act 1999 Ombudsman Act 1972 Privacy Act 1988 (Commonwealth) State Records Act 1997 Whistleblower's Protection Act 1993</i>
Related Policies and Internal Procedures / Protocols:	<i>Code of Conduct for Council Members Code of Conduct for Council Employees Code of Conduct for Volunteers Complaint and Compliments Procedure Customer Service and Public Interactions Policy Employee Conduct Protocol Fraud and Corruption Prevention Home Support Program Compliments, Complaints and Appeals Internal Review of Council Decisions (Section 270) Procedure Records Management Policy Request for Service Policy Whistleblower's Protection</i>

1. Introduction

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2. Strategic Plan Desired Outcome

- 2.1. Delivery of good governance in all Council business.

3. Our Approach

- 3.1. Regularly review, update and adopt leading governance, risk management and administrative practices.

4. Legislative Requirement

- 4.1. The Policy is required under Section 270(a1)(b) of the *Local Government Act 1999*. Its purpose is the management of complaints (as defined below). Requests for service or the review of a Council decision are dealt with under separate policies and procedures.

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- 5.1.4. “**Council**” means the City of Burnside.
- 5.1.5. “**Employee**” means a person employed by the Council and includes the Chief Executive Officer (CEO).
- 5.1.6. “**Feedback**” can take the form of comments, both positive and negative, about services provided by Council without necessarily requiring a corrective action, change of services or formal review of a decision. Feedback may, however, influence future service reviews and delivery methods.
- 5.1.7. “**Request for service**” means an application to have Council or its representative take some form of action to provide a Council service.
- 5.1.8. “**Staff and associates**” means a person engaged through an employment agency, a contractor, volunteer, or a committee member appointed by Council under Section 41 of the Act, and other person who acts or works on behalf of Council.

5.1.9. “The Act” means the *Local Government Act 1999*.

6. Policy

- 6.1. The City of Burnside is committed to the provision of quality service to customers and regards complaints as an opportunity to resolve the matters and then to improve practices, procedures and the level of customer service if applicable.
- 6.2. The purpose of this Policy is to ensure that complaints regarding a Council product or service are examined fairly and objectively and resolved as far as possible to the Complainant’s satisfaction.
- 6.3. Staff should assess the risk to Council, the community and the Complainant and take action as appropriate.
- 6.4. If there is a likelihood of publicity, then corporate communications and the relevant departmental Group Manager and General Manager should be immediately notified as appropriate.
- 6.5. Emphasis will be placed on resolving complaints as quickly as possible. Where complaints cannot be settled in the first instance, Council will ensure that they are dealt with through appropriate, more formal procedures by staff with the authority to make decisions.
- 6.6. Council will aim to use findings from the complaint management process as a way of improving services and programs as applicable wherever possible.
- 6.7. Council also receives service requests and feedback across all areas of operations and clarification may be necessary to make these distinctions for the purpose of this policy.
- 6.8. There are also other complaint procedures that apply to particular types of complaints received by Council. Where the complaint should be dealt with by another process this will be explained to the Complainant at the outset. For example:
 - 6.8.1. complaints against a Councillor or the Chief Executive Officer;
 - 6.8.2. insurance claims;
 - 6.8.3. decisions made under legislation other than the *Local Government Act*, such as the *Development Act 1993* or *Expiation of Offences Act 1996*;
 - 6.8.4. complaints that are determined to be about matters that are not Council’s responsibility, such as those of a personal or private nature between neighbours;
 - 6.8.5. where a complaint or dispute mechanism is available under the auspices of a program such as the Commonwealth Home Support Programme;
 - 6.8.6. referral to a formal internal review of a Council decision conducted under Section 270(1) of the Act and the Internal Review of Council Decisions (Section 270) Procedure; and

6.8.7. a complaint made under the Whistleblower's Protection Policy and *Whistleblower's Protection Act 1993*.

6.9. All customer complaints will be assessed and recorded. Where a complaint is found to be frivolous, malicious, or vexatious, and the CEO has agreed with the assessment no further action will be taken on the complaint and the Complainant will be advised accordingly.

7. Anonymous Complaints

7.1. All anonymous complaints will be examined provided there is sufficient information to enable an investigation to be undertaken. It is acknowledged that Complainants have a right to make an anonymous complaint, it is preferred that Complainants provide their name and contact details so that the Complainant may be advised of the outcome of the complaint, which in turns allows them to dispute the outcome if they so wish.

8. How to Make a Complaint

8.1. A complaint may be made:

8.1.1. in person at the Civic Centre, Library, George Bolton Swimming Centre Burnside, Glenunga Hub and Pepper Street Arts Centre;

8.1.2. online Services on Council's website;

8.1.3. telephone;

8.1.4. email;

8.1.5. letter addressed to The City of Burnside; or

8.1.6. fax.

8.2. To assist the Council administration to process the complaint, the Complainant should include the following details if relevant:

8.2.1. Date, time and location of event(s);

8.2.2. Description of the event(s);

8.2.3. Names of Council employee(s) to whom the Complainant spoke and dates;

8.2.4. Copies or references to letters or documents relevant to the complaint; and

8.2.5. The outcome the Complainant hopes to achieve.

8.3. For contact details see "Availability" at clause 17 below.

9. Timeframe for Response

9.1. Where a complaint cannot be resolved immediately, the Complainant will be advised of the process to be undertaken.

9.2. The Complainant will be advised of the likely timeframe required to investigate and resolve a complaint and regularly updated as to progress as appropriate.

9.3. Council will acknowledge receipt of the complaint within three (3) business days.

10. Remedies

10.1. Where a complaint is found to be justified Council will, where practicable, remedy the situation in a manner which is consistent and fair for Complainant, Council and any other parties if possible. The solution chosen will aim to be proportionate and appropriate to the circumstances.

10.2. Where appropriate, Complainants will be provided with an explanation of changes proposed or made as a result of the investigation of their complaint.

10.3. The complaint should in the first instance be investigated by the relevant line manager of the area to which the complaint pertains.

10.4. If the complaint cannot be resolved by the relevant line manager, then the complaint will be escalated to the next level of decision making within Council as required and in accordance with all relevant policies and protocols.

11. Using Complaints to Improve Service

11.1. Quality of service is an important measure of Council's effectiveness. Council will review and evaluate the information gained through its complaints handling process to identify systemic issues and opportunities for improvements to service.

11.2. A report on the number and nature of complaints will be provided to Council at least once a year.

12. Record Keeping

12.1. All complaints will be captured and maintained in Council's electronic document records management system (EDRMS) in accordance with the *State Records Act 1997* and Council's Records Management Policy.

