

# Council Meeting – Minutes

Tuesday 28 September 2021 | 7.00 pm

Council Chamber, Civic Centre

401 Greenhill Road, Tusmore

**Members Present:** Mayor Anne Monceaux  
Councillors Carbone, Cornish, Davey, Davis, Daws, Henschke, Huebl, Hughes and Jones

**Staff Present:** Chris Cowley, Chief Executive Officer  
Martin Cooper, Director, Corporate and Development  
Barry Cant, Director, Environment and Place

## 1. Opening

Her Worship the Mayor declared the meeting open at 7.00 pm.

## 2. Acknowledgement of Traditional Owners

With the opening of the meeting Her Worship the Mayor stated:

*We acknowledge this land that we meet on today is the traditional land of the Kaurna People and that we respect their spiritual relationship with their country.*

*We also acknowledge the Kaurna people as the custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the Kaurna people today.*

*We pay respect to the cultural authority of Aboriginal people visiting or attending from other areas of South Australia and Australia.*

## 3. Memorial Silence

Her Worship the Mayor stated:

*On behalf of the City of Burnside I gratefully acknowledge and pay respect to those who gave their lives for this country and its people, and a moment of silence followed.*

## 4. Opening Statement

Her Worship the Mayor read the Opening Statement:

*We seek understanding and guidance in our debate, as we make decisions that will impact on the lives of all those who reside, study, work in and visit the City of Burnside. Grant us wisdom as we serve our community.*

**5. Announcements**

Her Worship the Mayor made announcements to the chamber regarding Emergency Procedures, Live Streaming, Use of Microphones and Queuing System, Mobile Phones and Public Gallery.

**6. Apologies and Leave of Absence**

- 6.1 Apologies – Councillors Lemon, Piggott and Turnbull
- 6.2 Absent - Nil
- 6.3 Leave of Absence - Nil

**7. Declaration of Interest Reminder**

Members were reminded to declare their interest before each item.

**8. Confirmation of Minutes**

**Motion**

**C240921/12945**

**Moved Councillor Hughes, Seconded Councillor Cornish**

**That the minutes of the Ordinary Council Meeting held on 14 September 2021 be taken as read and confirmed.**

**CARRIED**

**9. Adjourned Business - Nil**

**10. Public Presentations**

- 10.1 Public Question Time - Nil
- 10.2 Presentations – Nil
- 10.3 Deputations - Nil
- 10.4 Petitions – Nil

**11. Reports**

*In accordance with Chapter 3, Clause 3.1.5 of the Code of Practice – Procedures at Meetings, the Presiding Member requested Council Members to indicate any items that they wish to ask questions or debate. The matters listed below were dealt with as straight forward items before consideration of the other matters listed on the agenda.*

**11.4 Volunteer Policy and Code of Conduct for Volunteers (Report No: 247-21)**

**Motion**

**C240921/12946**

**Moved Councillor Hughes, Seconded Councillor Huebl**

**That Council adopt the revised Volunteer Policy and Code of Conduct for Volunteers.**

**CARRIED**

**11.5 Library Service Policy (Report No: 248-21)**

**Motion**

**C240921/12947**

**Moved Councillor Cornish, Seconded Councillor Huebl**

**That Council adopt the revised Library Service Policy.**

**CARRIED**

**11.6 Burnside Retirement Services Inc – Appointment of Board Members (Report No: 250-21)**

**Motion**

**C240921/12948**

**Moved Councillor Cornish, Seconded Councillor Davis**

**That Council:**

- 1. Adopt the recommendation from the Burnside Retirement Services Incorporated (BRSI) working Group to appoint Levi Mitchell, Mel Ottoway, and Elena Muller as Independent Board Members of Burnside Retirement Services Incorporated.**
- 2. Appoint these Independent Members for two years commencing at the close of the BRSI Annual General Meeting (scheduled for 26 November 2021) until the close of the 2023 Annual General Meeting.**

**CARRIED**

**11.7 Eastern Health Authority Charter (Report No: 246-21)**

**Motion**

**C240921/12949**

**Moved Councillor Davey, Seconded Councillor Hughes**

**That Council:**

- 1. Supports the Eastern Health Authority Charter amendment to alter the formula for cost contributions to the Eastern Health Authority,**

noting that for the 2020/2021 Financial Year, the additional cost to the City of Burnside would be \$6,857.

2. Delegates to the Chief Executive Officer the decision under Clause 1.7 of the Eastern Health Authority Charter concerning the potential for the Eastern Health Authority to undertake immunisation services for the City of Unley and the Adelaide Hills Council.

