

## Council Meeting

Notice is hereby given pursuant to the provisions of the Local Government Act, 1999, that the next Meeting of Unley City Council will be held in the Council Chambers, 181 Unley Road Unley on

***Monday 27 March 2017 - 7.00pm***

for the purpose of considering the items included on the Agenda.



Peter Tsokas  
**Chief Executive Officer**

## **OUR VISION 2033**

Our City is recognised for its vibrant community spirit, quality lifestyle choices, diversity, business strength and innovative leadership.

### **COUNCIL IS COMMITTED TO**

- Ethical, open honest behaviours
- Efficient and effective practices
- Building partnerships
- Fostering an empowered, productive culture – “A Culture of Delivery”
- Encouraging innovation – “A Willingness to Experiment and Learn”

## **ACKNOWLEDGEMENT**

We would like to acknowledge this land that we meet on today is the traditional lands for the Kurna people and that we respect their spiritual relationship with their country.

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

## **PRAYER AND SERVICE ACKNOWLEDGEMENT**

Almighty God, we humbly beseech Thee to bestow Thy blessing upon this Council. Direct and prosper our deliberations for the advancement of Thy Kingdom and true welfare of the people of this city.

Members will stand in silence in memory of those who have made the Supreme Sacrifice in the service of their country, at sea, on land and in the air.

Lest We Forget.

## **WELCOME**

## **ORDER OF BUSINESS**

### **ITEM NO**

### **PAGE NO**

#### **APOLOGIES**

790	<b>CONFLICT OF INTEREST</b>	1
-----	-----------------------------	---

791	<b>MINUTES</b>	2
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Minutes of the Council meeting held on Monday 27  
February and Tuesday 28 February 2017

**Minutes issued separately**

#### **DEFERRED / ADJOURNED ITEMS**

#### **PETITION**

**PRESENTATION**

792      **DEPUTATIONS**      3 – 5

Mr Nicholas Bullock re proposed land swap at 42  
Ferguson Avenue Myrtle Bank

Mr Peter Mason re traffic management plan for Mills  
Street Clarence Park and surrounding areas

Mr Kym Cherry re design of Porter and Young Streets  
Bike Route Project

Mr Jonathan Haslam and Mrs Roslyn Islip FOCUS re  
DPA Amendment

Mr Peter Simmonds representing SOS Unley Village  
Green Incorporated re DPA Amendment

Mr Frank Simone re Development Plan Amendment

Mr Aled Jones and Mr Christopher Short re Unley  
Central DPA

Mr John Crowther and Mrs Anne Crowther re Unley  
Development Plan Amendment

Ms Julie Short re Committee recommendations

Ms Julie Jahmes-Freak re Committee  
recommendations

Mr Tim Bromley and Mr Roland Gregory – Adelaide  
Potters Club re DPA for Village Green

Ms Laura Pieraccini re importance of heritage to Unley  
lifestyle

Mr Vass Elovaris re DPA Amendment report

Mr Patrick Ho



**ITEM NO****PAGE NO****MOTIONS OF WHICH NOTICE HAS BEEN GIVEN**

793	Councillor Boisvert re Mills Street Right Hand Turn	6 – 7
794	Councillor Salaman re Safety Audit Porter / Young Street Intersection Parkside	8 – 9
795	Councillor Salaman re Conflict of Interest Provisions	10 – 12

**REPORTS OF COMMITTEES**

To receive and adopt or otherwise the reports and recommendations of the undermentioned Committees

796	<b>Confidential - Minutes of the Strategic Property Group Committee</b>	13 – 14
-----	---	---------

Minutes of the Strategic Property Group Committee held 22 February 2017

**Minutes Attached****Confidential Item – move to end of meeting**

797	<b>Minutes of the City Strategy and Development Committee</b>	15
-----	---	----

Minutes of the City Strategy and Development Committee held 14 March 2017

**Minutes Attached**

798	<b>Confidential - Minutes of the Strategic Property Group Committee</b>	16 – 17
-----	---	---------

Minutes of the Strategic Property Group Committee held 15 March 2017

**Minutes Attached****Confidential Item – move to end of meeting****REPORTS OF OFFICERS**

799	42 Ferguson Avenue and Ferguson Avenue Reserve, Myrtle Bank, Proposed Land Swam and Road Closure	18 – 27
-----	--	---------

<b><u>ITEM NO</u></b>		<b><u>PAGE NO</u></b>
800	Right of Review – Ombudsman SA	28 – 35
801	Level of Service for Property, Road, Footpath and Bridge Asset Classes	36 – 45
802	Buying Local Campaign – Community Engagement	46 – 52
803	Road Closure of King William Road on Sundays	53 – 60
804	Election Candidate Information	61 – 64
805	Promoting Greater Awareness of Council Services	65 – 68
806	Council Action Records	69
	<b>QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN</b>	
807	Councillor Boisvert re Potential Sale of Air Rights at the Civic Centre	70 – 71
808	Councillor Schnell re Fires in High Rise Buildings	72 – 73
809	<b>QUESTIONS WITHOUT NOTICE</b>	74
810	<b>CORRESPONDENCE</b>	75
	<ul style="list-style-type: none"> <li>• Minister for Volunteers</li> <li>• The Hon John Rau</li> <li>• Australian Local Government Association</li> <li>• Hon Steph Key MP</li> <li>• Volunteering SA&amp;NT</li> <li>• Heart Foundation</li> </ul>	
811	<b>MAYOR’S REPORT</b>	76
812	<b>DEPUTY MAYOR’S REPORT</b>	77
813	<b>REPORT OF MEMBERS</b>	78
	<ul style="list-style-type: none"> <li>• Councillor Rabbitt</li> <li>• Councillor Schnell</li> </ul>	

**ITEM NO****PAGE NO**

- Councillor Hewitson

**MOTIONS WITHOUT NOTICE**

814	<b>UNRESOLVED ITEMS</b>	79
-----	-------------------------	----

Item 584 – Council 12 September 2016 – Millswood Sporting Complex Detailed Design

**CONFIDENTIAL ITEMS**

815	Confidentiality Motion for Items 796 and 798 Minutes of the Strategic Property Group Committee held 22 February 2017 and 15 March 2017	80
796	Minutes of the Strategic Property Group Committee held 22 February 2017	
798	Minutes of the Strategic Property Group Committee held 15 March 2017	
816	Confidentiality Motion to Remain in Confidence Item 796 and 798 Minutes of the Strategic Property Group Committee held 22 February 2017 and 15 March 2017	81
817	Confidentiality Motion for Item 818 Discretionary Rate Rebates	82
818	Discretionary Rate Rebate Applications	83 – 91

## SUGGESTED ITEMS FOR NEXT AGENDA

April – Parking Permits Policy – Business and Residential	
Finance Performance Report for quarter ended March 2017	
2017-18 Draft ABP & Budget for Consultation	
Unresolved Items	Item 584 Council 12 September 2016 – Millswood Sporting Complex Detailed Design
Joint Use Agreements with the Minister for Education for Parkside, Highgate and Black Forest Primary Schools	Renewal of existing Joint Use Agreements with the Minister for Education, for the community use of these three schools in the City of Unley.
Unley Gourmet Gala 2017 Debrief & 2018 Event Endorsement	Information on the outcome of the UGG 2017 event and proposal for 2018
Community Sector Reforms Update	Information report on the current status of Age Care reform
Notice of Motion from Councillor Palmer re Lane Cove Style Deliberative Polling	Item 631/16 – Administration prepare a report advising Council on how the Lane Cove style Deliberative Polling could assist Council in achieving the goals of our Community Plan.  The report be presented to Council no later than the March Council meeting of 2017.
Notice of Motion Cr Schnell re Goodwood Road / Victoria Street Junction	Report on results of consultation and any traffic operational learnings during the trial.
Notice of Motion Cr Schnell re Leah Street Forestville	Report back to Council on the monitoring of traffic, especially heavy vehicles, volume of traffic and request to DPTI to reduce volume of traffic during road closures on South Road
Public Lighting – Business Case	
IWS	
Animal Management Plan 2016-2020	Summary of the preceding year's actions and outcomes
Deliberative Polling	
Notice of Motion from Councillor Palmer re Goodwood Oval	Item 713/16 – Presentation of concept plans for Goodwood Oval to Council prior to public consultation
Hyde Park Tavern Alfresco Dining	
Goodwood Oval grandstands	

## NEXT MEETING

Monday 24 April 2017 at 7.00pm.

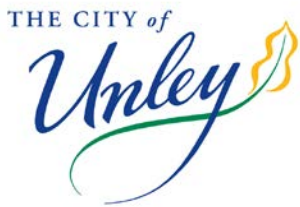
## **CONFLICT OF INTEREST**

<b>TITLE:</b>	CONFLICT OF INTEREST
<b>ITEM NUMBER:</b>	790
<b>DATE OF MEETING:</b>	27 MARCH 2017
<b>ATTACHMENT:</b>	1. CONFLICT OF INTEREST DISCLOSURE FORM

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Members to advise if they have any material, actual or perceived conflict of interest in any Items in this Agenda.

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## CONFLICT OF INTEREST DISCLOSURE FORM

I, \_\_\_\_\_ have received a  
*[insert name]*

copy of the agenda for the (Ordinary / Special) **Council / Committee / Board**  
*[delete that which is not applicable]*

meeting to be held on \_\_\_\_\_  
*[insert date]*

I consider that I have a **\*material** conflict of interest pursuant to section 73 / **\*actual** or **\*perceived** conflict of interest pursuant to section 74 *[\*delete that which is not applicable]* of the *Local Government Act 1999* ("the LG Act") in relation to the following agenda item:

\_\_\_\_\_  
*[insert details]*

which is to be discussed by the **\*Council / \*Committee / \*Board** at that meeting.  
*[delete that which is not applicable]*

The nature of my **material** conflict of interest is as follows *[ensure sufficient detail is recorded, including the reasons why you (or a person prescribed in section 73(1) of the LG Act) stands to obtain a benefit or suffer a loss depending on the outcome of the consideration of the matter at the meeting of the Council in relation to the agenda item described above].*

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**OR**

The nature of my **actual** conflict of interest is as follows *[ensure sufficient detail is recorded, including the reasons why the conflict between your interests and the public interest might lead to a decision that is contrary to the public interest in relation to the agenda item described above].*

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I intend to deal with my **actual** conflict of interest in the follow transparent and accountable way *[ensure sufficient detail is recorded as to the manner in which you intend to deal with the actual conflict of interest in a transparent and accountable way]*

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**OR**

The nature of my **perceived** conflict of interest is as follows *[ensure sufficient detail is recorded, including the reasons why you consider that an impartial fair-minded person could reasonably consider that you have a perceived conflict of interest in the matter]*

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I intend to deal with the **perceived** conflict of interest in the following transparent and accountable way *[ensure sufficient detail is recorded as to the manner in which you intend to deal with the perceived conflict of interest in a transparent and accountable way]*

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*Signature*

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*Date*

## **CONFIRMATION OF MINUTES**

**TITLE:** CONFIRMATION OF MINUTES FOR COUNCIL  
MEETING HELD ON 27 FEBRUARY 2017

**ITEM NUMBER:** 791

**DATE OF MEETING:** 27 MARCH 2017

**ATTACHMENTS:** NIL

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## **RECOMMENDATION**

MOVED:  
SECONDED:

That:

1. The minutes of the Council Meeting held on Monday 27 February 2017 and Tuesday 28 February 2017, as printed and circulated, be taken as read and signed as a correct record.
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## DEPUTATION

**TITLE:** DEPUTATIONS  
**ITEM NUMBER:** 792  
**DATE OF MEETING:** 27 MARCH 2017  
**ATTACHMENTS:** NIL

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**Mr Nicholas Bullock – Fullarton**

Re proposed land swap at 42 Ferguson Avenue Myrtle Bank with a piece of Council road. Would like to outline the benefits to the residents of the City of Unley of the land swap.

**Mr Peter Mason – Clarence Park**

Re Traffic Management Plan for Mills Street Clarence Park and surrounding areas.

**Mr Kym Cherry – Parkside**

Re Design of the Porter and Young Streets Bike Route Project

**Mr Jonathan Haslam and Mrs Roslyn Islip**

Re recommendations re DPA Amendment to Council from City Strategy and Development Policy Committee of 14 March 2017.

It is the view of FOCUS that:-

1. The Summary of Consultation and Proposed Amendments Report [SCPA] on the Unley Central DPA fails to give adequate weight and consideration to the volume, content and tenor of the vast majority of public submissions.
2. The process and timelines under which the CSDP Committee was called upon to take decisions on the massive SCPA Report made it impossible for proper consideration to be given. The limited questioning and discussion by Committee members at the 14 March meeting gave rise to concerns over the possible shallowness of the examination of the proposals. The same comments re timelines apply to Council's intention to take final decisions on the DPA at the 27 March meeting.
3. The maximum height limits should be 5 storeys West of Unley Road and 3 storeys to the East
4. Great concern exists over Council's conflicted role in taking decisions on the DPA in respect of the "Civic Centre" component of the DPA ... i.e the area bounded by Unley/Oxford/Rugby/Edmund ....it seems Council is at once the landowner, [apart from the St Augustine's land], potential developer [with possibility of financial benefit or gain] and policy setting body via the DPA process.
5. The DPA should clearly specify that land uses in the "Village Green" rectangle defined in point 4 above should be limited to civic purposes. There is no place for residential development. Further, steps should be taken now to have this whole area declared as community land, and there needs to be active engagement with the community over future design and

land use options for this whole area. There has been virtually none up to the present.

6. Council should not take any decisions on adopting or forwarding the DPA at the meeting on 27 March 2017. There is huge community concern, over a great many issues, that require further discussion and consultation.

**Mr Peter Simmonds – Unley – representing SOS Unley Village Green Incorporated**

Re The City of Unley Central Precinct Development Plan Amendment

The Unley Central Precinct is described on the City of Unley website as being “*the heart of our City*”. It promotes the City wanting “*to create a smart city that is highly accessible and inclusive. A city that promotes innovation, health and wellbeing and provides opportunities for connection, inclusion and participation.*”

This deputation from SOS Unley Village Green Incorporated wishes to highlight to Councillors that regrettably:

- The process undertaken on 14 March 2017 by the City Strategy and Development Policy Committee (CSDP) charged with assisting the full Council of the City of Unley in its decision-making processes, has misinterpreted the analysis of public consultation data in the *Summary of Consultation & Proposed Amendments (SCPA) Report* in their deliberations, thus providing possible false or unintended recommendations to elected Councillors.
- The opportunity to gain compromise through community consultation was denied by the CSDP at their 14 March 2017 meeting, thus causing further distress and dismay of Unley residents as to the stated values of the City of Unley above, i.e. not connected, included or that the participation is neither wanted for valued
- A compromise Option developed by members of the SOS Unley Village Green Inc challenging the CSDP has not been considered and investigated
- Council Officers, elected and administration, have not taken into account the mood in the State Government has changed in recent weeks and reported comments by the Planning Minister Mr Rau. Communities across Adelaide are voicing concerns about the unintended outcomes of proposed developments and changes to planning areas and the State Government is listening
- No documentation has been disclosed stating a definitive date that the Minister insists the City of Unley Central Precinct Development Plan Amendment be delivered to DPTI for review and gazetting.