13. Privacy and Confidentiality

13.1. Complainants have a right to expect that their complaint will be investigated confidentially, to the extent possible. The identity of Complainants will be made known only to those who need to know in the process of investigating and resolving the complaint. The complaint should not be revealed or made public by the Council, except where required by law or at the request of the Complainant.

13.2. All complaints lodged with Council are subject to the *Freedom of Information Act 1991* and confidentiality cannot be guaranteed under the provisions of that legislation.

13.3. Information may be disclosed publicly in a de-identified format for annual reporting, employee training and other purposes required by legislation.

14. Other Forms of Resolution

- 14.1. While Council prefers to work with its customers to resolve complaints quickly and effectively, a Complainant will always retain the right to seek other forms of resolution, such as a facilitator, Office for Public Integrity, Independent Commission Against Corruption, contacting the Ombudsman, or taking legal action at any time. Note as a general rule, the Ombudsman prefers a complaint to be addressed by Council in the first instance, unless this is inappropriate in the circumstances.

15. Unreasonable Complainant Conduct

- 15.1. All complaints received by Council will be treated seriously and Complainants will be treated fairly and courteously.
- 15.2. Occasionally the conduct of a Complainant may be 'unreasonable'. This may take the form of unreasonable persistence, unreasonable demands, lack of cooperation, argumentative, or aggressive behaviour. What can be termed 'unreasonable' will vary depending on a number of factors and Council seeks to manage these situations in a fair manner.
- 15.3. Where a Complainant's behaviour consumes an unwarranted amount of Council resources or impedes the investigation of their complaint, or is considered to be a work, health and safety hazard, a decision may be made to apply restrictions on contact with the Complainant. Before making any decision to restrict contact, the Complainant will be warned that, if the specified behaviour(s) or actions continue, restrictions may be applied.
- 15.4. In the event that after a warning the behaviour continues, the CEO or delegate may take action to mitigate the risk to Council and any Employee. This action will be communicated in writing to the Complainant. Please refer to the Customer Service and Public Interaction Policy.

16. Complaints relating to the Code of Conduct for Council Employees

- 16.1. Where a person alleges:
 - 16.1.1. an employee (or a relative of an employee) has sought or received a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or to influence the employee in the performance or discharge of the employees' functions or duties; or
 - 16.1.2. an employee has failed to record, or correctly record, details of a gift or benefit received by the employee (or a relative of an employee) on the gift and benefits register; or
 - 16.1.3. the CEO has not appropriately maintained a register for gifts and benefits received by employees of the council,they may submit a complaint alleging that an employee of council has contravened or failed to comply with the Code of Conduct for Council Employees, as prescribed in Schedule 2A of the *Local Government (General) Regulations 2013*.
- 16.2. The complaint must be given to the CEO and will be investigated and resolved according to the industrial and human resource procedures of Council.

- 16.3. In the case of a complaint against the CEO, a complaint must be given to the principal member of the council, except in circumstance where it would be inappropriate to do so (such as where legislation requires the matter to which the complaint relates to remain confidential).

17. Review and Authority

- 17.1. This Policy will be reviewed biennially in accordance with Council's Policy and Procedure Framework.

18. Availability

- 18.1. The Policy and the Customer Service Complaint form are available to be downloaded, free of charge, from Council's internet site www.burnside.sa.gov.au.
- 18.2. The Policy will be available for inspection free of charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Burnside Civic Centre

401 Greenhill Road, Tusmore SA 5065

Telephone; 8366 4200

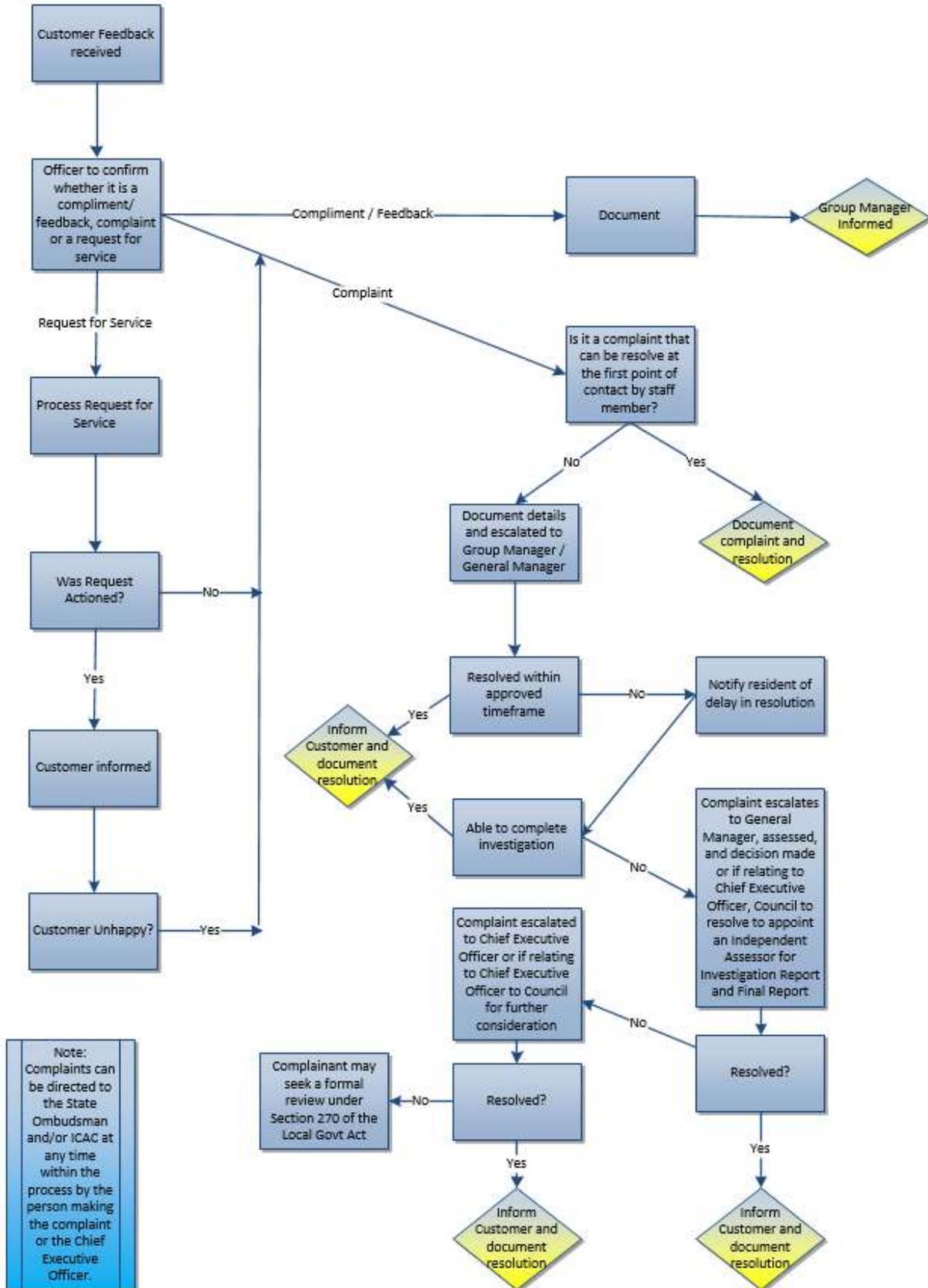
Fax; 8366 4299

Email: burnside@burnside.sa.gov.au

Office hours: Monday to Friday, 8.30am to 5.00pm (except public holidays)

Enquiries regarding this policy may be directed to the Group Manager People and Innovation.