**CARRIED**

**11.10 Minutes – Eastern Health Authority (Report No: 249-21)**

**Motion**

**C240921/12950**

**Moved Councillor Cornish, Seconded Councillor Huebl**

**That Council receive and note the Minutes of the Meeting of the Board of Management of Eastern Health Authority (EHA) held 8 September 2021.**

**CARRIED**

**11.11 Mayor’s Activity Report – 9 September to 22 September 2021 (Report No: 244-21)**

**Motion**

**C240921/12951**

**Moved Councillor Daws, Seconded Councillor Davey**

**That Council receive and note the Mayor’s Activity Report - 9 September 2021 to 22 September 2021.**

**CARRIED**

*In accordance with Chapter 3, Clause 3.1.5 of the Code of Practice – Procedures at Meetings, the matters listed below were withdrawn and considered separately.*

**11.1 Bluestone Kerbing Policy (Report No: 238-21)**

**Motion**

**C240921/12952**

**Moved Councillor Davey, Seconded Councillor Hughes**

**That Council adopt the revised Bluestone Kerbing Policy with the addition at 3.1 to include “approximately 14.2 km at September 2021”.**

**CARRIED**

**11.2 Dulwich Community Centre (Report No: 239-21)**

**Motion**

**C240921/12953**

**Moved Councillor Henschke, Seconded Councillor Cornish**

**That Council:**

- 1. Approve the renovation of the Dulwich Community Centre, in line with the proposed concept design, in the 2022/23 draft budget for community consultation.**
- 2. Approve an additional \$75,000 operating budget to facilitate detailed designs for the Dulwich Community Centre in the 2021/22 financial year.**

**Proposed Amendment**

**Moved Councillor Davis**

**That Council:**

- 1. Approve the renovation of the Dulwich Community Centre, in line with the proposed concept plans, in the 2022/23 draft budget for community consultation**
- 2. Request the administration prepare a report to support the 2022/23 budget community consultation, detailing:**
  - a. occupancy rates across all Councils community venues,**
  - b. strategies to increase occupancy rates across all Council community venues**
  - c. specific interactions between the proposed renovated Dulwich Community Centre and all other Council community venues**
  - d. target occupancy rates for all facilities**
- 3. Include funding to facilitate the detailed designs for the Dulwich Community Centre in the 2022/23 draft budget for community consultation.**

**Her Worship the Mayor ruled that the Proposed Amendment was not a minor change to the motion and would not be accepted as an amendment.**

Debate on the substantive motion continued.

**Councillor Hughes left the chamber at 7.54 pm.**

**Councillor Hughes rejoined the chamber at 7.56 pm.**

**CARRIED**

**11.3 Land Management Agreements Compliance (Report No: 241-21)**

**Motion**

**Moved Councillor Daws, Seconded Councillor Davis**

**That Council:**

- 1. Note the options for managing Land Management Agreements (LMAs); and**
- 2. Support Option 2 of a random (up to 10%) audit, including those involving tree preservation, w with a report back to Council on its results at the December 2021 Council Meeting.**

**Variation**

With the agreement of the mover Councillor Daws and the seconder Councillor Davis the request from the Chief Executive Officer vary the motion to include in part 2 of the motion “with a budget of up to \$10,000 for legal fees”.

**Motion as Varied**

**That Council:**

- 1. Note the options for managing Land Management Agreements (LMAs); and**
- 2. Support Option 2 of a random (up to 10%) audit, including those involving tree preservation, with a budget of up to \$10,000 for legal fees with a report back to Council on its results at the December 2021 Council Meeting.**

**Variation**

Councillor Davey with the agreement of the mover Councillor Daws and the seconder Councillor Davis to vary the motion with a further change to point 2 to include “up to 10% of total LMA’s”.