We call upon the elected Councillors to take the time to review in depth the approximately 400 pages of material tabled at the 14 March 2017 meeting of the CSDP. That elected Councillors question it, reflect on it, engage with the residents in further discussions and consultations over the next 3 to 4 months before making any formal decisions and subsequent submissions to the Department of Planning, Transport and Infrastructure (DPTI) and the State Government Planning Minister.

**Mr Frank Simone – Unley**

Re Development Plan Amendment

A perspective about appropriate development in Unley with regard to the DPA.

**Mr Aled Jones and Mr Christopher Short – Unley**

Re Unley Central DPA

Whilst we both support the Unley SOS view that more consultation is needed we both could compromise on the west side of Unley Road and accept a 3 storeys option on Oxford Terrace if the Council opts to leave the cottages and the green in tact, 5 fronting Unley Road is also acceptable ... keeping 5 storey across all of Unley Road is okay for the time being.

The current 5 storey flexible option being put forward by a compromised committee is completely unsupportable, all that will do is cause a lot of angst all the way to the next council election.

**Mr John Crowther and Mrs Anne Crowther – Unley**

Re Unley Development Plan Amendment

**Ms Julie Short – Unley**

A resident's perspective about appropriate development in Unley with respect to the DPA Amendment Report.

**Ms Julie Jahmes-Freak – Unley**

Re the DPA Committee recommendations to the Unley Council as they impact on Robert and I as residents in closest proximity to Eastern Community Area and Village Green.

**Mr Tim Bromley and Mr Roland Gregory – Adelaide Potters Club**

DPA for Village Green and surrounding cottages and the effect of plans on a longstanding Unley institution.

**Ms Laura Pieraccini – Parkside**

The importance of heritage to Unley lifestyle.

**Mr Vass Elovaris – Unley**

Re DPA Amendment Report

**Mr Patrick Ho – Unley**

Re DPA Amendment

**Mr Phil Brunning for Dukes Group**

Re DPA Amendment

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## **ITEM 793**

### **MOTION OF WHICH NOTICE HAS BEEN GIVEN**

#### **NOTICE OF MOTION FROM COUNCILLOR BOISVERT RE MILLS STREET RIGHT HAND TURN**

Councillor Boisvert has given notice of intention to move the following motion at the Council meeting to be held on 27 March 2017:

That:

1. Council notes the concerns raised by Mills St residents in their recent petition to Council regarding excess and speeding traffic. Council also notes the potential solution being offered by residents, that being a trial to ban right hand turns into Mills St from East Ave, 7am to 9am, Mon to Fri and from Goodwood Rd, 4pm to 6pm, Mon to Fri.
2. Staff investigate the implications of a trial and, when completed, implement the trial as long as any adverse effects identified can be minimised.
3. Staff report back to Council 12 months after implementation.
4. The results of the study be fed into the 2018/19 LATM for the Clarence Park area.

### **Discussion**

Residents delivered a petition to Council in February 2017 as an earlier motion, late 2016, failed when Council was asked, by way of a deputation and Motion on Notice for Cr Palmer, to address overuse of Mills St by through traffic (traffic that neither originates nor concludes its journey in Unley). We know from collected data in Goodwood, where traffic cuts through between Goodwood Rd and King William Rd, that 80% of the traffic falls into this category.

Mills street is designated as a collector road but is currently serving a function that was not intended, that is carrying through traffic between East Ave and Goodwood Rd. It should be acting to carry local traffic from Clarence Park and Millswood to and from main roads but has become a thoroughfare street to a significant degree. Mills Street residents argue that they support local precinct traffic but not short cut seekers/ 'rat runners' and that not one street should carry the whole load. The residents are looking for support from Council to trial no right turn bans as a cheap and, hopefully, effective solution.

### **OFFICER'S COMMENTS**

Mills Street is a local collector street with daily traffic volumes between 1535 to 2073 vehicles per day and speeds of 41 km/hr (85th%ile Speed) and similar to other Unley streets of the same functionality (e.g. Frederick Street in Unley, Victoria Street in Goodwood and Northgate Street in Unley Park).

One of the key purposes of these types of roads is to channel traffic from the local street network to the arterial network and vice versa. This includes traffic

from the adjacent local areas such as Black forest, Clarence Park, Millswood. However, it is not the purpose of collector roads to act as an alternative to the arterial network.

If endorsed by Council, Administration will investigate the number/frequency of vehicles that are using the street as a 'rat-run' (e.g. commuter traffic) and assess the impact of proposed interventions.

As part of the process Administration will consult with DPTI as the subject local road intersects with DPTI road.

Given the proposal involves turning restrictions; there would be traffic displacement to the adjacent streets. It is recommended that Council engage with local residents of Mills Street and the adjacent area to notify them about the changes prior to installation.

Investigation, installation and on-going monitoring of the trial, are likely to cost in the order of \$5,000- \$10,000. If the trial is endorsed by Council this budget adjustment should occur at Budget Review 3 of current financial year

The mentioned LATM study is also subject to future budget allocation.

## **ITEM 794**

### **MOTION OF WHICH NOTICE HAS BEEN GIVEN**

#### **NOTICE OF MOTION FROM COUNCILLOR SALAMAN RE SAFETY AUDIT PORTER / YOUNG STREET INTERSECTION PARKSIDE**

Councillor Salaman has given notice of intention to move the following motion at the Council meeting to be held on Monday 27 March 2017.

### **Discussion**

Changes to the intersection of Maud and Young Streets included a raised plateau, reversing the priority by installing Stop signs on Young Street, and modifications to on street parking. A copy of the proposed layout is attached. During the public consultation the dangerous nature of the intersection as it is now, and concerns that on completion of the modifications, it may become even more dangerous were raised. Since the approval of the plan last month the potential of making the area potentially more dangerous for pedestrians, cyclists and drivers alike has frequently been raised.

It is essential that Council take every precaution against creating a situation that reduces the safety of the intersection, and the most transparent and effective way to achieve this is to have an independent Detailed Design Stage Road Safety Audit undertaken. It will include physical features of the project which may affect road user and pedestrian safety and to identify potential safety hazards, and may recommend modifications based solely on safety grounds.

Members may remember GTA Consultants were commissioned to carry out a similar audit on the King William Road pedestrian refuge near Arthur Street in mid 2013.

### **MOTION**

That:

The Council notes ongoing concerns about the safety of road users including cyclists at the intersection of Young Street and Porter Street, Parkside, both with the present configuration and with the proposed changes to better accommodate the Rugby – Porter Street bikeway.

1. The detailed design process places a priority focus on the safety of all users of the junction including pedestrians, cyclists and motorists and any necessary changes made to the endorsed concept if and as required.
2. An independent traffic engineering specialist firm undertakes the detailed design.
3. This should include the physical features or signage to eliminate any potential safety hazards of concern to the designers.

At the February Unley Council meeting the motion below was carried:

*"ITEM 769\*\* RUGBY AND PORTER STREETS BIKE ROUTE UPGRADES  
MOVED Councillor Hewitson SECONDED Councillor Lapidge  
That:*

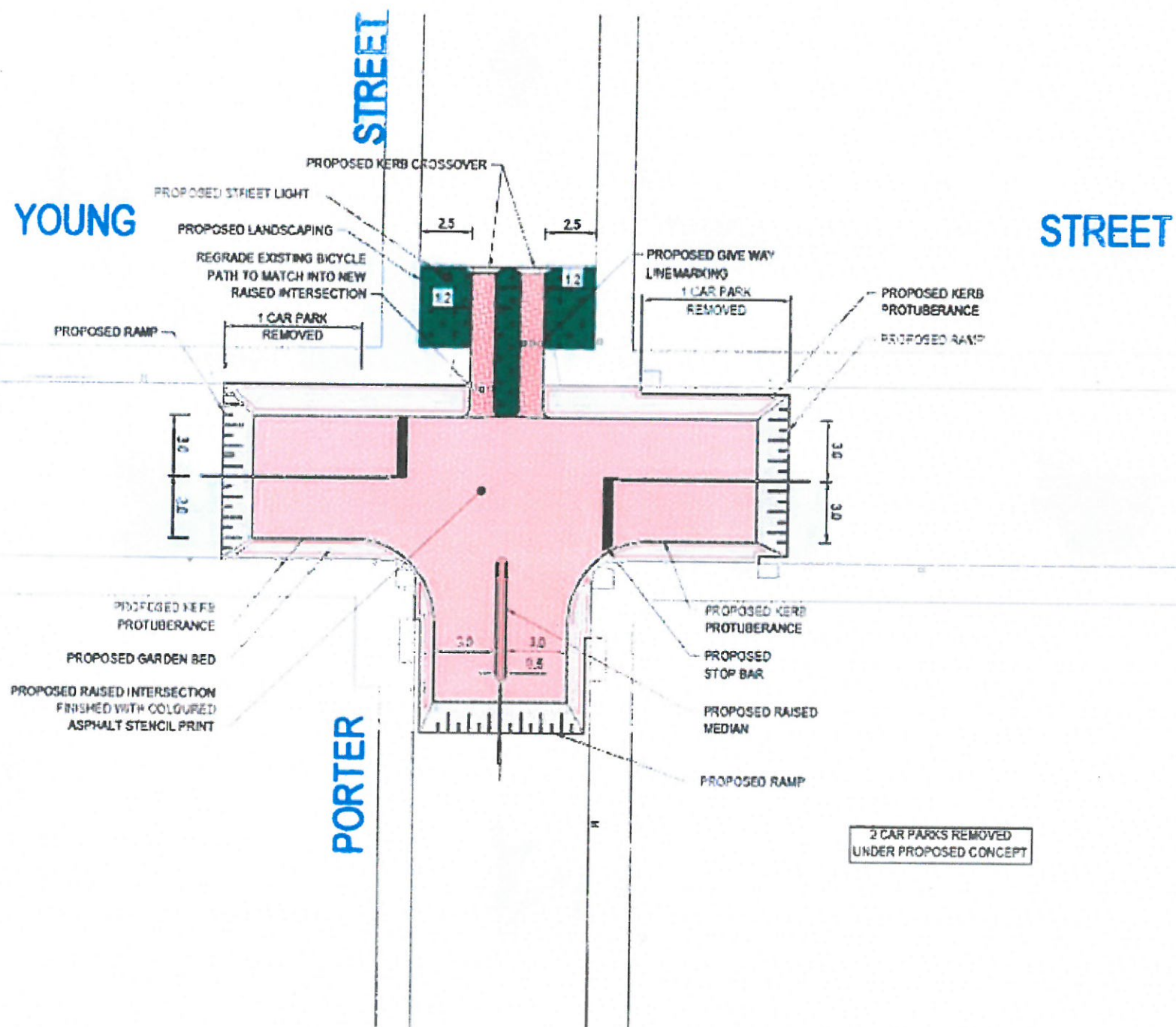
- 1. The report be received.*
- 2. Infrastructure changes as outlined in Attachment 1 be approved for implementation with the amendment that at the Young Street/Porter Street intersection the stop bars are moved into the intersection as far as possible to improve safety.*
- 3. The Mayor and CEO be given authority to enter into a co-funding agreement with DPTI to enable the project works to be undertaken.*
- 4. Consideration be given to undertaking Stage 2 works as part of the 2017/18 budget consideration."*

### **OFFICER'S COMMENTS**

Administration supports the motion.

Traffic designs need to be compliant with relevant Australian Standards and Austroads guidelines, and it is Council's practice to put road safety as priority in all traffic projects.

We will ensure that the design brief places on a focus on the criteria mentioned in the Motion if endorsed by Council.





## **ITEM 795**

### **MOTION OF WHICH NOTICE HAS BEEN GIVEN**

#### NOTICE OF MOTION FROM COUNCILLOR SALAMAN RE CONFLICT OF INTEREST PROVISIONS

Councillor Salaman has given notice of intention to move the following motion at the Council meeting to be held on Monday 27 March 2017:

That:

The Administration write to the Minister requesting that the Conflict of Interest provisions of the Local Government Act 1999, be reviewed to clarify and simplify the requirements. The current legislation is seen by elected members as confusing and to some extent unduly restrictive. In particular,

- Amend the definition of “substantial proportion” of ratepayers, electors or residents of the Council area” to “a substantial proportion of ratepayers, electors or residents of the area, or ward, or some other substantial class of person.”
- Require the administration to provide guidance to councillors of their likely “conflict of interest” in a matter, should the administration be aware of it.

### **COUNCILLOR SALAMAN’S COMMENTS**

I am moving this motion because recent events that have resulted in both Councillors for Unley Ward having material conflicts of interest and being unable to take part in decision making in the Development Plan Amendment currently before Council.

The previous Conflict of Interest legislation was simpler, more easily understood and less restrictive, while still being effective.

The main thrust of this motion is to request that the definition of “a substantial proportion” be amended to be realistic. My proposed wording is that used in the previous Act, and while effective, was realistic. The present definition, which I believe has not been tested in court, fundamentally means a substantial proportion of everyone in the council area vis, 36000 in Unley.

While Conflict of Interest is always going to be an issue for elected members because of self assessment of the situation, the regulations should make the self assessment less confusing.

### **OFFICER’S COMMENTS**

The provisions in relation to a members’ conflict of interest are set out in S73 and S75 of the *Local Government Act 1999* (“the Act”), with S74 and 75A

setting out the actions which must be taken if a member has a conflict of interest. The above provisions apply to meetings of Council, council committees and subsidiaries and apply to all Councillors and any person appointed to a Council Committee or the Board of a Subsidiary.

The new provisions in the Act came into effect 31 March 2016 with the intention to strengthen local councils' public accountability and transparency. In November 2016, new regulations were introduced to clarify several procedural matters which had arisen since proclamation of the Act, largely relating to the operation of council committees and subsidiaries ensuring those bodies can continue to operate as intended.

The reforms were introduced to include measures providing greater clarity about how members can be supported to manage their personal interests during council deliberations, including amendments providing clarity relating to the differences between material and perceived conflicts of interest.

It was believed that the conflict of interest provisions in the old Act were confusing and difficult for council members to navigate and have been subject to differing legal opinions. The old Act contained only one category of conflict of interest ranging from minor through to very serious.

The new Act now recognises that conflicts of interest can take different forms, such as serious conflicts being dealt with seriously and council members with a material interest in a decision being required to leave the room.

Perceived and Actual conflict of interest now enable council members to have the ability to publicly note they have a perceived conflict of interest and explain how they will deal with it.

The changes were introduced following extensive consultation including the release of a discussion paper in 2014 by the State Government and the Local Government Association, including opinions from the Ombudsman, the Independent Commissioner Against Corruption (ICAC), the Crown Solicitor, the Local Government Association and individual councils. In a statement, Mr Brock said he worked "closely with the LGA in developing the legislation before it went to parliament".

Minister Brock has stated that "The amendments focus on members being more transparent in identifying and recording actual and perceived conflicts," he said.

There are prescribed exemptions which apply to matters of ordinary business of a Council of a kind prescribed by regulation, which relieves a member from complying with the process set out in S74 in respect of a material conflict of interest, however it does not extinguish a material conflict of interest in respect to the matter.

The individual member affected is the only person that can decide if she or he has an interest in a particular matter and that member is ultimately accountable under the law for the individual judgment.

Administration is able to bring a matter to a members' attention, however is not able to advise what action should be taken.

## REPORT OF COMMITTEE

**TITLE:** MINUTES OF STRATEGIC PROPERTY  
COMMITTEE –  
22 FEBRUARY 2017

**ITEM NUMBER:** 796

**DATE OF MEETING:** 27 MARCH 2017

**ATTACHMENTS:** 1. MINUTES OF MEETING

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### **EXECUTIVE SUMMARY**

#### Item 7

#### Property Management Policy – Acquisition and Divestment

Committee agreed that the Policy needed to be strengthened and was deferred to the next Strategic Property Committee meeting.