CUSTOMER FEEDBACK PROCESS



Item No: 14.7
To: Council
Date: 11 September 2018
Author: Martin Cooper – General Manager, Corporate and Development
General Manager and Division: Martin Cooper – General Manager, Corporate and Development
Subject: APPOINTMENT OF INDEPENDENT MEMBERS TO THE CITY OF BURNSIDE AUDIT COMMITTEE (OPERATIONAL)
Attachments: A. Advertisement for Expression of Interest – Independent Member for the City of Burnside’s Audit Committee
B. Audit Committee Terms of Reference
C. CVs of preferred candidates recommended for appointment – Confidential Drop Box
Prev. Resolution: C9825, 12/8/15
C10332, 25/8/15
C10681, 14/6/16
C11505, 28/11/17
C11750, 10/7/18

Officer’s Recommendation

1. That the Report be received.
 2. That Mr David Powell be appointed as Independent Member to the City of Burnside Audit Committee for a period of three years commencing on 23 November 2018 (expiration of current term) and concluding on 23 November 2021.
 3. That Mr Stephen Coates be appointed as Independent Member to the City of Burnside Audit Committee for a period for a period of one year from 22 October 2018 until 22 October 2019.
 4. That David Powell be appointed as the Chair of the City of Burnside Audit Committee for a further 12 month period commencing in November 2018.
 5. That the Administration correspond with all applicants accordingly of this decision.
-

Purpose

1. To provide Council with information on the recent Expression of Interest process to enable the appointment of David Powell and Stephen Coates as Independent Members on Council’s Audit Committee.

Strategic Plan

2. The following Strategic Plan provisions are relevant:

“Delivery of good governance in Council business”

“A financially sound Council that is accountable, responsible and sustainable”

Communication and Consultation

3. The following consultation has been undertaken:
 - 3.1. In accordance with the Council resolution, the Administration undertook an open selection process for the required positions, including advertising and other mechanisms as appropriate to facilitate appointments for Independent Members on Council's Audit Committee.
4. Expressions of Interest applications closed on 27 July 2018 with interviews held for shortlisted candidates between 20 – 24 August 2018.
5. Elected Members have been provided with a copy of the applications of the recommended candidates for appointment as Independent Members of the Audit Committee via confidential drop box.

Statutory

6. The following legislation is relevant in this instance:
 - 6.1. Council is required to establish an Audit Committee that is formed under Section 41 of the *Local Government Act 1999* but operates within Section 126 of the *Local Government Act, 1999*.
 - 6.2. The Audit Committee is a specialist committee of Council that has specific duties as outlined in Section 126 of the *Local Government Act 1999*. With the passing of the *Local Government (Financial Management and Rating) Amendment Act 2005*, it is compulsory for all Councils to establish an Audit Committee.

CEO Performance Indicators

7. There are no impacts on or threats to achieving the CEO's Performance Indicators with this recommendation.

Policy

8. There are no Policy implications or requirements associated with this recommendation.

Risk Assessment

9. There are no risks associated with this recommendation.

Finance

10. Provision has been made in the 2018/19 Annual Business Plan for payment of Independent Member sitting fees, currently \$470 for each meeting attended. However a review will be undertaken in November 2018 to ensure alignment with the Adelaide Consumer Price Index.

Discussion

Background

11. The *Local Government (Financial Management) Regulations 1999* stipulates at Regulation 13A(1) that:

“The audit committee of a council –

- i. must have between 3 and 5 members (inclusive); and*
- ii. must include at least one person who is not a member of the council and who is determined by the council to have financial experience relevant to the functions of an audit committee; and*
- iii. must not include, as a member, the council’s auditor under section 128 of the Act.”*

12. The City of Burnside Audit Committee Terms of Reference (last updated C11512, 28/11/17) provides the Audit Committee Membership details as follows:

3. *Membership*

3.1 *Members of the Committee are appointed by the Council. The Committee shall be five of whom a majority shall be persons who are not members of Council (“the Independent Members”).*

3.2 *Ideally, the non-Mayor Elected Member representative will have experience in business, legal, audit, risk management, governance or financial management.*

3.3 *That the Mayor, if not a member on an ex officio basis, is to be a member of the Audit Committee.*

3.4 *The Independent Members of the Committee must have recent and relevant financial, risk management, internal audit experience relevant to the functions of Council’s Audit Committee as determined by Council.*

3.5 *Only members of the Committee are entitled to vote in Committee meetings. Unless otherwise required (by the conflict of interest provisions in the Act) not to vote, each member must vote on every matter that is before the Committee for decision. The Presiding Member has a deliberative vote but does not, in the event of an equality of votes, have a casting vote.*

3.6 *All decisions of the Committee shall be made on the basis of a majority decision of the members present.*

3.7 *In the event of a tied vote the members have not made a decision, the question is neither carried nor lost. If a vote is tied the matter may be referred back to the Committee (either with or without additional information to inform the debate and decision making) or referred to Council for a resolution.*

3.8 *The Chief Executive Officer and other Council employees as directed by the Chief Executive Officer may attend any meeting as observers and/or be responsible for preparing papers for the Committee.*