**Motion as Varied**

**C240921/12954**

**That Council:**

- 1. Note the options for managing Land Management Agreements (LMAs); and**
- 2. Support Option 2 of a random (up to 10% of total LMA’s) audit, including those involving tree preservation, with a budget of up to \$10,000 for legal fees with a report back to Council on its results at the December 2021 Council Meeting.**

**CARRIED**

**11.8 Finance End of Month Report – August 2021 (Report No: 245-21)**

**Motion**

**C240921/12955**

**Moved Councillor Davey, Seconded Councillor Daws**

**That Council receive and note the August 2021 Financial Report.**

**CARRIED**

**11.9 Burnside War Memorial Hospital Constitution Amendment (Report No: 242-21)**

**Motion**

**Moved Councillor Hughes, Seconded Councillor Daws**

- 1. That council retain the current constitution requirement of two medical practitioners on the Board.**
- 2. That council approve an update to the Constitution such that there is provision to allow the board to operate for up to a 6 month period with one medical practitioner if they are required to replace an expected resignation or other situation where they are left with only one medical practitioner.**

**LOST**

**Motion**

**C240921/12956**

**Moved Councillor Davis, Seconded Councillor Henschke**

**That Council approve the proposed amendments to the Burnside War Memorial Hospital Constitution outlined in Attachment A to report number 242-21.**

**Variation**

Councillor Davey requested a variation to the motion with the change to the Burnside War Memorial Hospital Constitution being incorporated in full in the motion.

The mover Councillor Davis and the seconder Councillor Henschke did not agree to the variation.

Debate resumed on the substantive motion.

**CARRIED**

Councillor Davey called a division, and the previous decision was set aside.

Those voting for: Councillors Henschke, Cornish, Davis, Carbone and Huebl

Those voting against: Councillors Hughes, Davey, Daws and Jones

**Her Worship the Mayor declared the Motion**

**CARRIED**

**11.12 Chief Executive Officer Report – August 2021 (Report No: 243-21)**

**Motion**

**C240921/12957**

**Moved Councillor Davey, Seconded Councillor Cornish**

- 1. That Council receive and note the Chief Executive Officer Report - August 2021.**
- 2. The Reconciliation Action Plan be circulated to Elected Members prior to submission to Reconciliation Australia.**

**CARRIED**

**Refreshment Break**

**C240921/12958**

**Moved Councillor Cornish, Seconded Councillor Hughes**

**That the Council Meeting be adjourned for a 10-minute refreshment break commencing at 9.03 pm.**

The Council meeting resumed at 9.15 pm when a quorum was present.

**12. Questions on Notice - Nil**

**13. Motions on Notice - Nil**

**14. Urgent or Other Business - Nil**

**15. Confidential Items**

**Leave of the Meeting – Change of Agenda Order**

Her Worship the Mayor sought leave of the meeting to change the order of the Agenda Items to consider Item 15.2 – High Risk Culvert Works (Report No: 251-21) at this time.

Leave of the Meeting was granted.

**15.2 High Risk Culvert Works (Report No: 251-21)**

**Motion - Exclusion of the Public – Section 90(3)(b & k) Order C240921/12959**

**Moved Councillor Cornish, Seconded Councillor Carbone**



1. Pursuant to section 90(2) of the Local Government Act 1999, the Council orders that all members of the public, except the Elected Members, Chief Executive Officer, Director Corporate and Development, Director Environment and Place, Group Manager Environment and Infrastructure, Governance Officer and Executive Assistant to the CEO, Mayor and Councillors of the City of Burnside, be excluded from attendance at the meeting for Item 15. 'High Risk Culvert Works' (Report No: 251-21).
2. The Council is satisfied that:
  - b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is proposing to conduct business and would prejudice the commercial position of the Council due to the ongoing procurement processes for the works associated with the high-risk culverts.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.
  - k. pursuant to section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item are tenders for the supply of goods, the provision of services, and the carrying out of works related to the high risk culvert works.
3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