#### Item 8

#### Confidentiality Motion for Item 9 – Property Details

#### Item 9 - **Confidential**

#### Property Details

#### Item 10

#### Confidentiality Motion to Remain in Confidence Item 9 – Property Details

#### Item 11

#### Confidentiality Motion – Strategic Property Committee Minutes

#### Item 12 - **Confidential**

#### Other Business

#### Item 13

#### Confidentiality Motion to Remain in Confidence – Strategic Property Committee Minutes

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## **RECOMMENDATION**

MOVED:

SECONDED:

That:

1. The minutes of the Strategic Property Committee meeting held on Wednesday, 22 February 2017, be received.
2. The recommendations listed under:

Item 7

Property Management Policy – Acquisition and Divestment

Item 8

Confidentiality Motion for Item 9 – Property Details

Item 9 - **Confidential**

Property Details

Item 10

Confidentiality Motion to Remain in Confidence Item 9 – Property Details

Item 11

Confidentiality Motion – Strategic Property Committee Minutes

Item 12 - **Confidential**

Other Business

Item 13

Confidentiality Motion to Remain in Confidence – Strategic Property Committee Minutes

inclusive, be adopted.

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**STRATEGIC PROPERTY COMMITTEE**

**Minutes of Meeting**

**Held Wednesday, 22 February 2017 commencing at 6.00pm  
Civic Centre Bar Area  
181 Unley Road Unley**

**MEMBERS PRESENT:**

Councillor John Koumi – Presiding Member  
Mayor Lachlan Clyne – ex Officio arr. at 6.44pm  
Councillor Peter Hughes  
Councillor Don Palmer

**OFFICERS PRESENT:**

Mr P Tsokas, Chief Executive Officer  
Mr J Devine, General Manager City Development  
Mr A Johns, Manager Property Assets  
Ms K Jaensch, Executive Assistant City Development

**ACKNOWLEDGMENT:**

The Presiding Member welcomed Members to the meeting and opened the meeting with the Acknowledgement.

**APOLOGIES:**

Councillor Smolucha

**OBSERVERS:**

Councillor Rabbitt

## **CONFIRMATION OF MINUTES:**

MOVED: Councillor Palmer

SECONDED: Councillor Hughes

That the minutes of the meeting of the Strategic Property Committee on Tuesday, 13 December 2017 as printed and circulated, be taken as read and signed as a correct record.

**CARRIED UNANIMOUSLY**

## **DEPUTATIONS**

Nil.

## **PRESENTATION:**

Nil.

## **ITEM 6**

### **CONFLICT OF INTEREST**

Nil.

## **\*ITEM 7**

### **PROPERTY MANAGEMENT POLICY – ACQUISITION AND DIVESTMENT**

#### **SUSPENSION OF MEETING PROCEDURES**

The Presiding Member advised that he thought the meeting would benefit from a short term suspension of meeting procedures, up to 30 minutes, to allow for open discussion.

This was agreed with a two thirds majority.

Meeting procedures were suspended at 6.07pm.

Meeting procedures resumed at 6.21pm.

MOVED: Councillor Palmer

SECONDED: Councillor Hughes

The Committee recommends to Council that:

1. The report be received.
2. The Strategic Property Committee work with Administration to review the draft of the Property Management Policy (new policy, Attachment 1 to Item 7/17) and present at the next Strategic Property Committee meeting.

**CARRIED UNANIMOUSLY**

## **ITEM 8**

### **CONFIDENTIALITY MOTION FOR ITEM 9 – PROPERTY DETAILS**

MOVED: Councillor Hughes

SECONDED: Councillor Palmer

That:

1. Pursuant to Section 90(2) and (3)(b) of the Local Government Act 1999 the Council orders the public be excluded, with the exception of the following:

Councillor Rabbitt

Mr P Tsokas, Chief Executive Officer

Mr J Devine, General Manager City Development

Mr A Johns, Manager Property Assets

Ms K Jaensch, Executive Assistant City Development

on the basis that it will receive and consider the report on Strategic Property Purchase and that the Committee is satisfied that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:

- (b) information the disclosure of which
  - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
  - (ii) would, on balance, be contrary to the public interest.

It would be in the best interest of the Committee to consider this matter in confidence.

**CARRIED UNANIMOUSLY**

The doors were closed at 6.23pm.



# CONFIDENTIAL

\*ITEM 9  
PROPERTY DETAILS

**ITEM 10**  
**CONFIDENTIALITY MOTION TO REMAIN IN CONFIDENCE ITEM 9 – PROPERTY**  
**DETAILS**

MOVED: Councillor Palmer  
SECONDED: Councillor Hughes

That:

1. The report be received.
2. Pursuant to Section 91(7) and (3)(b) of the Local Government Act:

2.1 The

- ☒ Minutes
- ☒ Report
- ☒ Attachments

remain confidential on the basis that the information contained in this report could confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, and

- 2.2 the minutes, report and attachments will be kept confidential until the item is revoked by the Chief Executive Officer.

**CARRIED UNANIMOUSLY**

The doors were opened at 7.11pm.

## **ITEM 11**

### **CONFIDENTIALITY MOTION – STRATEGIC PROPERTY COMMITTEE MINUTES**

MOVED: Councillor Palmer

SECONDED: Councillor Hughes

That:

1. Pursuant to Section 90(2) and (3)(b) of the Local Government Act 1999 the Council orders the public be excluded, with the exception of the following:

Councillor Rabbitt

Mr P Tsokas, Chief Executive Officer

Mr J Devine, General Manager City Development

Mr A Johns, Manager Property Assets

Ms K Jaensch, Executive Assistant City Development

on the basis that it will receive and consider the report on Strategic Property Purchase and that the Council is satisfied that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:

(b) information the disclosure of which

- (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
- (ii) would, on balance, be contrary to the public interest.

It would be in the best interest of the Council to consider this matter in confidence.

### **CARRIED UNANIMOUSLY**

The doors were closed at 7.15pm

# CONFIDENTIAL

ITEM 12  
OTHER BUSINESS:

**ITEM 13**  
**CONFIDENTIALITY MOTION TO REMAIN IN CONFIDENCE – STRATEGIC**  
**PROPERTY COMMITTEE MINUTES**

MOVED: Councillor Hughes  
SECONDED: Councillor Palmer

That:

1. The report be received.
2. Pursuant to Section 91(7) and (3)(b) of the Local Government Act:

2.1 The

- ☒ Minutes
- ☒ Report
- ☒ Attachments

remain confidential on the basis that the information contained in this report could confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, and

- 2.2 the minutes, report and attachments will be kept confidential until the item is revoked by the Chief Executive Officer.

**CARRIED UNANIMOUSLY**

The doors to the Council Chambers were opened at 7.27pm.

**CLOSE OF MEETING:**

The Presiding Member closed the meeting at 7.31pm.

.....  
PRESIDING MEMBER

.....

## REPORT OF COMMITTEE

**TITLE:** MINUTES OF CITY STRATEGY AND  
DEVELOPMENT POLICY COMMITTEE

**ITEM NUMBER:** 797

**DATE OF MEETING:** 27 MARCH 2017

**ATTACHMENTS:** 1. MINUTES OF MEETING

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### **EXECUTIVE SUMMARY**

An email had been received from Mr Grant Pember an independent member of the Committee, advising of his resignation from the committee.

Councillor Hewitson was unable to remain for discussion on the Items due to a material conflict of interest.

The recommendations under Item 5 were split so they could be voted on as separate recommendations. The Committee discussed the recommendations as detailed in the report and three of the recommendations were carried unanimously and the other two were carried, with divisions recorded.

### **RECOMMENDATION**

MOVED:

SECONDED:

That:

1. The minutes of the City Strategy and Development Policy Committee meeting held on Tuesday 14 March 2017, be received.
2. The recommendations listed under:

Item 5

Unley Central Precinct Development Plan Amendment - Post Consultation Review and Amendments

Item 6

Residential Growth and Character Development Plan Amendment – Ministerial Approval Alternations

inclusive, be adopted.

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# **CITY STRATEGY AND DEVELOPMENT POLICY COMMITTEE**

## **Minutes of Meeting held**

**14 March 2017 – 7.01pm**

**Council Chambers  
181 Unley Road Unley**

### **MEMBERS:**

Michael Rabbitt – Presiding Member  
Councillor Jennie Boisvert  
Councillor Don Palmer  
Councillor Michael Hewitson  
Mr Doug Wallace  
Mr Lloyd Roberts

### **OFFICER'S PRESENT:**

Mr Peter Tsokas, Chief Executive Officer  
Mr David Brown, Principal Policy Planner  
Ms Carol Gowland, Executive Assistant to CEO & Mayor

### **ELECTED MEMBERS PRESENT AS OBSERVERS:**

Councillors    Schnell  
                     Hughes  
                     Smolucha  
                     Sangster  
                     Lapidge

### **ACKNOWLEDGEMENT:**

The Presiding Member opened the meeting with the Kaurna acknowledgement.

## **WELCOME:**

The Presiding Member welcomed the Committee Members, members of the gallery and Elected Member observers to the March meeting of the Committee.

## **APOLOGIES:**

Mayor Lachlan Clyne  
Mr Grant Pember – who has tendered his resignation from the Committee effective immediately due to personal reasons.

## **CONFIRMATION OF MINUTES**

MOVED Councillor Palmer  
SECONDED Councillor Boisvert

That the Minutes of the City Strategy and Development Policy Committee held on Tuesday 6 December 2016, as printed and circulated be taken as read and signed as a correct record.

**CARRIED UNANIMOUSLY**

## **ITEM 4**

### **CONFLICT OF INTEREST**

Councillor Michael Hewitson advised that he had a material conflict of interest in Item 5 as his son owns a property within the area and he would be unable to stay for that Item. He had applied for an exemption from the Minister but this had been refused. As one of his daughters owns a property in Avenue Road, and given he had been refused an exemption on Item 5, he decided he would not be able to stay for Item 6, as he would have a material conflict of interest in that Item also. Councillor Hewitson apologised to the Committee and left the meeting at 7.05pm.

Councillor Jennie Boisvert declared she has a perceived conflict of interest in Item 5 because she has provided information and arguments for and against the topic of debate. She stated her intent to remain in the meeting and will keep an open mind and participate in a transparent manner.

## **ITEM 5 \*\***

### **UNLEY CENTRAL PRECINCT DEVELOPMENT PLAN AMENDMENT – POST CONSULTATION REVIEW AND AMENDMENTS**

The Presiding Member advised the Committee that he thought the meeting would benefit for a short term suspension of meeting procedures, for up to 30 minutes, which would enable members to ask questions of the Administration. He also advised that the Elected Member observers would be invited to ask any questions at an appropriate time.



This was agreed with a two thirds majority.

Meeting procedures were suspended at 7.06pm.

Meeting procedures resumed at 7.21pm.

MOVED Lloyd Roberts

SECONDED Councillor Palmer

That it be recommended to Council that:

1. The report be received.
2. The *Unley Central Precinct DPA Summary of Consultation and Proposed Amendments Report* be received.

**CARRIED UNANIMOUSLY**

MOVED Councillor Boisvert

SECONDED Lloyd Roberts

3. The amendments to the *Unley Central Precinct DPA* outlined in the *Unley Central Precinct DPA Summary of Consultation and Amendments Report* be endorsed, incorporating the following options:
  - a) The maximum building heights to the west of Unley Road (excluding the area adjacent to Thomas Street and portion on east side of Unley Road north of Oxford Terrace which are to be limited to 18.5 metres (5 storey)) being,
    - (i) Option 1 Key Issue 2.2.6 for 32.5 metres (9 storey);

**CARRIED UNANIMOUSLY**

MOVED Doug Wallace

SECONDED Councillor Palmer

- 3 b) The amendments to the *Unley Central Precinct DPA* outlined in the *Unley Central Precinct DPA Summary of Consultation and Amendments Report* be endorsed, incorporating the following options:

The road and open-space setbacks policy be revised in accord with

- (ii) Option 2 Key Issue 2.3.6 replacement flexible envelope principles;

**CARRIED UNANIMOUSLY**

MOVED Doug Wallace  
SECONDED Councillor Rabbitt

- 3 c) The amendments to the *Unley Central Precinct DPA* outlined in the *Unley Central Precinct DPA Summary of Consultation and Amendments Report* be endorsed, incorporating the following options:

The development policy approach and maximum building heights in the Community Area to the east of Unley Road frontage being,

- (i) Option 1 Key Issue 2.4.6 for Flexible policy approach up to 18.5 metres (5 Storey);

**CARRIED**

### **DIVISION**

A division was called and the previous decision set aside.

Those voting in the affirmative:

Mr Doug Wallace, Councillor Michael Rabbitt and Councillor Don Palmer.

Those voting in the negative:

Councillor Jennie Boisvert and Mr Lloyd Roberts

The MOTION was declared **CARRIED**

MOVED Councillor Palmer  
SECONDED Doug Wallace

4. The *Unley Central Precinct DPA and Summary of Consultation and Proposed Amendments Report*, correspondingly amended in accord with above, be forwarded to the Minister for Planning with a request for final approval.

Councillor Boisvert MOVED as an AMENDMENT

4. The *Unley Central Precinct DPA and Summary of Consultation and Proposed Amendments Report*, be re-consulted with the community and brought back to Council prior to forwarding to the Minister for Planning with a request for final approval.

The MOTION LAPSED for want of a seconder.

### **SUSPENSION**

After several requests from the Presiding Member to some members of the gallery to please stop interjecting, the meeting was suspended at 7.48pm.

The Committee meeting resumed at 7.55pm

Debate on Item 5 number 4 resumed.

The original MOTION was put and **CARRIED**

### **DIVISION**

A Division was called and the previous decision was set aside.

Those voting in the affirmative:

Mr Doug Wallace, Mr Lloyd Roberts, Councillor Don Palmer and Councillor Michael Rabbitt

Those voting in the negative:

Councillor Jennie Boisvert

The MOTION was declared **CARRIED**

**ITEM 6**  
**RESIDENTIAL GROWTH AND CHARACTER DEVELOPMENT PLAN**  
**AMENDMENT – MINISTERIAL APPROVAL ALTERATIONS**

MOVED Councillor Boisvert  
SECONDED Councillor Palmer

That it be recommended to Council that:

1. The report and letter from the Minister of Planning be received.
2. The letter to the Minister of Planning contained in Attachment 3 be endorsed and forward as Councils response to intended alterations as part of the approval of the Residential Growth and Character Development Plan Amendment.

**CARRIED UNANIMOUSLY**

**CLOSURE**

The Presiding Member closed the meeting at 8.01pm.

.....  
**PRESIDING MEMBER**

.....