- 3.9 *Council's external auditor may attend meetings where the interim and/or draft annual financial report and results are being considered. The external auditor must meet with the Committee, at least annually, without management being present; to discuss the Council's financial statements and any issues arising from their audits.*
- 3.10 *Council's internal auditors may also attend any meeting where any of the internal audit reports are being discussed but must meet with the Audit Committee at least annually, without management being present; to discuss the Council's internal audit plan and any issues arising from their audits.*
- 3.11 *Elected Member appointments to the Committee shall be for a period of twelve months from the date of appointment, or until the end of the term of the Council. Elected Members are eligible for reappointment at the end of their term.*
- 3.12 *Independent Members appointment to the Committee shall be for a period of three years from the date of appointment. To provide continuity, the terms of the Independent Members will overlap on a three-year rotation, with one Independent Member being sought, through an expression of interest and interview process, in November of each year. Independent Members are eligible for reappointment at the end of their term for a maximum of two consecutive terms.*
13. Of particular relevance to the context of this report is 3.12 above, pertaining to the three year rotation and allowing for a yearly expression of interest (EOI) process.
14. The term of Independent Member Sean Tu expired in June 2018 with the term of David Powell expiring in November 2018. The process of appointing Independent Members to the Audit Committee should be completed prior to the caretaker period commencing 18 September 2018.
15. During August 2018, an Expression of Interest (EOI) process for the appointment of Independent Members to the Audit Committee was commenced with an advertisement in the Eastern Courier, as well as on Council's Website and LinkedIn. A copy of the advertisement is included as Attachment A.
16. Council received 11 applications expressing interest in participating in the Committee and the calibre of the applicants was of good quality overall however it was noted that several applicants resided interstate or overseas which could impact on their commitments to the Committee and arrangements.
17. All applications and a Shortlisting Matrix were distributed to a panel of interviewers consisting of Mayor David Parkin, Councillors Piggott and Davey and the General Manager Corporate and Development, as previously resolved by Council.
18. Shortlisting was undertaken where a shortlist of five candidates (highlighted at Attachment C) was determined based upon relevant tertiary qualifications; professional work experience; and knowledge of the Local Government industry.
19. Interviews were held week commencing 20 August 2018, with a series of questions being asked in order to further establish the ability of the candidates to demonstrate competency against qualifications, skills, knowledge, experience and personal qualities relevant to the activities of the Audit Committee.

20. The interview Panel deliberated after the interviews on the strengths of each short-listed applicant. The Panel unanimously chose Stephen Coates and David Powell as preferred candidates.
21. David Powell is an existing Independent Member of Local Government Audit Committees (including City of Burnside) with extensive experience within Local and State Government and the corporate private sector across:
 - 21.1. Financial Reporting;
 - 21.2. Internal Controls and Risk Management Systems; and
 - 21.3. Internal Audit.
22. In addition, Mr Powell holds several appropriate professional memberships and has relevant post graduate qualifications.
23. Stephen Coates leads an east coast assurance and advisory practice with client services delivered in Adelaide most months. In addition he is the independent Chair of the Audit Committee at Whyalla City Council and a member of several local government Audit Committees interstate as articulated in his CV.
24. Mr Coates demonstrated a comprehensive understanding of governance, risk and assurance matters, through engagement with both the public and private sectors and in addition hold suitable qualifications and membership relevant to the position.
25. As Mr Coates was an 'external' applicant not currently serving on the Audit Committee, references were obtained. These references attest to his integrity, knowledge and experience and support the discussions that took place at interview.
26. Given the existing arrangements and length of service from Mr Powell, the Panel agreed to offer the three year term to him and offer the one year opportunity to Mr Coates, both who have accepted the roles in principle (subject to resolution of Council).
27. The Terms of Reference allows for previous Independent Members to be reappointed for a maximum of two consecutive terms.
28. From a best practice view in terms of recruitment and selection, while still allowing for continuity, the public EOI process undertaken, for these two positions, allows for the terms of the Independent Members to overlap on a three-year rotation, as previously resolved by Council, with one Independent Member being sought annually from 2019, once this process concludes.
29. A table demonstrating the final effect and outcome is below, should Council resolve in accordance with the Officer's Recommendation (shaded rows selected through this process):

Independent Member	Commencement of Term	Expiration of Term	Recruitment to commence
Stephen Coates	October 2018	October 2019	August 2019
Roberto Bria	November 2017, C11505	November 2020	August 2020
David Powell	November 2018 (at expiry of current period)	November 2021	August 2021

30. Therefore, one successful appointee is appointed for a period of one year and another for three years to be consistent long term and facilitate the membership requirements endorsed by Council under the Terms of Reference.
31. It is also recommended that, for business and governance continuity, for the Audit Committee, particularly with a potential change in Elected Member representation in 2019, Mr Powell also continue as Presiding Member for a further year. Under the Terms of Reference the Presiding Member will be appointed by Council for a period of twelve months, unless agreed otherwise by Council. An existing Chair is eligible to continue.

Conclusion

32. A significant change of the Terms of Reference at the end of 2017 was the rotational approach to Audit Committee membership, permitting business continuity, acknowledging members expertise and avoiding multiple selection processes annually.
33. The terms of Mr Sean Tu and Mr David Powell both conclude in 2018. The approach undertaken allows for a suitable selection process in advance of the caretaker period.
34. The proposal outlined in this report will facilitate the requirements of the Terms of Reference in future years, requiring only one process for Independent Members annually.
35. It should be noted this is a distinct process and matter from the selection of Elected Members to the Committee which will be revisited following the 2018 Elections.
36. It is recommended that Stephen Coates and David Powell be appointed as Independent Members to the City of Burnside Audit Committee for the periods outlined in the Officer's Recommendations.

The City of Burnside is seeking Expressions of Interest from suitably qualified and experienced persons for the following appointment.

Independent Members of the City of Burnside's Audit Committee

The Committee, which comprises three Independent Members (one of whom is the Presiding Member) and two Elected Members (one of which is the Mayor), meets bi-monthly and is required to discharge statutory Audit Committee obligations under the *Local Government Act 1999*. The Audit Committee is established under the legislation to assist the co-ordination of relevant activities of management, the internal audit function and the external auditor to facilitate achieving overall organisational objectives in an efficient and effective manner.

The primary objective of the Audit Committee is to assist Council in the effective conduct of its responsibilities for financial reporting, management of risk and maintaining a reliable system of internal controls.

Applications are now sought from suitably qualified individuals with recent and relevant financial, risk management, internal audit, legal or governance experience relevant to the functions of the Audit Committee.

Council is recruiting two Independent Members to satisfy its obligations under the Terms of Reference and allow for an annual rotation of positions. The two positions available are of various durations as follows:

- September 2018 to November 2019; and
- November 2018 to November 2021

Applicants must be individuals rather than corporations, as the service is that of a personal nature, based on the skill and experience of the individual relevant to the functions of Council's Audit Committee. Applicants should make clear in their Expression of Interest which appointment period they would like to be considered for or both, with the final decision resting with Council.

The Independent Members will be compensated for their time and expertise by an appropriate level of remuneration, and will be selected by Council.

For further information, please contact Martin Cooper, General Manager, Corporate and Development on 8366 4202 or email mcooper@burnside.sa.gov.au

Expressions of Interest for these roles, detailing experience, skills, knowledge, affiliations and qualifications should be forwarded to Robert Dabrowski, Principal Executive Officer, City of Burnside, PO Box 9, Glenside SA 5065 or email rdabrowski@burnside.sa.gov.au by 5 pm Friday 27 July 2018.

Audit Committee Terms of Reference

1. Establishment

1.1 Resolution C8044 of 14 December 2010:

The Audit Committee of Council is established under Section 41 of the Local Government Act 1999 (the Act), for the purposes of Section 126 of the Act and in compliance with regulation 17 of the Local Government (Financial Management) Regulations 2011.