**CARRIED**

**Motion**

**C240921/12960**

Moved Councillor Cornish, Seconded Councillor Henschke

**Confidential Resolution**

**CARRIED**

**Motion - Retain in Confidence - Section 91(7) & (9) Order**

**C240921/12961**

**Moved Councillor Cornish, Seconded Councillor Davis**

**That Council:**

- 1. Having considered Agenda Item 15.2 High Risk Culvert Works (Report No: 251-21) in confidence under section 90(2) and (3)(b & k) of the Local Government Act 1999, the Council, pursuant to section 91(7) and (9) of that Act orders that:**
  - 1.1 the Report 251-21 – High Risk Culvert Works, Attachment A - Culvert and Open Drain Assessment Condition Assessment City of Burnside, Tonkin Engineering (2021), Attachment B - Assessment of Immediately Required Works and Minutes remain confidential on the basis that the disclosure of this information would involve the disclosure of information that could reasonably be expected to confer a commercial advantage on a person with whom the Council is proposing to conduct business and would prejudice the commercial position of the Council due to the ongoing procurement processes for the works associated with the high risk culverts and tenders for the supply of goods, the provision of services, and the carrying out of works related to the high risk culvert works pursuant to section 90(3)(b & k) of the Local Government Act.**
  - 1.2 the Report 251-21 – High Risk Culvert Works, Attachment A - Culvert and Open Drain Assessment Condition Assessment City of Burnside, Tonkin Engineering (2021), Attachment B - Assessment of Immediately Required Works and Minutes will not be available for public inspection for the period of 2 years at which time this order will be reviewed by the Council; and**
  - 1.3 This order is subject to section 91(8)(b) of the Act which provides that details of the identity of the successful tenderer must be released once Council has made a selection.**
  - 1.4 this confidentiality order will be reviewed by the Council at least once in every 12-month period.**
  - 1.5 The Chief Executive Officer is delegated authority that the order be revoked in whole or part.**
- 2. 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 Chief Executive Officer determines pursuant to delegated authority that the order be revoked;**

**any discussions of the Council on the matter and any recording of those discussions are also confidential.**

**CARRIED**

**15.1 East Waste Update (Report No: 234-21)**

**Motion - Exclusion of the Public – Section 90(3)(b, d, i, & k) Order**

**C240921/12962**

**Moved Councillor Hughes, Seconded Councillor Davis**

**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, Director Corporate and Development, Director Environment and Place, Governance Officer and Executive Support Officer, be excluded from attendance at the meeting for Item 15.1 'East Waste Update' (Report No: 234-21).**

**The Council is satisfied that:**

- b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business and would prejudice the commercial position of the Council due to commercial arrangements with East Waste being included in the report.**

**In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.**

- d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, and to confer a commercial advantage on a third party as it would disclose the commercial arrangement which the Council has agreed to.**

**In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced**

against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

- i. pursuant to section 90(3)(i) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information relating to actual litigation, or litigation that the Council or Council committee believes on reasonable grounds will take place involving the Council due to notice of a Supreme Court Claim.
  - k. pursuant to section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item are tenders for the the provision of services by East Waste.
3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

**CARRIED**

**Motion**

**C240921/12963**

**Moved Councillor Jones, Seconded Councillor Daws**

**Confidential Resolution**

**CARRIED**

**Motion - Retain in Confidence - Section 91(7) & (9) Order**

**C240921/12964**

**Moved Councillor Cornish, Seconded Councillor Hughes**

**That Council:**

- 1. Having considered Agenda Item 15.1 – East Waste Update (Report No: 234-21) in confidence under section 90(2) and (3)(b, d, i & k) of the Local Government Act 1999, the Council, pursuant to section 91(7) and (9) of that Act orders that:
  - 1.1 Report No: 234-21 – East Waste Update, Attachment A to Report No: 234-21 - Agreement for Extension and variation of Contract, Attachment B to Report No: 234-21 - Contract Savings Calculations and Minutes relating to Report No: 234-21 remain confidential on the basis that the disclosure of this information would involve the disclosure of

**information pursuant to section 90(3)(b, d, i & k) of the Local Government Act 1999 as the information relates to:**

- 1.1.1 the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business and would prejudice the commercial position of the Council due to commercial arrangements with East Waste being included in the report.**
- 1.1.2 commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, and to confer a commercial advantage on a third party as it would disclose the commercial arrangement which the Council has agreed to**
- 1.1.2 actual litigation, or litigation that the Council or Council committee believes on reasonable grounds will take place involving the Council due to notice of a Supreme Court Claim.**
- 1.1.3 tenders for the provision of services by East Waste**
- 1.2 the Report No: 234-21 – East Waste Update, Attachment A to Report No: 234-21 - Agreement for Extension and variation of Contract, Attachment B to Report No: 234-21 - Contract Savings Calculations and Minutes relating to Report No: 234-21 will not be available for public inspection for the period of 5 years at which time this order will be reviewed by the Council; and**
- 1.3 This order is subject to section 91(8)(b) of the Act which provides that details of the identity of the successful tenderer must be released once Council has made a selection.**
- 1.4 this confidentiality order will be reviewed by the Council at least once in every 12-month period.**
- 1.5 The Chief Executive Officer is delegated authority that the order be revoked in whole or part.**
- 2. 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 Chief Executive Officer determines pursuant to delegated authority that the order be revoked;**

**any discussions of the Council on the matter and any recording of those discussions are also confidential.**

**CARRIED**

## **16. Closure**

The meeting closed at 10:22 pm.

Minutes confirmed this                      day of    2021

Mayor / Presiding Member