## REPORT OF COMMITTEE

**TITLE:** MINUTES OF STRATEGIC PROPERTY  
COMMITTEE –  
15 MARCH 2017

**ITEM NUMBER:** 798

**DATE OF MEETING:** 27 MARCH 2017

**ATTACHMENTS:** 1. MINUTES OF MEETING

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## RECOMMENDATION

MOVED:  
SECONDED:

That:

1. The minutes of the Strategic Property Committee meeting held on Wednesday, 22 February 2017, be received.
2. The recommendations listed under:

Item 15

Confidentiality Motion for Item 16 – Property Details - Unley

Item 16 - **Confidential**

Property Details - Unley

Item 17

Confidentiality Motion to Remain in Confidence Item 16 – Property Details

Item 18

Confidentiality Motion – Item 19

Item 19 - **Confidential**

Possible Strategic Land Acquisition – Multiple Properties

Item 20

Confidentiality Motion to Remain in Confidence Item 19

Item 21

Confidentiality Motion for Item 22

Item 22 – **Confidential**

Motion Without Notice – Potential Properties for Further Investigation

Item 23  
Confidentiality Motion for Item 22

inclusive, be adopted.

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## DECISION REPORT

**REPORT TITLE:** 42 FERGUSON AVENUE & FERGUSON AVENUE RESERVE, MYRTLE BANK – PROPOSED LAND SWAP AND ROAD CLOSURE

**ITEM NUMBER:** 799

**DATE OF MEETING:** 27 MARCH 2017

**AUTHOR:** ALANA FABER

**JOB TITLE:** PROPERTY SERVICES CO-ORDINATOR

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### **EXECUTIVE SUMMARY**

The purpose of this report is to seek Council's endorsement, to undertake a land swap with the current owners of 42 Ferguson Avenue, Myrtle Bank (Home Support Services).

A letter was received by the Council Administration regarding a proposed land swap from Home Support Services in November 2016. The proposed land swap includes the two properties located at 42 Ferguson Avenue, Myrtle Bank and the adjoining Council owned Ferguson Avenue Reserve.

This proposal will include the closing of a piece of public road located on the corner of Glenside and Ferguson Avenue, Myrtle Bank, in accordance with the *Roads Opening and Closing Act 1991*. This piece of public road actually forms part of Ferguson Avenue Reserve.

These issues need to be considered when assessing this proposed land swap and are further explored in the main body of this report, they include the following:

- Ramifications from the management of a significant tree that is located on the piece of land proposed to be swapped to Council.
- The effect this proposal has on the existing usable open space known as Ferguson Avenue Reserve.

There are a number of tangible benefits from this proposed land swap to both parties once these issues have been addressed, and it is therefore recommended that this land swap be approved.

## **RECOMMENDATION**

MOVED:

SECONDED:

That:

1. The report be received.
  2. Land Swap to be approved, with the condition that Home Support Services pay for the short term maintenance on the significant tree located on the piece of land to be swapped to Council, in accordance with the recommendations in the Tree Report provided by Tree Environs dated 16 December 2016. This short term maintenance is to be completed before the finalisation of the land swap.
  3. Upon the finalisation of the land swap at the Lands Title Office, Home Support Services pay to Council for the longer term maintenance of this significant tree the amount of \$10,000.
  4. In accordance with the process under the *Roads Opening and Closing Act 1991* the relevant sections of the public roads known as Ferguson and Glenside Avenue, Myrtle Bank (currently known as Ferguson Avenue Reserve) be closed as a public road, with the cost for this process to be paid for by Home Support Services.
  5. Subject to the response to the Community Consultation process to close portions of Ferguson and Glenside Avenue, Myrtle Bank (currently known as Ferguson Avenue Reserve), the CEO and Mayor be approved to sign and Seal where necessary, any documents to complete the roads closing process.
  6. The section of the public road proposed to be closed is to be excluded from the classification of community land.
  7. Notice of this resolution, be published in the Government Gazette in accordance with S193 (6) (a) of the Local Government Act.
  8. At the conclusion of the Road Closure process the land swap is to be completed at the Lands Title Office through a land division process – all costs for this process to be paid for by Home Support Services.
-



## **1. RELEVANT CORE STRATEGIES/POLICIES**

- Organisational Excellence – 5.3 Good Governance and Legislative Framework
- Roads Opening and Closing Act 1991
- Organisational Excellence – 4.3 – Greening our Path to a Sustainable City – Functional Open-Green Space throughout the City of Unley
- Organisational Excellence – 2.4 – Living our Path to a Vibrant City – Healthy and Active Community
- Unley Active Ageing Strategy 2016

## **2. DISCUSSION**

Communication between Council Administration and Home Support Services commenced in July 2016, in regards to the process for a possible land swap that involved the properties at 42 Ferguson Avenue and the Council owned Ferguson Avenue Reserve, Myrtle Bank.

A letter was subsequently received by the Council Administration in November 2016 from MasterPlan (representing their clients Home Support Service - the owners of 42 Ferguson Avenue, Myrtle Bank) with a formal request for this proposed land swap.

The reason for this proposal is that Home Support Services wish to construct two homes on their land at 42 Ferguson Avenue specifically built for aged accommodation.

*Attachment 1*

The pieces of land that are proposed to be swapped include portions of 42 Ferguson Avenue, Myrtle Bank and the adjoining Council owned reserve known as Ferguson Avenue Reserve. The pieces to be swapped are 96.9m<sup>2</sup> each on the north east / west adjoining boundaries of these two properties.

Currently 42 Ferguson Avenue is an “L” Shaped allotment wrapped around Ferguson Avenue Reserve on its eastern and northern side boundary.

*Attachment 2*

Investigations by the Council Administration once this proposal was received, led to the discovery that a portion of the land that is known as Ferguson Avenue Reserve on the corner of Glenside and Ferguson Avenue, Myrtle Bank is in fact public road. Therefore if this land swap is approved, the first requirement of the land swap process is for a road closure process to be undertaken in accordance with the *Roads Opening and Closing Act 1991*.

This proposal has been discussed with various administration groups within Council including the City Development Department's Open Space Planning, Asset Management and Sustainable Landscapes teams in conjunction with Planning Services from the Development Services Department. The following

comments have been provided by these departments in regards to this proposal:

Significant Tree – River Red Gum (Eucalyptus camaldulensis)

This significant tree is growing in the north eastern corner of 42 Ferguson Avenue, Myrtle Bank and will be on Council's land if the land swap is approved.

*Attachment 3*

A Tree Report was undertaken by Tree Environs, 16 December 2016 on this significant tree with the following quotes being from this report:

- "The tree is growing in its preferred riparian environment and, is well suited to the local and climatic conditions. It is in good health and is actively growing. It does not have a short life expectancy. The tree has a well formed crown with a very limited history of branch failure and pruning work."
- "At present, the risk associated with this tree is considered to be low."

Various recommendations for short term management of the significant tree that should occur within the next 12 months are within this report and have a cost of approximately \$3,500.

Regular assessments on this tree (to be undertaken every 3-5 years), was also recommended in this report at an approximate cost of \$2,500 per assessment. However, this figure was only for a tree assessment, it did not include costs that may be associated with this tree if maintenance was required to be undertaken.

Discussions with Administration's Technical Officer, Arboriculture regarding this significant tree in conjunction with the tree report were positive. However, whilst the Tree Report on this tree stated that it is a healthy specimen at present, because it is a living being there is no guarantee how long this tree will survive.

Open Space:

Currently Ferguson Avenue Reserve has a street frontage to Ferguson Avenue and is an odd shape, with the current boundary to the reserve and 42 Ferguson Avenue wrapping around each other to form part of the Linear Trail.

*Attachments 4 & 5*

The two pieces of land proposed to be swapped will have both allotments (Ferguson Avenue Reserve and 42 Ferguson Avenue) squared off, making better use of this open space.

Discussions with Administration's Sport and Recreation Planner in regards to Ferguson Avenue Reserve, provided the following comments regarding this proposal (if the land swap is approved):

- The existing portion of the linear trail at the rear of 42 Ferguson Avenue along the Glen Osmond creek will have the corridor along this section of the path made wider allowing easier access for its users.
- The bridge that currently crosses Glen Osmond creek and which is located at the rear of 42 Ferguson Avenue (near the significant tree) will also be made wider and give easier access for users when coming off the Ferguson Avenue side of the bridge.
- The current configuration of the Ferguson Avenue reserve that wraps around 42 Ferguson Avenue has pieces of the reserve virtually unusable due to the closeness to the road and its restrictive rear boundary.
- The proposed land swap will open up the area of Ferguson Avenue reserve on the eastern side rear boundary of 42 Ferguson Avenue enabling it to be better utilised.

#### Planning:

The proposal for the subdivision of 2 allotments on this site (provided the land swap is approved) shows good planning merit and would increase the development potential of this land, with this proposal being subject to full development assessment.

The subdivision at 42 Ferguson Avenue into 2 allotments in its current shape, would be more difficult to achieve.

#### Valuation Report:

A valuation report undertaken by Liquid Pacific property Valuers in January 2017 states that as the two pieces of land to be swapped are of equal size (96.9m<sup>2</sup>), they each have an equal value of \$76,551.

#### Fencing

If the land swap is approved, it is proposed that the fence between the two properties be adjusted to reflect the new boundary, once the land swap has been formally completed and in accordance with the regulations under the *Fences Act 1975*.

### **3. ANALYSIS OF OPTIONS**

Option 1 – Land Swap to be approved, with the condition that Home Support Services pay for the short term maintenance on the significant tree located on the piece of land to be swapped to Council, in accordance with the recommendations in the Tree Report provided by Tree Environs dated 16 December 2016. This short term maintenance is to be completed before the finalisation of the land swap.

Upon the finalisation of the land swap at the Lands Title Office, Home Support Services pay to Council for the longer term maintenance of this significant tree the amount of \$10,000.

In accordance with the process under the *Roads Opening and Closing Act 1991* the relevant sections of the public roads known as Ferguson and Glenside Avenue, Myrtle Bank (currently known as Ferguson Avenue Reserve) be closed as a public road, with the cost for this process to be paid for by Home Support Services.

Subject to the response to the Community Consultation process to close portions of Ferguson and Glenside Avenue, Myrtle Bank (currently known as Ferguson Avenue Reserve), the CEO and Mayor be approved to sign and Seal where necessary, any documents to complete the roads closing process. The section of the public road proposed to be closed is to be excluded from the classification of community land.

Notice of this resolution, be published in the Government Gazette in accordance with S193 (6) (a) of the Local Government Act.

At the conclusion of the Road Closure process the land swap is to be completed at the Lands Title Office through a land division process – all costs for this process to be paid for by Home Support Services.

This proposed land swap will be beneficial to Council by improving the existing Ferguson Avenue Reserve. Such improvements will include the widening of the linear trail corridor and providing better utilisation of the open space for the public's enjoyment.

However, Council will inherit a significant tree. Whilst a significant tree is a beautiful living being, the cost of maintenance and upkeep (not being guaranteed) does make the tree a liability to Council – with costs upwards of \$13,500 to maintain this tree being the responsibility of Council in the short to medium term.

If this land swap goes ahead, Home Support Services will have the opportunity to explore the subdivision and subsequent construction of two aged care homes on the land at 42 Ferguson Avenue. As well as moving the responsibility of the significant tree to Council to maintain in the future. Both of these issues will be of significant monetary benefit to Home Support Services.

So in support of this land swap, it is not unreasonable that Council require Home Support Services to pay for the short term maintenance on the significant tree as outlined in the tree report from Tree Environs dated 16 December 2016.

In addition, a contribution be given to Council by Home Support Services, towards the longer term assessment and possible maintenance of the significant tree being in the amount of \$10,000.

The road closure process in accordance with the *Roads Opening and Closing Act 1991* over the piece of public road is a necessary requirement of this land swap (if it is approved), and as the main beneficiary of this land swap will be Home Support Services, again it is not unreasonable that Council require they pay for the full cost of this process.

Option 2 – No Land Swap, however in accordance with the process under the Roads Opening and Closing Act 1991 the portion of public roads on Ferguson and Glenside Avenue, Myrtle Bank (currently known as Ferguson Avenue Reserve) be closed as a public road.

Subject to the response to the Community Consultation process to close portions of Ferguson and Glenside Avenue, Myrtle Bank (currently known as Ferguson Avenue Reserve), the CEO and Mayor be approved to sign and Seal where necessary any documents to complete the roads closing process.

Ferguson Avenue Reserve has been a public reserve for many years, this reserve forms a section of open space that is part of the existing Linear Trail along the Glen Osmond Creek, that flows from the Adelaide Hills through the City of Unley and finally joins with the Keswick and Brown Hills Creeks further down.

The City of Unley has minimal open space therefore it is highly unlikely Council will re-open these sections of Ferguson and Glenside Avenue (known as Ferguson Avenue Reserve) to traffic anytime soon.

These pieces of road should therefore be formally closed to reflect this open space in accordance with the *Road Opening and Closing Act 1991*, having the current Certificate of Title amended to reflect the true land used as the Ferguson Avenue Reserve.

In regards to the property at 42 Ferguson Avenue, if the land swap is not approved, it will make it more difficult for Home Support Services to develop the site with aged accommodation due to the shape of the property (however not impossible).

If development does go ahead as part of the development application process, an application could be received by Councils Administration to remove the significant tree on the north eastern boundary of 42 Ferguson Avenue.

It should be noted that based on the Tree Environs report, this tree is a healthy specimen and it would certainly be a great pity if it were to be removed.

Option 3 – Keep the portions of Ferguson and Glenside Avenue, Myrtle Bank (known as Ferguson Avenue Reserve) as a public road

This option does not reflect the true and actual usage of the current public road that has been open space for many years.

It also does not prevent the significant tree from possible removal if a successful development application is processed through Council administration by Home Support Services.

#### **4. RECOMMENDED OPTION**

Option 1 is the recommended option.

#### **5. POLICY IMPLICATIONS**

##### **5.1 *Financial/budget***

- Costs to undertake the road closing process will be approximately \$8,000 to \$10,000 for surveying, conveyancing, community consultation costs and relevant Lands Titles Fees.  
The cost for this process is to be paid for by Home Support Services
- In accordance with the recommendations in the Tree Report by Tree Environs dated 16 December 2016 and in consultation with Administration's Technical Officer, Arboriculture and Sustainable Landscape Specialists, the "short term" maintenance on the significant tree is to occur before the land swap is completed. This work is to be paid for by Home Support Services at an estimated cost of \$3,500.
- To help cover the cost of the longer term maintenance of this tree, it is recommended that Home Support Services pay to Council the amount of \$10,000 to cover this expense at the time the land swap is completed.

##### **5.2 *Legislative/Risk Management***

###### ***Significant Tree***

- The significant tree located on the north eastern boundary of 42 Ferguson Avenue, Myrtle Bank will be on Council's land if the land swap is approved.
- Discussions with Administration's Technical Officer, Arboriculture regarding the tree in conjunction with the tree report provided by Tree Environs included the short and long term maintenance of this tree as well as such topics as what if this tree dies (especially in the short term)?
- If this land swap is approved, the recommended short term maintenance within the tree report needs to be undertaken before it becomes part of the open reserve; this should be done by Home Support Services
- In regards to if the tree possibly dies or not, it should be noted that in the last 6-12 months there has been a significant tree of this nature in the near vicinity die and the cost to remove this tree by Council was approximately \$10,000.
- Therefore if Council is to receive this tree as part of the proposed land swap, Home Support Services should contribute to the longer term maintenance of this tree.

### ***Road Closure***

- If Council are to continue to have portions of Ferguson and Glenside Avenue (known as Ferguson Avenue Reserve) utilised as open space, in accordance with the *Road Opening and Closing Act 1991*, Council needs to undertake the process outlined in this Act to have the subject public roads formally closed. With the existing Certificate of Title for the reserve being amended to reflect the true boundary of the reserve.
- Refer to Attachment 6 to Item .../17 for an overview of the Road Closure Process.