1.2 The Audit Committee does not have executive powers or authority to implement actions in areas which management has responsibility and does not have any delegated financial responsibility. The Audit Committee does not have any management functions and is therefore independent from management.

2. Objectives

2.1 The Audit Committee is established to assist the co-ordination of relevant activities of management, the internal audit function and the external auditor to facilitate achieving overall organisational objectives in an efficient and effective manner.

2.2 As part of Council's Governance obligations to its community, Council has constituted an Audit Committee to facilitate:

2.2.1 the enhancement of the credibility and objectivity of internal and external financial reporting;

2.2.2 effective management of financial and other risks and the protection of Council assets;

2.2.3 compliance with laws and regulations as well as use of best practice and Governance guidelines;

2.2.4 the effectiveness of any audit functions; and

2.2.5 the provision of an effective means of communication between the external auditor, management and the Council.

3. Membership

3.1 Members of the Committee are appointed by the Council. The Committee shall be five of whom a majority shall be persons who are not members of Council ("the Independent Members").

3.2 Ideally, the non-Mayor Elected Member representative will have experience in business, legal, audit, risk management, governance or financial management.

3.3 That the Mayor, if not a member on an ex officio basis, is to be a member of the Audit Committee.

- 3.4 The Independent Members of the Committee must have recent and relevant financial, risk management, internal audit experience relevant to the functions of Council's Audit Committee as determined by Council.
- 3.5 Only members of the Committee are entitled to vote in Committee meetings. Unless otherwise required (by the conflict of interest provisions in the Act) not to vote, each member must vote on every matter that is before the Committee for decision. The Presiding Member has a deliberative vote but does not, in the event of an equality of votes, have a casting vote.
- 3.6 All decisions of the Committee shall be made on the basis of a majority decision of the members present.
- 3.7 In the event of a tied vote the members have not made a decision, the question is neither carried nor lost. If a vote is tied the matter may be referred back to the Committee (either with or without additional information to inform the debate and decision making) or referred to Council for a resolution.
- 3.8 The Chief Executive Officer, General Manager Corporate and Development, General Manager Urban and Community and other Council employees as directed by the Chief Executive Officer may attend any meeting as observers and/or be responsible for preparing papers for the Committee.
- 3.9 Council's external auditor may attend meetings where the interim and/or draft annual financial report and results are being considered. The external auditor must meet with the Committee, at least annually, without management being present; to discuss the Council's financial statements and any issues arising from their audits.
- 3.10 Council's internal auditors may also attend any meeting where any of the internal audit reports are being discussed but must meet with the Audit Committee at least annually to discuss the Internal Audit Plan and any issues arising from their audits.
- 3.11 Elected Member appointments to the Committee shall be for a period of twelve months from the date of appointment, or until the end of the term of the Council. Elected Members are eligible for reappointment at the end of their term.
- 3.12 Independent Members appointment to the Committee shall be for a period of three years from the date of appointment. To provide continuity, the terms of the Independent Members will overlap on a three-year rotation, with one Independent Member being sought, through an expression of interest and interview process, in November of each year. Independent Members are eligible for reappointment at the end of their term.

4. Presiding Member

- 4.1 In November each year, following the appointment of an Independent Member, the Independent Members will be invited to provide Council with an Expression of Interest for the position of the Presiding Member.
- 4.2 The Presiding Member will be appointed by Council for a period of twelve months, unless agreed otherwise by Council. The period of twelve months will extend from the date of appointment, unless their term is due to expire within that period in which case the appointment will be until the date their appointment as

an Independent Member is due to expire. The outgoing Presiding Member will be eligible for reappointment to the position.

- 4.3 No Deputy Presiding Member will be elected and an Acting Presiding Member (Chair) will be nominated at the meeting should the Presiding Member be unable to attend.

5. Sitting Fees

- 5.1 The Independent Members are to be paid a sitting fee, per meeting attended, as determined by Council.
- 5.2 The annual allowance for an Independent Member who is the Presiding Member of the Audit Committee will be equal to one and a quarter (1.25) times the Independent Member sitting fee per meeting, as determined by Council.

6. Secretarial Resources

- 6.1 The Chief Executive Officer shall provide sufficient administrative resources to the Committee to enable it to adequately carry out its functions.

7. Quorum

- 7.1 The quorum for a meeting of the Audit Committee shall be three, of whom at least two must be independent members.

8. Frequency of Meetings

- 8.1 The Committee shall meet at 6.00pm on a day to be specified by the Audit Committee in February, April, June, August, October and November or as otherwise determined by Council (whether as the result of a motion upon notice in or an Officer's Report to Council).
- 8.2 The minutes of each meeting must specify the date and time of the next ordinary meeting of the Committee.
- 8.3 A special meeting of the Committee may be called in accordance with the Act.

9. Notice of Meetings

- 9.1 Notice of each meeting confirming the venue, time and date, together with an agenda of items to be discussed, shall be forwarded to each member of the Committee and observers, no later than three (3) clear days before the date of the meeting in accordance with Section 87 of the Act. Supporting papers shall be sent to Committee members (and to other attendees as appropriate) at the same time.

10. Minutes of Meetings

- 10.1 The Chief Executive Officer shall ensure that the proceedings and resolutions of all meetings of the Committee, including recording the names of those present and in attendance, are minuted and that the minutes otherwise comply with the requirements of the Local Government (Procedures at Meetings) Regulations 2000.
- 10.2 Minutes of Committee meetings shall be circulated within five (5) days after a meeting to all members of the Committee and members of the Council (in accordance with Section 91(3) of the Act).
- 10.3 Detailed 'Meeting Procedure Protocols' have been included within Schedule 1 to this Terms of Reference.

11. Role of the Committee

The Committee is charged with enquiring into and making recommendations to the Council where necessary with respect of the following matters:

11.1 Financial Reporting and Sustainability

- 11.1.1 review the Annual Report including the Annual Financial Statements and application of accounting policies and provide opinion to the Council on whether they present fairly the state of affairs of Council;
- 11.1.2 review and make recommendations to the Council regarding the assumptions, financial ratios and financial targets in the Long Term Financial Plan;
- 11.1.3 provide commentary and advice on the financial sustainability of Council and any risks in relation to, and as part of the adoption of the Long Term Financial Plan, Annual Budget and periodic Budget Reviews;
- 11.1.4 review and provide recommendations and comment to the Council on Council's Asset Management Plans;
- 11.1.5 review and make recommendations to the Council regarding any other significant financial, accounting and reporting issues as deemed necessary by the Committee, Council or Administration;
- 11.1.6 consider and provide comment on the financial and risk related issues associated with any Council business referred to it by the Council for such comment; and
- 11.1.7 review and provide feedback on Council's key financial and risk management policies.

11.2 Internal Controls and Risk Management

The Committee shall:

- 11.2.1 monitor and review the performance and adequacy of Council's Risk Management Framework for identifying, monitoring and managing significant business risks;
- 11.2.2 monitor and review the effectiveness of Council's internal control environment; and
- 11.2.3 review and recommend the approval, where appropriate, of any material

to be included in the Annual Report concerning internal controls and risk management;

11.3 Internal Audit

The Committee shall:

- 11.3.1 monitor and review the effectiveness of the Council's internal audit function in the context of the Council's overall risk management system;
- 11.3.2 consider and make recommendation on the program of the internal audit function;
- 11.3.3 review all reports on the Council's operations as a result of the internal audit performed; and
- 11.3.4 review and monitor management's responsiveness to the findings and recommendations.

11.4 External Audit

The Committee shall:

- 11.4.1 oversee Council's engagement with the external auditor including, but not limited to, assessing the external auditor's qualifications and expertise, recommending the approval of the external auditor's remuneration and terms of engagement, assessing the external auditor's independence and objectivity and monitoring the external auditor's compliance with legislative requirements on the rotation of audit partners;
- 11.4.2 consider and make recommendations to the Council, in relation to the appointment, re-appointment and removal of the Council's external auditor. If an auditor resigns, the Committee shall investigate the issues leading to this and decide whether any action is required;
- 11.4.3 review and make recommendations on the annual audit plan, and in particular its consistency with the scope of the external audit engagement as well as the internal audit plan;
- 11.4.4 review the findings of the audit paying particular attention to any accounting and audit judgements, any adjusted or unadjusted differences and any other significant issues arising from the audit;
- 11.4.5 review any representation letter requested by the external auditor before they are signed by management; and
- 11.4.6 review Administration's response to reviews, recommendations and audit letters provided by the External Auditor.

11.5 Whistle blowing

The Committee shall review the Council's arrangements for its employees to raise concerns, in confidence, about possible wrongdoing in financial recording or reporting or other matters. The Committee shall ensure these arrangements allow independent investigation of such matters and appropriate follow-up action.

11.6 Other Investigations

The Committee shall, when necessary, propose and review the exercise of Council's powers under Section 130A of the Local Government Act 1999, in relation to the conduct of Economy Audits that would not otherwise be addressed or included as part of an annual External Audit.

11.7 Regional Subsidiaries

In accordance with Section 126(4) of the Act, the functions of the Audit Committee include, if the council has exempted a subsidiary from the requirement to have an audit committee, the functions that would, apart from the exemption, have been performed by the subsidiary's audit committee.

12. Reporting Requirements

- 12.1 In accordance with Section 41(8) of the Act, the Committee shall after every meeting forward the minutes of that meeting to the next meeting of the Council.
- 12.2 The Committee shall make recommendations to the Council as it deems appropriate on any area within these Terms of Reference where in its view action or improvement is needed. The Presiding Member shall attend these meetings and talk on these matters, as and when required.
- 12.3 At least annually, the Presiding Member (and/or other Independent Members as appropriate) of the Audit Committee shall present to Council on the Audit Committee's view in relation to the key areas of responsibility under these Terms of Reference .
- 12.4 Audit Committee members attending Council will be paid a sitting fee for their attendance.
- 12.5 The Committee shall report annually to the Council summarising the activities of the Committee during the previous financial year.

13. Conduct and Disclosure of Interests

- 13.1 Members of the Committee must comply with the conduct and conflict of interest provisions of the Act. In particular Sections 62 (general duties), 63 (code of conduct) and 73-74 (conflict of interest, members to disclose interests) must be adhered to.

14. Register of Interest

- 14.1 Section 64 of the Act (interpretation) applies to the members of the Committee.

15. Delegations

- 15.1 Council may delegate additional matters that are within the scope of these Terms of Reference to the Committee in accordance with Section 41 of the Act.

16. Reimbursement of Expenses

- 16.1 Reimbursement of Expenses incurred by members of the Committee will be paid in accordance with the Council's "Elected Members' Allowances and Benefits Policy".

17. Public Access to Meetings

- 17.1 In accordance with the principles of open, transparent and informed decision making Committee meetings must be conducted in a place open to the public. Members of the public are able to attend all meetings of the Committee, unless prohibited by resolution of the Committee under the confidentiality provisions of Section 90 of the Act.

18. Public Access to Documents

- 18.1 Members of the public have access to all documents relating to the Committee unless prohibited by resolution of the Committee under the confidentiality provisions of Section 91 of the Act.

19. Other Matters

The Committee shall:

- 19.1 Have access to reasonable resources in order to carry out its duties; (subject to any such budget allocation being approved by Council.)
- 19.2 Be provided with appropriate and timely training, both in the form of an induction programme for new members and on an ongoing basis for all members;
- 19.3 Give due consideration to the Act; and regulations made under the Act;
- 19.4 Oversee any investigation of activities which are within its terms of reference; and
- 19.5 At least once a year, review its own performance, constitution and terms of reference to ensure it is operating at maximum effectiveness and recommend changes it considers necessary to the Council for approval.

Document history

Date	Resolution number
14/12/2010	C8044
27/04/2011	C8220
22/11/2011	C8496
28/08/2012	C8840
10/12/2013	C9530
25/02/2014	C9600
11/03/2014	C9622
13/05/2014	C9709
24/11/2014	C9946
24/11/2015	C10457
28/11/2017	C11512

Item No: 14.8
To: Council
Date: 11 September 2018
Author: Karishma Reynolds – Group Manager, Finance and Governance
General Manager and Division: Martin Cooper – General Manager, Corporate and Development
Subject: APPLICATION FOR ADDITIONAL LOAN FACILITIES (OPERATIONAL)
Attachments: A. Standard Debenture Loan Facilities
Prev. Resolution: A4123, 20/8/18

Officer's Recommendation

1. That the Report be received.
 2. That Council approve an additional credit foncier loan facility of \$1.6m, specifically for the Council approved Public Lighting LED Transition Project, for a period of five years with the Local Government Finance Authority of South Australia.
 3. That Council approve an additional credit foncier loan facility of \$2m for a period of 15 years with the Local Government Finance Authority of South Australia, noting that this loan will not impact on Council's financial ratios adopted for 2018/19.
 4. That the Mayor and Chief Executive Officer be authorised to sign and affix the Common Seal of the City of Burnside to any document to give effect to the Loan Agreements between the City of Burnside and the Local Government Finance Authority of South Australia.
-

Purpose

1. To seek approval from Council for two additional loan facilities with the Local Government Finance Authority of South Australia (LGFA).