*Attachment 6*

### **5.3 Staffing/Work Plans**

- No additional staff will be required to implement the outcomes of this report.

### **5.4 Environmental/Social/Economic**

- This proposed land swap will be beneficial to Council in that it will improve the open space at the Ferguson Avenue Reserve by doing the following:
  - widening the current corridor of the Linear Park Trail that is at the rear of 42 Ferguson Avenue,
  - widening the point near the bridge across the Glen Osmond Creek on the Ferguson Avenue side of the creek,
  - Making the space on the eastern boundary more user friendly as it is further from the road.
- Whilst Council will inherit another significant tree along with any maintenance costs associated with it, it will allow the public greater access to the tree as it will be within the reserve.

### **5.5 Stakeholder Engagement**

- There has been no “community” consultation undertaken to date regarding this issue. However, to undertake a Road Closing process in accordance with the *Roads Opening and Closing Act 1991* will require community consultation, once the formal decision has been made by Council to close this piece of land as a public road.
- The consultation process will have a period of 28 days in which any objections are to be lodged with Council and the Surveyor General. If any objections are received they will be dealt with in accordance with Sections 14 and 15 in the *Roads Opening and Closing Act 1991*.

## **6. REPORT CONSULTATION**

This report has been created in consultation with the following:

- Council Administration's City Development Department (which included the Manager Strategic Assets, Sustainable Landscape Specialist, Technical Officer - Arboriculture, Sports & Recreation Planner)
- Urban Planner from Administration's Planning Department

## 7. **ATTACHMENTS**

1. Proposal for Land Swap from MasterPlan (on behalf of Home Support Services)
2. Aerial photograph of Ferguson Avenue Reserve and 42 Ferguson Avenue, Myrtle Bank
3. Photograph of significant tree
4. Photographs of Ferguson Avenue Reserve and 42 Ferguson Avenue
5. Current photos of the Linear Trail and bridge
6. Road Closure Process Flowchart

## 8. **REPORT AUTHORISERS**

<b><u>Name</u></b>	<b><u>Title</u></b>
John Devine	General Manager City Development



2 November 2016

Ms. Alana Faber  
Property Services Coordinator  
City of Unley  
P.O. Box 1  
UNLEY SA 5061

Dear Ms. Faber

**Re: 42 (Allotment 343) Ferguson Avenue Myrtle Bank**

We act for Home Support Services.

Home Support Services is a national care organisation now headquartered in Wattle Street Fullarton. Many of its clients and staff already live in the Unley Council area. The group's primary role is to help people stay in their homes, whether by avoiding a hospital stay or avoiding the need to move into a residential care facility.

Our client recently purchased the above residential property with the intention of demolishing the 1950's style dwelling and constructing two dwellings for supported accommodation purposes. The property faces the Myrtle Bank Aged Care complex on the opposite side of Ferguson Avenue.

Redevelopment of 42 Ferguson Avenue for two supported accommodation homes will allow aging members of the community to remain independent for as long as possible. Each dwelling will incorporate smart design and home monitoring technology, with efficient and patient-centred services that allow residents to age in place for much longer than would otherwise be possible.

The property is irregularly shaped, as indicated on the Existing Site Plan **attached**. It has a 30.47 metre frontage to Ferguson Avenue and a 47.30 frontage onto Glen Osmond Creek at the rear.

**SOUTH AUSTRALIA**

33 Carrington Street  
Adelaide, 5000  
P (08) 8193 5600

masterplan.com.au

**NORTHERN TERRITORY**

Unit 33, 16 Charlton Court  
Woolner, 0820  
P (08) 8942 2600

ISO 9001:2008 Certified

**QUEENSLAND**

104/139 Commercial Road  
Teneriffe, 4005  
P (07) 3852 2670

plan@masterplan.com.au

ABN 30 007 755 277  
50122LET01



**View from Ferguson Avenue showing residence and road reserve**

A single storey detached dwelling occupies the site. There are also two regulated trees on the property, one of which is a River Red Gum. The River Red Gum is *significant*.

The eastern most end of the property backs onto Glen Osmond Creek on one side and a grassed area which is part of the Ferguson Avenue road reserve – see Certificate of Title 5612/590 **attached**.



**View from Glenside Avenue towards Glen Osmond Creek and residence**

Prior to lodging a development application over the site, our client wishes to realign the boundaries by:

- acquiring a portion of the Ferguson Avenue Road Reserve to the site; and
- gifting an equivalent sized portion of Allotment 343 to the adjacent road reserve.

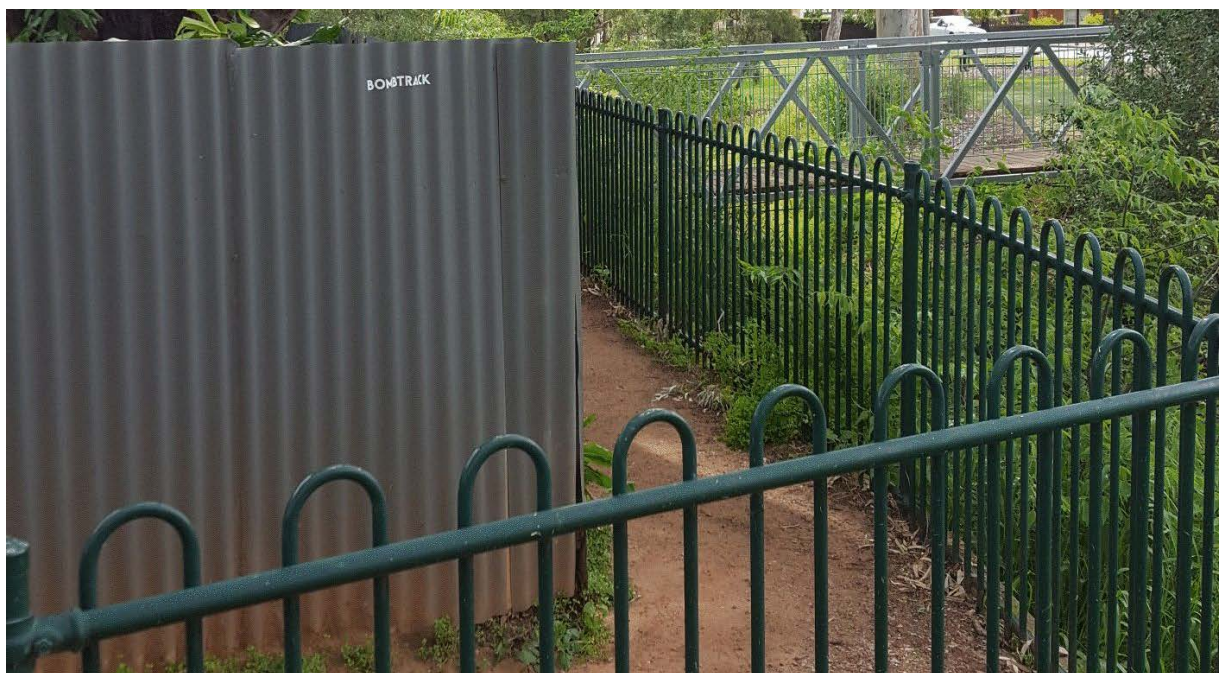




We understand that to commence the process of opening and closing the affected parcels of land, the *Roads (Opening and Closing) Act 1991* must be invoked.

A number of tangible benefits will accrue if the relevant parcels of land are exchanged through acquisition and gifting. They include:

- the adjacent road reserve will be more regular in shape, thereby allowing it to be more effectively used as public open space by the local community as part of the Glen Osmond Creek linear park;
- the significant River Red Gum tree currently located on Allotment 343 will be added to road reserve and the Glen Osmond Creek open space;
- the residential site will be more regularly shaped and therefore capable of accommodating the orderly siting of two supported accommodation dwellings;
- the supported accommodation dwellings will be appropriately located opposite the Myrtle Bank Aged Care facility;
- the land to be added to the road reserve will facilitate its more effective use as open space;
- the land to be added to Allotment 343 is currently not actively used for recreational purposes; and
- pedestrian access across Glen Osmond Creek via the existing footbridge will be improved by removing the 'squeeze point' between the creek and the property fence line.



**Squeeze point between creek and property boundary**



The proposal is furthermore consistent with Council's Unley Active Aging Strategy 2016. The Strategy identifies that there is a lack of downsizing options in the Council area, other than retirement villages. Our client's proposal seeks to address this deficiency by designing two homes specifically to meet this identified need. The design will integrate aging residents into the general residential area, improving diversity and providing a sought after alternative to dedicated forms of housing for the elderly.

The two innovative, stand-alone homes proposed for the site will be developed by HSS to satisfy the needs identified by Council's Active Aging Strategy. They will be designed specifically for aging in place, incorporating design features such as:

- no steps or lips from front fence to back fence;
- wide doorways;
- generous living spaces;
- spacious bathrooms;
- separate carer spaces; and
- remote home monitoring.

Our client would welcome the opportunity to address Council as a Deputation, and to answer any questions about the land exchange proposal.

Yours sincerely

**Graham Burns**  
MasterPlan SA Pty Ltd

enc: Certificate of Title  
Land Exchange Plan  
cc: HSS (Nick Bullock)



The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



Registrar-General

## Certificate of Title - Volume 5612 Folio 590

Parent Title(s)	CT 3828/147
Dealing(s) Creating Title	CONVERTED TITLE
Title Issued	08/01/1999
Edition	5
Edition Issued	21/09/2016

REAL PROPERTY ACT, 1886



## Estate Type

FEE SIMPLE

## Registered Proprietor

NEOTENY INVESTMENTS PTY. LTD. (ACN: 613 897 064)  
OF L 1 19 STURT STREET ADELAIDE SA 5000

## Description of Land

ALLOTMENT 343 FILED PLAN 15850  
IN THE AREA NAMED MYRTLE BANK  
HUNDRED OF ADELAIDE

## Easements

NIL

## Schedule of Dealings

Dealing Number	Description
12586780	MORTGAGE TO WESTPAC BANKING CORPORATION (ACN: 007 457 141)

## Notations

### Dealings Affecting Title

NIL

### Priority Notices

NIL



## Notations on Plan

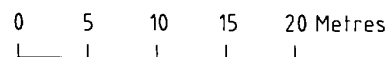
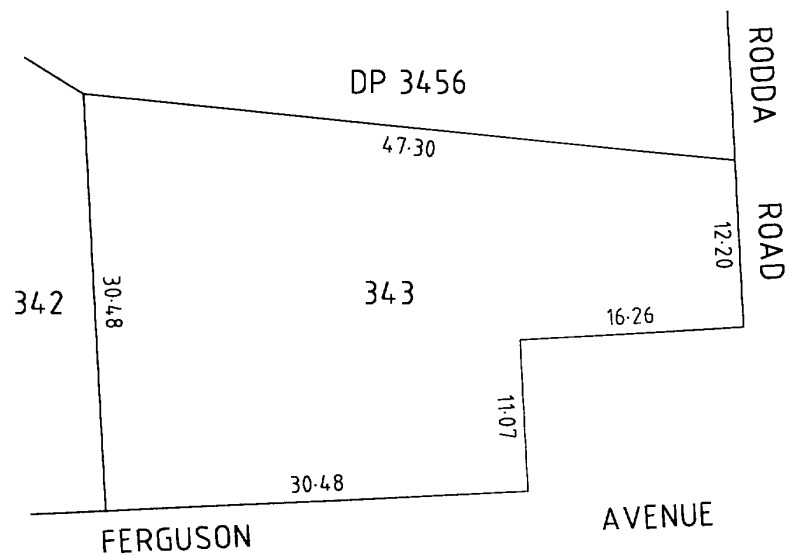
NIL

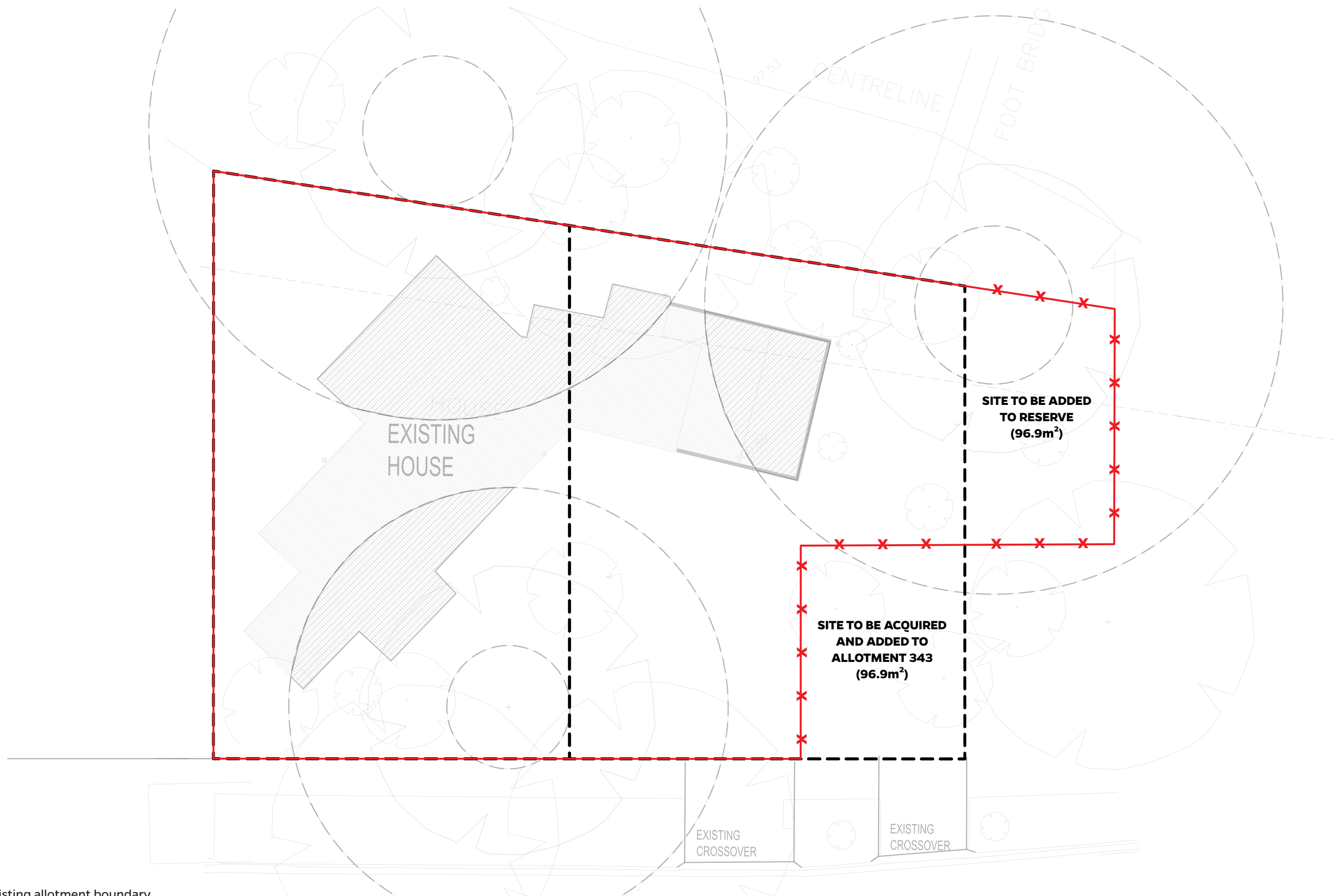
## Registrar-General's Notes

NIL

## Administrative Interests

NIL





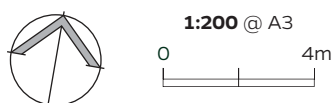
Existing allotment boundary  
Proposed new boundaries

## Land Exchange Plan

Portion of Allotment 343 Ferguson Avenue  
and Road Reserve  
MYRTLE BANK

for Home Support Services

Note: For Planning purposes only.  
Areas and dimensions are approximate and subject to survey.