Strategic Plan

2. The following Strategic Plan provision is relevant:

"A financially sound Council that is accountable, responsible and sustainable"

Communications/Consultation

3. The following communication / consultation has been undertaken:
 - 3.1. discussions with LGFA;
 - 3.2. discussions with the Finance Department and key internal stakeholders;
 - 3.3. the Council considered and supported a report on Public Lighting LED Transition Project at its meeting on 14 August 2018; and

- 3.4. a report was presented to and supported by the Audit Committee at its meeting on 20 August 2018.

Statutory

4. The following legislation is relevant in this instance:

Local Government Act 1999

Policy

5. The following Council Policy has relevance in this instance:

Treasury Management

Risk Assessment

6. Council not being financially sustainable to meet operational and capital replacement costs leading to asset, financial, safety and customer relations risks.

CEO Performance Indicators

7. The CEO's Performance Indicators had not been finalised for the 2018/19 financial year at the time of writing this report.

Finance

8. Refer to 'Discussion' section below.

Discussion

9. Section 134 (1) of the *Local Government Act 1999* gives Councils the Authority to '*borrow money and obtain other forms of financial accommodation*'.
10. In addition, Council's Treasury Management Policy states that '*Council will establish and make extensive use of a LGFA CAD facility that requires interest payments only and that enables any amount of principal to be repaid or redrawn at call.*'
11. A Cash Advance Debenture is a loan which facilitates short term finance on an 'at call' basis, for which the principal may be repaid at any time and interest is only payable on the amounts of principal outstanding.
12. A credit foncier loan on the other hand is a loan for a fixed period with regular repayments where each repayment includes components of both principal and interest, such that at the end of the period, the principal will have been entirely repaid.
13. Attachment A outlines the characteristics of the various debenture loan facilities.

14. As at 15 August 2018, Council had the following loan facilities and available limits:

Type of Loan	Limit / Principal	Rate	Current Balance
Cash Advance Debenture facility	\$10m	3.60% (Variable)	\$8.1m
Credit Foncier Loan	\$2m	4.20% (Fixed)	\$1.8m
Credit Foncier Loan	\$3m	4.80% (Fixed)	\$2.9m
TOTAL	\$15m		\$12.8m

Credit Foncier Facility – LED Project

15. On 14 August 2018, Council considered a report on Public Lighting LED Transition Project and resolved (C11780):
1. *That the Report be received.*
 2. *That Council approve the upgrade of the eligible Public Street Lights to Light Emitting Diodes under a Public Lighting Customer Funded tariff through a one-year implementation program, to be completed during the 2018/2019 financial year.*
 3. *That the Council Administration secure a five-year loan through the Local Government Finance Authority of South Australia to finance this upgrade.*
 4. *That this additional project and expenditure be presented to Council at the 2018/19 Second Quarter Budget Review.*
 5. *That Council acknowledge that by undertaking this upgrade, the following benefits will be achieved:*
 - 5.1 *Estimated \$9.4m of savings over the life of the new assets;*
 - 5.2 *Reduction of Council's carbon footprint of approximately 10,696 tCO₂-e over the life of the new assets; and*
 - 5.3 *The project has an estimated payback period of less than four years through annual energy cost savings.*
16. The first part of the Administration's Recommendation in this report is to obtain a \$1.6m credit foncier loan to fund this specific Public Lighting LED Transition Project. The estimated cost in the feasibility report is \$1,592,437. Although the Administration is yet to receive an exact quote from SA Power Networks (SAPN), it is confident that the capital investment will be close to \$1.6m.
17. Commencing in 2019/20, the estimated savings from this Project are expected to be approximately \$443k per annum, all of which will be quarantined towards the repayment of the debt over the five year period.

18. As noted below, this additional loan facility will have an implication on the Financial Ratios as per the Adopted 2018/19 Annual Business Plan and Budget. However, all of these ratios will remain within the target limits.

2018/19 Impact	Per Adopted 2018/19 Budget	Including LED Project	Variance	Target Limits
Operating Surplus Ratio - %	1.00%	1.00%	0%	0 – 10%
Net Financial Liabilities - \$'000	21,563	23,155	1,592	Less than Total Annual Operating Revenue of \$46.7m
Net Financial Liabilities Ratio - %	46%	49%	3%	Between 0 - 100%
Debt to Total Income Ratio - %	34%	37%	3%	No LGA target Audit Committee recommendation 0-50%
Asset Sustainability Ratio - %	93%	93%	0%	Greater than 90% but less than 110%

Credit Foncier Facility – Cashflow

19. As stated in the 2018/19 Annual Business Plan and Budget, adopted by Council on 26 June 2018, the forecast borrowing as at 30 June 2019 is expected to be \$15.8m, \$0.8m more than the current available CAD and loan facility of \$15m.
20. Council's rates are due in four quarterly installments per year. The payments to suppliers and employees however are made consistently throughout the year. The additional loan capacity will ensure that Council has funds available to meet any shortfalls in cash flow throughout the year and provide capacity to respond to unanticipated cash requirements. Shortfalls in cash can be experienced particularly towards the end of the financial year when all the rate revenue, user charges and sundry income sources have been fully utilised.
21. As a result, the Administration seeks an additional loan facility of \$2m for a period of 15 years which will secure a low interest rate of 4.5 per cent as well as provide flexibility for Council's cash flow peaks and troughs.
22. The LGFA has provided the following indicative rates and the Administration has opted for a 15-year term, in line with the previous loan terms approved by Council. The 15-year term also forms the basis of the financial modelling undertaken in the adopted 2018/19 Annual Business Plan and Budget.

23. The LGFA has provided a very competitive 4.5 per cent fixed interest rate for the 15-year period and it would seem prudent to borrow now and avail the favourable low rate.

Loan	Interest Rate
5 Years	3.75%
10 Years	4.40%
15 Years	4.50%

24. Council's current CAD balance as at end of 15 August 2018 is \$8.1m and if this additional credit foncier loan facility were to be approved, the CAD balance would reduce to \$6.1m therefore making \$3.9m available for use by Council to meet its operating and capital requirements.
25. This additional \$2m loan facility does not have any adverse impact on Council's Key Financial Indicators.

Interest Costs

26. These additional loan facilities would increase interest costs borne by Council as follows. However, it should be noted that in the absence of a Credit Foncier Loan, the interest costs would still be incurred by Council regardless, through the CAD facility. The benefit of securing a Credit Foncier loan is that the interest rate is fixed over the long term.

Type of Loan	Limit / Principal	Rate	Loan Term	Interest Costs over loan term	Average interest costs per year
Cash Advance Debenture facility	\$10m Limit	3.60% Variable	N/A	Variable as dependent on balance	Variable as dependent on balance
Credit Foncier Loan	\$2m	4.20% Fixed	15 yrs	\$716k	\$43k
Credit Foncier Loan	\$3m	4.80% Fixed	15 yrs	\$1.24m	\$83k
Credit Foncier Loan – LED	\$1.6m	3.75% Fixed	5 yrs	\$170k	\$34k
Credit Foncier Loan	\$2m	4.50% Fixed	15 yrs	\$772k	\$51k
TOTAL	\$18.6m			\$2.9m (exc CAD)	\$211k (exc CAD)

27. On 20 August 2018, the Audit Committee considered this report on additional loan facilities and resolved (A4123) :
1. *That the Report be received.*
 2. *That the Audit Committee considers and recommends that Council obtain an additional credit foncier loan facility of \$1.6m specifically for the Council supported Public Lighting LED Transition Project for a period of five years with the Local Government Finance Authority of South Australia.*
 3. *That the Audit Committee considers and recommends that Council obtain an additional credit foncier loan facility of \$2m for a period of 15 years with the Local Government Finance Authority of South Australia.*

Conclusion

28. In August 2018, Council endorsed a report relating to the Public Lighting LED Transition Project, requiring the Administration to source and secure a five-year loan through the Local Government Finance Authority of South Australia to finance the supported upgrades.
29. It is recommended that Council approve two additional loan facilities, being for \$1.6m pertaining to the LED project for a period of five years, and \$2m, as an additional loan capacity, for 15 years, with the Local Government Finance Authority of South Australia.

STANDARD DEBENTURE LOAN FACILITIES

MAIN CHARACTERISTICS	CASH ADVANCE	CONVERTIBLE CASH ADVANCE	NORMAL CREDIT FONCIER	SPLIT TERM CREDIT FONCIER	INTEREST ONLY	FLOATING RATE	LOW START
<p>TERM</p> <p>INTEREST</p> <ul style="list-style-type: none"> calculated rate payable (in arrears) <p>PRINCIPAL</p> <ul style="list-style-type: none"> drawdown amount repayment 	<ul style="list-style-type: none"> 1 - 15 years daily floating last days of March, June, Sept, Dec and at maturity full or partial principal fluctuates ie. subject to 24HR notice principal can be drawn/repaid and drawn again up to the available limit until maturity date. 	<ul style="list-style-type: none"> 1 - 15 years daily floating or fixed last days of March, June, Sept, Dec and at maturity full or partial principal fluctuates ie subject to 24HR notice principal can be drawn/repaid and drawn again up to the available limit until maturity date. for fixed rate & term principal rolled over or repaid at maturity of fixed rate term. 	<ul style="list-style-type: none"> 1 - 15 years semi-annual quarterly monthly fixed for term on instalment dates - generally half-yearly full apportioned over term of loan. no provision for early repayment partially or fully except as specially documented. 	<ul style="list-style-type: none"> 1 - 15 years longer terms negotiable on a case by case basis semi-annual quarterly monthly interest rate fixed for 1 - 15 years of term eg. 5 years fixed interest for a loan structured over 15 years on instalment dates - generally half-yearly. full apportioned over term of loan with a balloon payment at end of interest period. no provision for early repayment partially or fully except as specially documented. 	<ul style="list-style-type: none"> 1 - 15 years semi-annual quarterly monthly fixed for term generally half-yearly full at maturity no provision for early repayment partially or fully except as specially documented. 	<ul style="list-style-type: none"> 1 - 15 years daily fixed for three or six months terms at a margin over Bank Bill Rate. on rollover dates and at maturity date. full 7 days notice prior to rollover date can be repaid fully or partially on a rollover date. 	<ul style="list-style-type: none"> 10 years plus semi-annual quarterly fixed for term with portion of early interest costs capitalised. on instalment dates. instalment payments contain an agreed percentage growth factor. full apportioned over term of loan. generally there is no provision for early repayment partially or fully except as specially documented.

NOTE: IN ANY CONSENT GIVEN BY LGFA PERMITTING THE EARLY REPAYMENT OF DEBENTURE LOANS THE AUTHORITY WILL CALCULATE PREPAYMENT BASED UPON CURRENT MARKET INTEREST RATE CONDITIONS AT TIME OF PREPAYMENT.

Item No: 14.9
To: Council
Date: 11 September 2018
Author: Magnus Heinrich – Group Manager, City Development and Safety
General Manager and Division: Martin Cooper – General Manager, Corporate and Development
Subject: EXPIATION FEE FOR NEW BY-LAWS (OPERATIONAL)
Attachments: Nil
Prev. Resolution: C11796, 28/8/18

Officer's Recommendation

1. That the Report be received.
2. That, in accordance with Section 246(5) of the *Local Government Act 1999*, Council fix the expiation fee for all alleged offences against Council's:
 - 2.1 Permits and Penalties By-law 2018;
 - 2.2 Moveable Signs By-law 2018;
 - 2.3 Local Government Land By-law 2018;
 - 2.4 Roads By-law 2018;
 - 2.5 Dogs By-law 2018;
 - 2.6 Waste Management By-law 2018; and
 - 2.7 Lodging Houses By-law 2018

(as published in the Government Gazette on 6 September 2018) at \$187.50.

Purpose

1. The purpose of this Report is to set an expiation fee for the Council's By-laws which were adopted by Council at the meeting held 28 August 2018.

Strategic Plan

2. The following Strategic Plan provision is relevant:

"Delivery of good governance in all Council business"

Communications/Consultation

3. The following communication / consultation has been undertaken:
 - 3.1. Internal discussion with key stakeholders.

Statutory

4. The following legislation is relevant in this instance:

Local Government Act 1999

Policy

5. The following Council Policy is relevant in this instance:

Enforcement Policy

Risk Assessment

6. There are no risks associated with the recommendation.

CEO Performance Indicators

7. The CEO's Performance Indicators had not been finalised for the 2018-19 financial year at the time of writing this report.

Finance

8. There are no financial implications for the City of Burnside in relation to the recommendation.

Discussion*Background*

9. At its meeting of 28 August 2018, the Council resolved to adopt seven new By-laws, as revised versions of the current By-laws, following an extensive consultation process as part of the mandated review.
10. The new By-laws will come into operation four months from 6 September, being 6 January 2019.
11. As the By-laws will be new, the Council must set an expiation fee specifically for the new By-laws.
12. Pursuant to Section 246(5) of the *Local Government Act 1999* (the Act), a Council may set an expiation fee, no greater than 25 per cent of the maximum penalty for a breach.
13. Section 246(3)(g) of the Act prescribes the maximum penalty as \$750, so the maximum expiation fee is \$187.50.
14. It is recommended that the expiation fee be set at the maximum amount, being \$187.50.

Conclusion

15. Council is required to set an expiation fee for the new By-laws that will come into operation on 6 January 2019. It is recommended that the expiation fee be set at the maximum allowable amount, being \$187.50.