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## 42 Fergusson Avenue, Myrtle Bank

City of Unley



Administration Offices  
General and Business  
Open Hours 8.30am to 5pm  
Car park off Oxford Tce

181 Unley Rd, Unley, 5061.  
Phone : 8372 5111 Fax: 8271 4886  
Email: [pobox1@unley.sa.gov.au](mailto:pobox1@unley.sa.gov.au)  
Web: [www.unley.sa.gov.au](http://www.unley.sa.gov.au)

**aerometrex**  
Aerial Photography © Aerometrex Pty. Ltd.  
Cadastral Data Supplied by DEWNR









## ATTACHMENT 4 – Ferguson Avenue Reserve

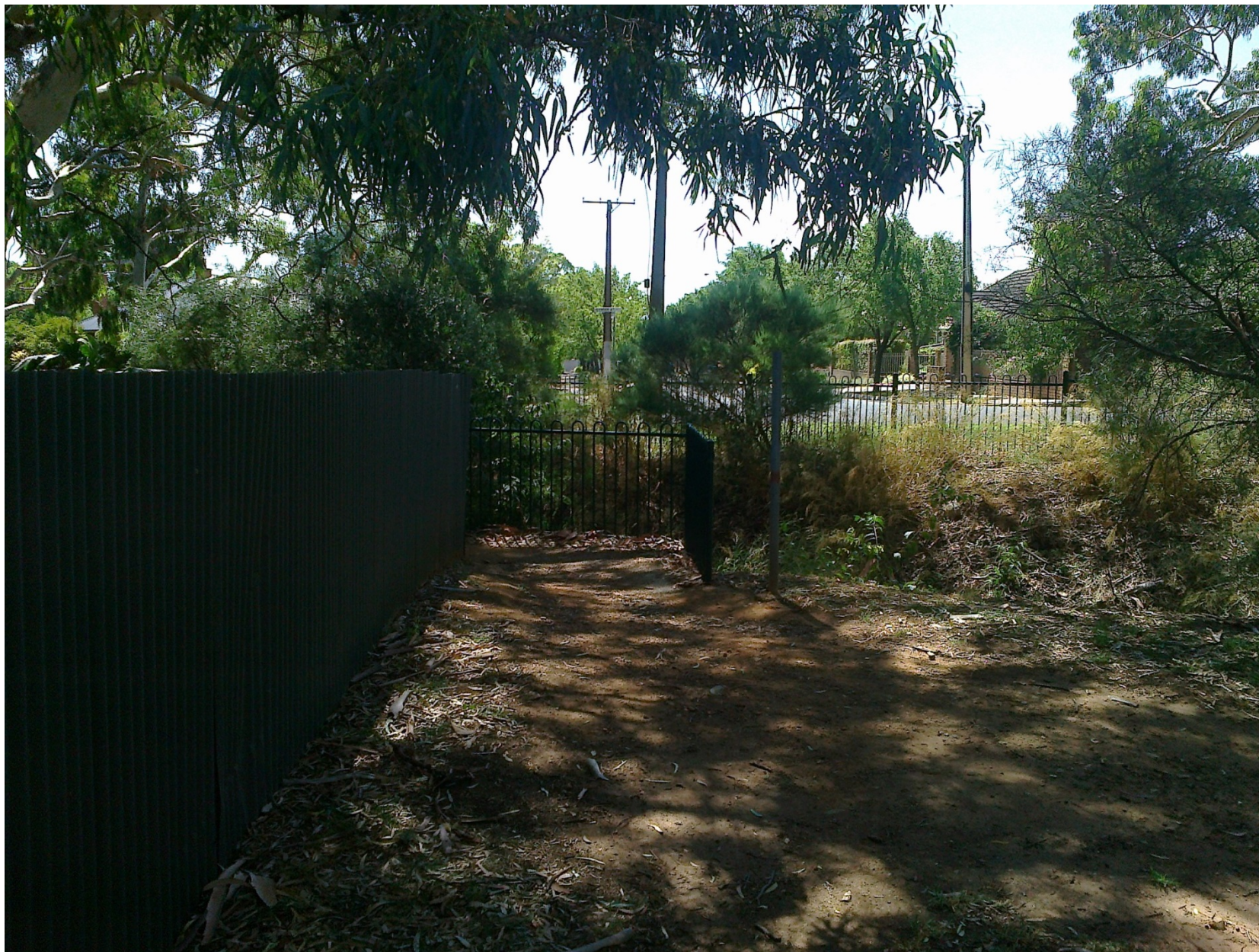








## ATTACHMENT 5 - Current Linear Trail – Ferguson Avenue Reserve



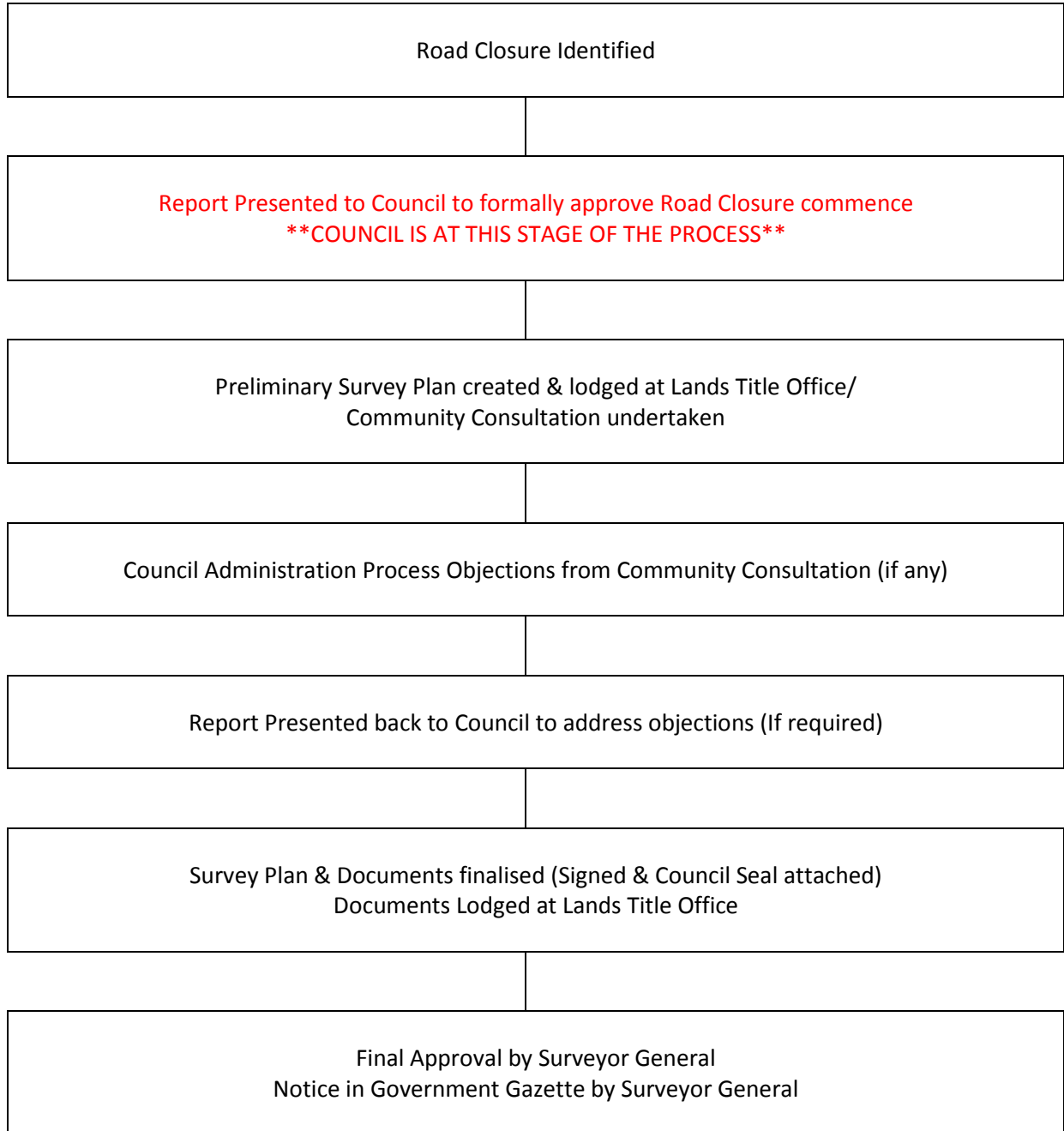








## Road Closure Process Flowchart





## DECISION REPORT

<b>REPORT TITLE:</b>	RIGHT OF REVIEW – OMBUDSMAN SA
<b>ITEM NUMBER:</b>	800
<b>DATE OF MEETING:</b>	27 MARCH 2017
<b>AUTHOR:</b>	REBECCA WILSON
<b>JOB TITLE:</b>	GROUP MANAGER GOVERNANCE & RISK

---

### **EXECUTIVE SUMMARY**

The purpose of this report is to provide Council with the findings of the OmbudsmanSA (“Ombudsman”) Final Report titled ‘*Right of Review*’, a review of council compliance with section 270 requirements for internal review of council decisions.

Following a ‘desktop evaluation’ of all 68 council websites in April 2015, the Ombudsman surmised that certain councils’ ‘internal review of decisions’ policies and procedures were not compliant with section 270 of the *Local Government Act 1999* (“the Act”), and that internal reviews were not properly utilised. Accordingly, the Ombudsman considered it was in the public interest to conduct an audit of councils’ practices and procedures concerning internal review of council decisions.

The Ombudsman selected 12 councils to audit over a 16 month period and tabled his report in Parliament on the 17 November 2016. The City of Unley was not one of these councils.

The report made recommendations under seven headings:

1. Improve availability of internal review policy/procedure to the public
2. Applications for review which relate to rates or service charges
3. Time limitations on receipt of applications for an internal review of decision
4. Decisions to which the internal review process can apply/cannot apply
5. Independent conduct of an internal review of decision
6. Matter types and learning outcomes from internal review of decision
7. Do councils need more governance support?

The Ombudsman has required a response to him in writing to findings (2) and (5) above by 31 March 2017, however has requested Council consider all recommendations.

## **RECOMMENDATION**

That:

1. The report be received.
  2. Council respond in writing to the Ombudsman's report, '*Right of Review*' outlining what actions Council has taken in relation to the findings and recommendations from the report as detailed in Attachment 3.
  3. Council endorse the revised "Procedure for Internal Review of a Council Decision Procedure".
-

## **1. RELEVANT CORE STRATEGIES/POLICIES**

### **1.1 05.3 Good governance and legislative framework**

## **2. DISCUSSION**

Following a 'desktop evaluation' of all 68 council websites in April 2015, the Ombudsman surmised that certain councils' 'internal review of decisions' policies and procedures were not compliant with section 270 of the *Local Government Act 1999* ("the Act"), and that internal reviews were not properly utilised. Accordingly, the Ombudsman considered it was in the public interest to conduct an audit of councils' practices and procedures concerning internal review of council actions.

The Ombudsman selected 12 councils to audit over a 16 month period. City of Unley was not one of the councils. The audit consisted of two (2) surveys, as well as interviews and consultation. The Ombudsman tabled his report in Parliament on the 17 November 2016, "*An audit of Local Government Internal Review of Council Decisions Procedures*".

The report made the following findings and recommendations:

### **1. Availability of internal review policy/procedure to the public**

#### **Conclusion**

Council should make people aware of their right to a formal review of decision.

#### **Recommendation 1**

All councils highlight a direct link on their website homepage to a plain English description of the procedure available for making an application for internal review of a council decision. The procedure could usefully be linked to the council's complaint handling policy information that also outlines steps that can be taken for informal resolution of complaints.

### **2. Applications for review which relate to rates or service charges**

#### **Conclusion**

Half of the 12 audited councils were still not compliant with the law as it applies to grievances that relate to the impact that any declaration of rates or service charges may have had on ratepayers.

#### **Recommendation 2**

All councils ensure that their internal review of decisions procedure is fully compliant with the requirements of section 270 of the Local Government Act 1999. Further, that all council CEO's confirm in writing to the Ombudsman their full compliance with section 270 of the Act by 31 March 2017.

### **3. Time limitations on applications for an internal review of decision**

#### **Conclusion**

Council section 270 procedures allow for varying or no time limits for acceptance of applications after the date of the decision for internal review of decisions. The Act is silent on the issue and there is no fetter on applying a time limit. There is an argument for consistency in approach across all councils. Most councils consider that a period of six months or more is appropriate. Councils are mindful that section 270 reviews may be resource intensive and are reluctant to consider older matters when no application was received at or near the time of decision.

#### **Recommendation**

That all councils include a reference to a six month time limit after the date of the decision for accepting internal review of council decision applications in a revised version of their internal review of decisions procedure. Consideration should also be given to the exercise of a discretion by councils to allow a longer time limit to apply in particular cases.

### **4. Decisions to which the internal review process can apply/cannot apply**

#### **Conclusion**

There is a wide range of policy positions determined by councils on appeal and review arrangements in the areas of planning, development and expiation of offences. Some councils wrongly decline to consider a section 270 application for review in these categories on the basis that the area is covered, or should be covered, by the provisions of the legislation outside the Local Government Act, e.g. the Development Act.

#### **Recommendation**

That all councils revise the part of their internal review of decision procedure that deals with 'Matters outside the scope of the policy and procedures' to explicitly state that matters that fall outside statutory appeals procedures will be considered for the conduct of a section 270 review on the merits of the individual application. Further those councils discuss with the LGASA the desirability of including this commitment in the LGASA *Internal Review of a Council Decision Model Policy and Procedure*.

### **5. Independent conduct of an internal review of decision**

#### **Conclusion**

Many South Australian councils have developed internal review practices that seek to manage situations where an original decision-maker (often the CEO) may have a conflict of interest. Whilst internal senior delegation of responsibility is a preferred option, many councils are willing to involve independent reviewers where possible and when available.

#### **Recommendation**

That all councils through the auspices of regional Local Government Associations, consider and report to the Ombudsman by 31 March 2017 on

the option of developing regional panels of Independent Reviewers who can assist councils with complex review matters.

## **6. Matter types and learning outcomes from internal review of decision**

### **Conclusion**

The statistics from the Local Government Grants Commission show section 270 applications received by councils have doubled in the past seven years. Whilst the numbers are still low, and concentrated largely in metropolitan councils, there is some evidence that councils are willing to use the internal review mechanism more now than in the past.

### **Recommendation**

That all councils periodically evaluate their section 270 review investigations and document learning outcomes relevant to their administrative practices and functional responsibilities. These outcomes to be shared with the Local Government Governance and Policy Officer Network ('GPON') and relevant local government interests.

## **7. Do councils need more governance support?**

### **Conclusion**

The evidence from councils about the value of the GPON as a forum for council officers to raise and discuss issues of common interest in governance policy and practice is strong. A majority of South Australian councils now participate and there is clear body of support for GPON to extend its influence and relevance across the local government sector in its area of expertise.

### **Recommendation**

The existing membership and leadership of GPON consider if there is a case to be made to all councils for an expanded role for the Network.

## **Summary**

The Ombudsman is requesting councils consider all recommendations, but in particular Recommendation 2 and 5 including a request to report back by 31 March 2017.

The City of Unley 'Procedure for Internal Review of a Council Decision' procedure was last reviewed by Council 26 May 2014. The Administration is aware of their obligations and is satisfied that the procedure is available for the public on our website under policies, it includes clear reference to rates and service charges and when decisions to which an internal review process can or cannot apply.

Suggestions however from the Ombudsman's report have been addressed and implemented for further improvement, including additional searching functions on the website and inclusion of a time limitation of six months after the making of a decision for acceptance of applications for internal review of decisions.

The GPON note in regards to Recommendation 5 for the consideration to develop regional panels of independent reviewers who can assist councils with complex review matters, that councils do seek assistance from other councils or external experts to ensure an objective and skilled review is conducted. The City of Unley already utilises this practice.

Members of the ERA Governance Group and the GPON have met to discuss the recommendations and also met with the Ombudsman to seek some context in relation to the recommendations from the report. This occurred on 10 March at the GPON meeting. The main concerns from the GPON network were in relation to the recommendation of an Independent conducting an internal review of a decision and also Recommendation 6 and 7 in relation to the GPON. The GPON is operational and therefore not for the council to decide.

The GPON participants agreed that already information is shared at each meeting in relation to learning outcomes relevant to administrative practices and functional responsibilities and this is now identified as a standing item on the agenda. Officers are very conscious that there are varying degrees of expertise of participants at the meeting and that any discussions are for information, not to be viewed as advice and that there may be other options that can be explored specific to a councils particular issue.

Also, the Group is of the opinion that the current structure functions well and any formalisation may change the structure of the group and deter the frank discussions that occur now and have done so for 10+ years. There would also be expenses and resources to facilitate a formal group which would not provide benefit to the way the group currently operates and performs and may exclude officers from councils which declined to fund membership. The group currently has representation from LGA and the Office of Local Government along with all levels of practice in local government governance.

Requests for internal reviews of decisions received by the City of Unley administration for the last three years are as follows:

Year	Requests for internal reviews
2015/16	2
2014/15	3
2013/14	1

### **3. ANALYSIS OF OPTIONS**

Option 1 – Council respond in writing to the Ombudsman's report, 'Right of Review' outlining what actions Council has taken in relation to the findings and recommendations from the report as detailed in Attachment 3 and Council

endorse the revised “Procedure for Internal Review of a Council Decision Procedure”.

The Ombudsman has undertaken a review a desktop evaluation and audited 12 councils in relation to councils’ practices and procedures concerning internal review of council actions.

The City of Unley Administration is aware of their obligations and has reviewed the ‘Procedure for Internal Review of a Council Decision’ and addresses most of the Ombudsman recommendations. Inclusion of a six month timeframe has been included in the revised Procedure for endorsement and the search engines on the website have been optimised to enable the public to access across various locations on the website.

In relation to recommendations regarding regional panels and the GPON, as this is not a formal group that can respond independently to the Ombudsman, as a representative of the group, Administration recommends Council endorse the recommendations as outlined in Attachment 3.

Option 2 – Council respond in writing to the Ombudsman’s report, ‘Right of Review’ outlining what actions Council has taken in relation to the findings and recommendations from the report as detailed in Attachment 3 and Council endorse the revised “Procedure for Internal Review of a Council Decision Procedure” with amendments.

#### **4. RECOMMENDED OPTION**

Option 1 is the recommended option.

#### **5. POLICY IMPLICATIONS**

##### **5.1 *Financial/budget***

- NA at this stage, however it should be noted that Internal Reviews are resource intensive and should there be a significant increase to requests received, there will be the requirement for the review of governance resources at the City of Unley as identified by the Ombudsman in his report.

##### **5.2 *Legislative/Risk Management***

- The Ombudsman has not made any references or recommendations in relation to section 270 of the Act. There is confusion between the complaints handling process and IR procedure (both at public and council staff levels). There was also an opportunity for the Ombudsman

to consider strengthening/clarifying the review process on other legislation such as the Development Act.

**5.3 Staffing/Work Plans**

- NA

**5.4 Environmental/Social/Economic**

- NA

**5.5 Stakeholder Engagement**

- NA

**6. REPORT CONSULTATION**

Wayne Lines, OmbudsmanSA  
Governance and Policy Officer Network  
ERA Governance Network

**7. ATTACHMENTS**

1. Ombudsman SA 'Right of Review' – *An audit of Local Government Internal Review of Council Decisions Procedure*
2. City of Unley 'Procedure for Internal Review of a Council Decision'
3. Table summarising the report Conclusions, Recommendations and City of Unley Actions

**8. REPORT AUTHORISERS**

<u>Name</u>	<u>Title</u>
Peter Tsokas	CEO



## ATTACHMENT 3

	Conclusion	Recommendation	City of Unley response
<b>1. Availability of internal review policy/procedure to the public</b>	Council should make people aware of their right to a formal review of decision.	<ul style="list-style-type: none"> <li>Highlight a direct link on website homepage to a plain English description of the procedure</li> <li>Link to the council's complaint handling policy information</li> </ul>	<ul style="list-style-type: none"> <li>Search options have been optimised on website to facilitate various terms</li> <li>The Contact Us page being reviewed to include reference to internal reviews</li> <li>Complaint handling policy under review, however there is currently a link between the policy and procedure</li> </ul>
<b>2. Applications for review which relate to rates or service charges</b>	Half of the 12 audited councils were still not compliant with the law as it applies to grievances that relate to the impact that any declaration of rates or service charges may have had on ratepayers.	<ul style="list-style-type: none"> <li>Ensure internal review of decisions procedure is fully compliant with the requirements of section 270 of the Local Government Act 1999.</li> <li>CEO's confirm in writing to the Ombudsman their full compliance with section 270 of the Act by 31 March 2017.</li> </ul>	<ul style="list-style-type: none"> <li>Current and revised procedures are compliant with the requirements to grievances that relate to an impact that any declaration of rates or service charges may have had on ratepayers.</li> </ul>
<b>3. Time limitations on applications for an internal review of decision</b>	Council section 270 procedures allow for varying or no time limits for acceptance of applications for internal review of decisions.	<ul style="list-style-type: none"> <li>Include a reference to a six month time limit for accepting internal review of council decision applications</li> <li>Consideration given to the exercise of discretion by councils to allow a longer time limit to apply in particular cases.</li> </ul>	<ul style="list-style-type: none"> <li>Now included in the revised Procedure for endorsement.</li> </ul>
<b>4. Decisions to which the internal review process can apply/cannot apply</b>	There is a wide range of policy positions determined by councils on appeal and review arrangements in the areas of planning, development and expiation of offences.	<ul style="list-style-type: none"> <li>Revise the part of internal review of decision procedure that deals with 'Matters outside the scope of the policy and procedures' to explicitly state that matters that fall outside statutory appeals procedures will be considered for the</li> </ul>	<ul style="list-style-type: none"> <li>Appendix 1 of current Policy and revised policy for endorsement outline other review processes for other mechanisms which may be available to an applicant.</li> </ul>

	Conclusion	Recommendation	City of Unley response
		<p>conduct of a section 270 review on the merits of the individual application.</p> <ul style="list-style-type: none"> <li>Discuss with the LGASA the desirability of including this commitment in the LGASA Internal Review of a Council Decision Model Policy and Procedure.</li> </ul>	
<b>5. Independent conduct of an internal review of decision</b>	<p>Many South Australian councils have developed internal review practices that seek to manage situations where an original decision-maker (often the CEO) may have a conflict of interest. Whilst internal senior delegation of responsibility is a preferred option, many councils are willing to involve independent reviewers where possible and when available.</p>	<ul style="list-style-type: none"> <li>Councils through the auspices of regional Local Government Associations consider and report to the Ombudsman by 31 March 2017 on the option of developing regional panels of Independent Reviewers who can assist councils with complex review matters.</li> </ul>	<ul style="list-style-type: none"> <li>The GPON would recommend that this role is included in the terms of reference for the Local Governance Panel to prevent another body being established.</li> <li>Councils already seek assistance from other councils to ensure an objective and unbiased review is undertaken.</li> </ul>
<b>6. Matter types and learning outcomes from internal review of decision</b>	<p>The statistics from the Local Government Grants Commission show section 270 applications received by councils have doubled in the past seven years. Whilst the numbers are still low, and concentrated largely in metropolitan councils, there is some evidence that councils are willing to use the internal review mechanism more now than in the past.</p>	<ul style="list-style-type: none"> <li>Councils periodically evaluate their section 270 review investigations and document learning outcomes relevant to their administrative practices and functional responsibilities.</li> <li>Outcomes to be shared with the Local Government Governance and Policy Officer Network ('GPON') and relevant local government interests.</li> </ul>	<ul style="list-style-type: none"> <li>There is a standing agenda item for the GPON in relation to sharing outcomes.</li> <li>The LGA works closely with the GPON to provide feedback to relevant local government interests.</li> </ul>
<b>7. Do councils need more governance support?</b>	<p>The evidence from councils about the value of the GPON as a forum for issues of common interest in</p>	<ul style="list-style-type: none"> <li>The existing membership and leadership of GPON consider if there is a case to be made to all councils for an expanded role</li> </ul>	<ul style="list-style-type: none"> <li>The GPON recommends that the structure of the group remain as is.</li> </ul>

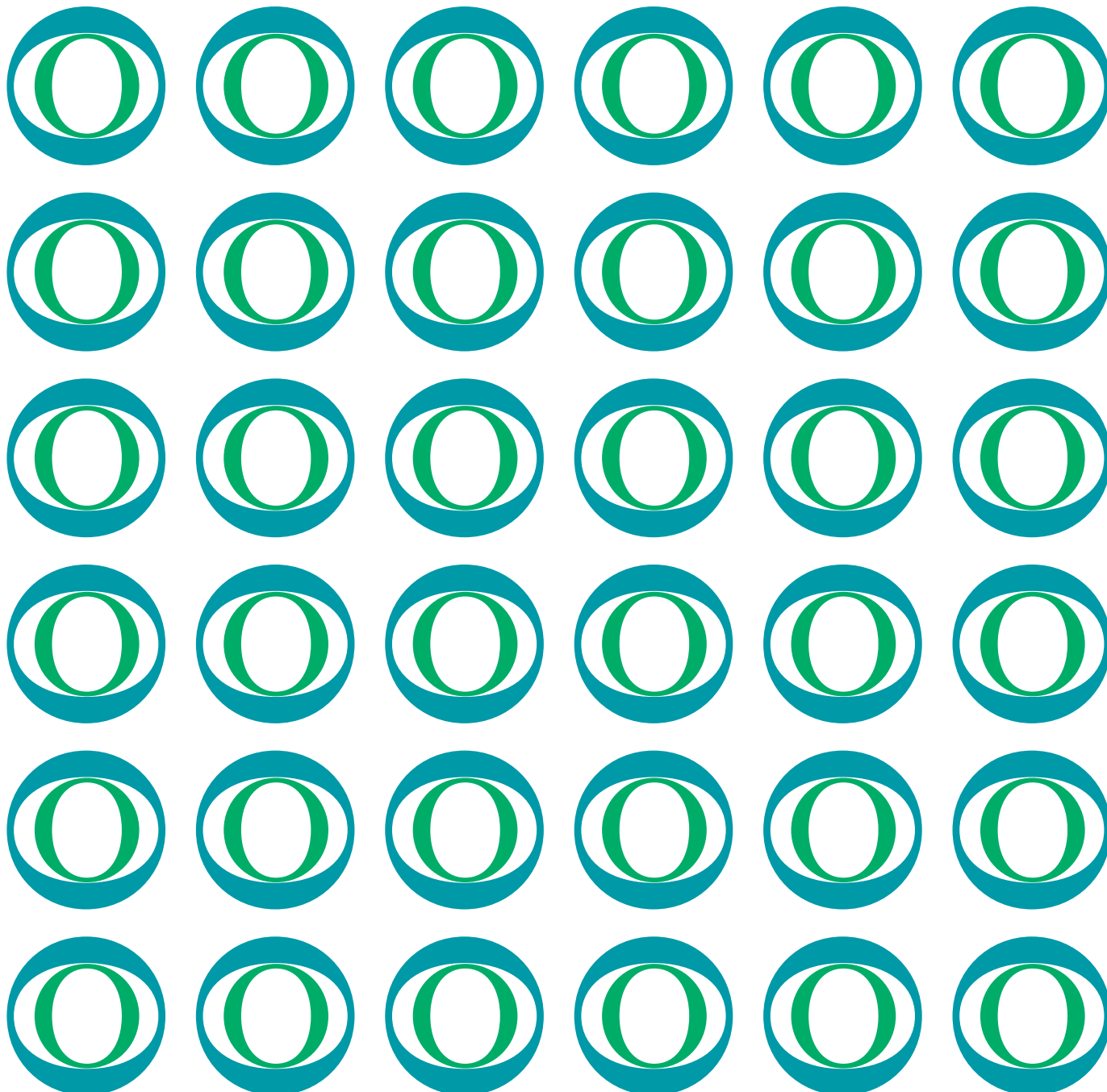
	<b>Conclusion</b>	<b>Recommendation</b>	<b>City of Unley response</b>
	governance policy and practice is strong. A majority of South Australian councils now participate and there is clear body of support for GPON to extend its influence and relevance across the local government sector in its area of expertise.	for the Network.	

# **Ombudsman SA**

## **RIGHT OF REVIEW**

**An audit of Local Government Internal Review of  
Council Decisions Procedures**

**November 2016**



Ombudsman SA  
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Rundle Mall  
Adelaide SA 5000

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## CONTENTS

FOREWORD .....	1.
EXECUTIVE SUMMARY .....	2.
PART 1 THE AUDIT PROCESS .....	5.
1.1 Audit context and Ombudsman's jurisdiction .....	6.
1.2 The Audit Group .....	7.
1.3 Audit Terms of Reference .....	8.
1.4 Audit Methodology .....	8.
1.5 Responses to the provisional report .....	9.
PART 2 THE LEGISLATIVE FRAMEWORK .....	12.
2.1 A right to appeal? .....	13.
2.2 What the Parliament said .....	14.
2.3 The Statute .....	14.
PART 3 STAGE ONE AUDIT - SURVEY RESULTS .....	16.
PART 4 STAGE TWO AUDIT - RESPONSES FROM COUNCILS .....	20.
4.1.1 Availability of internal review policy/procedure to the public .....	21.
4.1.2 Applications for review which relate to rates or service charges .....	23.
4.1.3 Time limitations on applications for an internal review of decision .....	25.
4.1.4 Decisions to which the internal review process can apply/cannot apply .....	28.
4.1.5 Independent conduct of an internal review of decision .....	32.
4.1.6 Matter types and learning outcomes from internal review of decision .....	35.
4.1.7 The effectiveness of the legislation requiring internal review of council decisions .....	38.
PART 5 GOVERNANCE STANDARDS AND ADMINISTRATIVE LAW .....	41.
5.1.1 A universal review procedure across local government? .....	42.
5.1.2 A process review of decision only? .....	43.
5.1.3 Do councils need more governance support? .....	46.
PART 6 CONCLUSIONS .....	49.
APPENDIX A - Council Audit Survey .....	51.
APPENDIX B - Council Audit Questionnaire .....	52.
APPENDIX C - Terms of Reference - SA Governance and Policy Officers' Network .....	57.

## FOREWORD

This report documents my findings and recommendations relevant to the operation of the internal review of decisions provisions in the *Local Government Act 1999*.

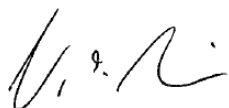
Local government councils in South Australia are required by the Act to provide a process for the internal review of council decisions. The obligation is part of the broader set of requirements to have in place policies, practices and procedures for responding to complaints about the actions of the council, employees of the council, or other persons acting on behalf of the council.

The section 270 internal review of decision process is an important mechanism for the resolution of disputes and complaints about decisions made by councils. As such, the review process is an essential complaint handling tool for local government and for the management of complaints made to my Office.

A previous Ombudsman SA audit on complaint handling in SA councils identified that there was a low take-up rate by the public of the section 270 internal review of council decisions option. On the evidence from this audit, that take-up rate is now increasing significantly.

This report examines some of the key issues for councils in delivering a fair internal review of decision process. It also explores how councils can use internal reviews to drive their administrative improvement and service excellence.

I take this opportunity to thank the twelve councils who cooperated with my Office in the conduct of this audit. Together with all other councils, and with local government sector organisations, I believe there is an opportunity to build more trust in the accountability of local government through a more confident use of the review of council decisions mechanism.



Wayne Lines  
**SA OMBUDSMAN**

## EXECUTIVE SUMMARY

In April 2015, my Office conducted a desktop evaluation to assess the current state of policies/procedures of councils regarding the internal review of council decisions. All 68 councils were assessed and the following emerged:

- 8 councils did not have an internal review policy/procedure available on their website
- 21 councils had not yet reviewed their policy by the due date
- 13 councils did not provide a date for the next review
- 15 councils had not included rate declaration issues or service charges as required by section 270(2)(ca) of the Local Government Act.

The evaluation also involved an examination of the section 270 internal review policy/procedure documents of a selected group of 12 councils, as found on their websites. The evaluation sought to identify whether council policies were compliant with section 270 of the Act and whether recommendations by the Ombudsman in his 2011 audit report have been implemented.

The desktop evaluation found that the internal review policies/procedures of five out of the 12 councils were not fully compliant with section 270 of the Act. In particular, the five councils' policies/procedures failed to refer to section 270(2)(ca), that requires provision to be made for applications relating to the impact of a declaration of rates or service charges. There also appeared to be a wide variation in council methods for citing exclusions, despite the Local Government Association of South Australia (LGASA) promoting an Internal Review of a Council Decision Model Policy and Procedure in 2012.

## SUMMARY OF RECOMMENDATIONS

The following findings and recommendations are made in the body of the report under the headings that I adopted for the conduct of the audit. They are directed at achieving change in the use of the section 270 procedures across councils, and aim to:

- address administrative deficiencies
- guide councils to implement changes that can improve their administrative processes
- improve the delivery of services
- improve the standard of public administration in South Australian councils.

### Availability of internal review policy to the public

#### Conclusion

Audited councils all recognise the importance of making their internal review of decisions procedure available to the public. However, most councils do not actively promote the procedure, preferring to steer complainants towards informal or negotiated procedures to resolve grievances. Whilst this is legitimate, I consider that councils should make people aware of their right to a formal review of decision.

#### Recommendation 1

That all councils highlight a direct link on their website homepage to a plain English description of the procedure available for making an application for internal review of council decision. The procedure could usefully be linked to the council's complaint handling policy information that also outlines steps that can be taken for informal resolution of complaints.



## Compliance with the Local Government Act

### Conclusion

Despite an earlier Ombudsman SA audit on complaint handling conducted in 2011, half of the 12 audited councils in this survey were still not compliant with the law as it applies to grievances that relate to the impact that any declaration of rates or service charges may have had on ratepayers. All audit councils accept that this omission needs to be remedied.

### Recommendation 2

That all councils ensure that their internal review of decisions procedure is fully compliant with the requirements of section 270 of the *Local Government Act 1999*. Further, that all council CEOs confirm in writing to the Ombudsman their full compliance with section 270 of the Act by 31 March 2017.

## Time limits on applications for review

### Conclusion

Council section 270 procedures allow for varying or no time limits for acceptance of applications for internal review of decisions. The Act is silent on the issue and there is no fetter on applying a time limit. There is an argument for consistency in approach across all councils. Most councils consider that a period of six months or more is appropriate. Councils are mindful that section 270 reviews may be resource intensive and are reluctant to consider older matters when no application was received at or near the time of decision.

### Recommendation 3

That all councils include a reference to a six month time limit for accepting internal review of council decision applications in a revised version of their internal review of decisions procedure. Consideration should also be given to the exercise of a discretion by councils to allow a longer time limit to apply in particular cases.

## Decisions to which the internal review process can apply/cannot apply

### Conclusion

There is a wide range of policy positions determined by councils in South Australia on appeal and review arrangements in the areas of planning, development and expiation of offences. Some councils wrongly decline to consider a section 270 application for review in these categories on the basis that the area is covered, or should be covered, by the provisions of legislation outside the Local Government Act, e.g. the Development Act.

### Recommendation 4

That all councils revise the part of their internal review of decision procedure that deals with 'Matters outside the scope of the policy and procedures' to explicitly state that matters that fall outside statutory appeals procedures will be considered for the conduct of a section 270 review on the merits of the individual application. Further, that councils discuss with the LGASA the desirability of including this commitment in the LGASA *Internal Review of a Council Decision Model Policy and Procedure*.

## Independent conduct of an internal review of decision

### Conclusion

Many South Australian councils have developed internal review practices that seek to manage situations where an original decision-maker (often the CEO) may have a conflict of interest. Whilst internal senior delegation of responsibility is a preferred option, many councils are willing to involve independent reviewers where possible and when available.

### Recommendation 5

That all councils, through the auspices of regional Local Government Associations, consider and report to the Ombudsman by 31 March 2017 on the option of developing regional panels of independent reviewers who can assist councils with complex review matters.

## Matter types and learning outcomes from internal reviews of decision

### Conclusion

The statistics from the Local Government Grants Commission show that section 270 applications received by councils have doubled in the past seven years. Whilst the numbers are still low, and concentrated largely in metropolitan councils, there is some evidence that councils are willing to use the internal review mechanism more now than in the past. Councils have shown an ability to analyse review outcomes to inform better administrative practice.

### Recommendation 6

That all councils periodically evaluate their section 270 review investigations and document learning outcomes relevant to their administrative practices and functional responsibilities. That, as appropriate, these learning outcomes are shared with the Local Government Governance and Policy Officers Network (**GPON**) and relevant local government interests.

## Do councils need more governance support?

### Conclusion

The evidence from councils about the value of the GPON as a forum for issues of common interest in governance policy and practice is strong. A majority of South Australian councils now participate and there is a clear body of support for GPON to extend its influence and relevance across the local government sector in its area of expertise.

### Recommendation 7

That the existing membership and leadership of GPON consider if there is a case to be made to all councils for an expanded role for the Network - whether this be expanded membership development of a website and/or project and research relevant to governance standards in councils - or other governance priority identified by the Network

## PART 1

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### THE AUDIT PROCESS

## 1.1 Audit context and Ombudsman's jurisdiction

1. The November 2011 Ombudsman SA audit of complaint handling in South Australian councils *Valuing Complaints* identified that there was a low take-up rate by the public of the section 270 option for internal review of council decisions. The audit found that eight of the 12 councils audited had procedures in place that did not comply with the *Local Government Act 1999* (the Act).
2. The Ombudsman made three recommendations at that time:
  1. That all councils ensure that their internal review of decision procedure is fully compliant with the requirements of section 270 of the Local Government Act
  2. Further, that all councils consider a standard form of wording for exclusions and a statement about the exercise of discretion in accepting matters for review
  3. As an adjunct to development of complaints policy, councils should consider the merits of establishing a network or panel of independent reviewers from which to draw support for internal review processes.
3. In February 2013 the Ombudsman wrote to all councils requesting feedback on the implementation of the complaint handling audit recommendations. The responses from councils identified that only 41 of 68 councils had implemented the recommendation that all section 270 policy/procedures comply in full with the requirements established by law.
4. In April 2015, my Office conducted a desktop evaluation to assess the current state of policies/procedures of councils regarding the internal review of Council decisions. All 68 councils were assessed and the following emerged:
  - 8 councils did not have an internal review policy/procedure available on their Website
  - 21 councils had not yet reviewed their policy by the due date
  - 13 councils did not provide a date for the next review
  - 5 councils had not included rate declaration issues or service charges as required by section 270(2)(ca) of the Local Government Act.
5. The evaluation also involved an examination of the section 270 internal review policy/procedure documents of a selected group of 12 councils, as found on their websites. The evaluation sought to identify whether council policies were compliant with section 270 of the Act and whether recommendations by the Ombudsman in his 2011 audit report have been implemented.
6. The desktop evaluation found that the internal review policies/procedures of five out of the 12 councils were not fully compliant with section 270 of the LG Act. In particular, the five councils' policies/procedures failed to refer to section 270(2)(ca), which requires provision to be made for applications relating to the impact of a declaration of rates or service charges. There also appeared to be a wide variation in council methods for citing exclusions, despite the LGASA adopting and promoting a Model Policy and Procedure in 2012. There were also five councils (a different mix) that did not provide details of the applications for internal review in their Annual Report as required. As with the larger group, some of the councils also had policies that were well beyond the review dates stipulated on the policy.

7. Section 13 of the *Ombudsman Act 1972* stipulates that I must not investigate complaints that are open to a right of appeal with another body or tribunal. In short, Ombudsman SA is a review body of last resort for complainants. Consequently, most local government complaints are referred back to councils themselves to attempt to resolve in the first instance.
8. In the year 2015-2016, my Office received 1,011 complaints about councils. 420, or 42% of them, were referred back to the council in question for action. I estimate that approximately half of these complaints were potentially section 270 review of decision matters.<sup>1</sup>
9. For the reasons above, I considered it was in the public interest to conduct an audit of councils' practices and procedures concerning internal review of council actions. Section 14A of the Ombudsman Act provides as follows:
  - (1) If the Ombudsman considers it to be in the public interest to do so, the Ombudsman may conduct a review of the administrative practices and procedures of an agency to which this Act applies.
  - (2) The provisions of this Act apply in relation to a review under subsection (1) as if it were an investigation of an administrative act under this Act, subject to such modifications as may be necessary, or as may be prescribed.

## 1.2 The Audit Group

10. The selection of councils for audit was made with regard to each of the 12 state government regions and what was considered to be a good spread of population densities, geographic locations and council size.
11. In 2006, the South Australian government decided to introduce 12 administrative regions for uniform use in planning and reporting across all state government departments and agencies.
12. There are four regions in the Adelaide metropolitan area; three regions in the greater Adelaide area; and five country regions.
13. The Australian Classification of Local Governments (**ACLG**) was introduced in 1994 as a method of classifying local governing bodies in receipt of general financial assistance grants from the Commonwealth. The system uses a variety of urban, urban fringe, provincial city and rural codes to classify councils. In South Australia the Local Government Grants Commission uses the system to allocate grants across four council groupings based on region and size.
14. Through a process of cross referencing councils with ACLG groupings and state government regions the following selections were made for the audit:

### Adelaide Metropolitan area

- Eastern Adelaide
- Northern Adelaide
- Southern Adelaide
- Western Adelaide

### Council

Norwood Payneham /St Peters  
City of Salisbury  
City of Mitcham  
City of Charles Sturt

<sup>1</sup> This estimate, which equals approximately 210 complaints, makes an interesting comparison with the 89 section 270 matters actually handled by councils in 2015. See data recorded on page 18 of this report.

**Greater Adelaide area**

- Adelaide Hills
- Barossa, Light and Lower North
- Fleurieu and Kangaroo Island

**Council**

Adelaide Hills Council  
Town of Gawler  
District Council of Yankalilla

**Country regions**

- Eyre and Western
- Far North
- Limestone Coast
- Murray and Mallee
- Yorke and Mid North

**Council**

District Council of Tumby Bay  
Roxby Council  
District Council of Robe  
DC Loxton Waikerie  
Port Pirie Regional Council

**1.3 Audit Terms of Reference**

15. I determined that the audit would:

- examine and assess council compliance with the section 270(1) to (9) requirements for internal review contained in the *Local Government Act 1999*
- review council methods for citing exclusions to their *Internal Review Of Council Decisions Policy* against the Local Government Association Model Policy and Procedure adopted in 2012
- identify the incidence of section 270 internal reviews conducted by SA councils and to identify any impediments or difficulties faced by councils in implementing reviews
- examine and assess the incidence of councils' engagement of an independent person or panel to conduct an internal review of decision
- examine any other matters relevant to the use of section 270 internal review procedures
- make findings and recommendations relevant to administrative improvement in councils' use of the section 270 internal review provisions.

**1.4 Audit Methodology**

16. The audit process was designed to proceed in several stages. Key tasks included:

- June 2015 - letter to all 68 councils announcing a Stage 1 audit, enclosing a two question Survey on compliance with section 270 of the Act. All responses to be collated and compared to 2013 Ombudsman SA survey results
- Selection of 12 audit councils - based on SA government administrative regions and a geographic and size spread of councils
- Stage 2: August 2015 - letter advising 12 councils of inclusion in audit and sending a ten part Questionnaire for completion by early September 2015
- December 2015 and January 2016 - Ombudsman follow-up interviews with 12 councils
- May 2016 - July 2016 provisional audit report preparation
- July 2016 - provisional audit report sent to 12 audit councils for comment
- October 2016 - preparation of final audit report for publication.

## 1.5 Responses to the provisional report

17. In July 2016, I wrote to all 12 councils involved in the audit and asked them to provide me with their comments on the content, findings and draft recommendations made in the provisional report.<sup>2</sup>
18. I note here that there is no requirement for me to consult with agencies subject to audit under section 14A of the Ombudsman Act. Rather, I decided that the information I received from the 12 councils during the questionnaire and interview stages was best augmented by seeking feedback from them after I had had the opportunity to consider their individual submissions and make tentative findings and recommendations.
19. I received written submissions or comment from all 12 audit councils in August 2016.
20. A number of councils suggested that the LGASA should be involved in the process of responding to the audit provisional report.
21. I explained to those councils that the provisional report was a document sent to the audit councils only, that the process at that stage was confidential and that the LGASA was not a party to the audit as it was not an organisation within my jurisdiction. Having said that, I explained that I would welcome LGASA comment when the audit report was released and acknowledged that the LGASA has a critical role to play in supporting best practice in complaint handling in local government.<sup>3</sup>
22. Seven of the 12 councils agreed fully or partly with all Recommendations made in the provisional report.
23. The response to Recommendations 1 and 2 was generally supportive.
24. While most councils agreed on the premise behind Recommendation 3, there were varying views about what an appropriate time limit on applications for review should be. Four councils, (Adelaide Hills Council, Town of Gawler, DC Robe and Port Pirie RC) wholly agreed with the six month time limit based on the 'last point of contact' proposed by Recommendation 3. Only two councils, (City of Norwood Payneham & St Peters and DC Tumby Bay) advocated for a shorter time limit of three months, which had been the most popular choice at the questionnaire stage. Three councils, (City of Norwood Payneham and St Peters, City of Salisbury and City of Charles Sturt) thought that the time limit should be based on when the decision was made/recorded, as opposed to the last point of contact. Some councils expressed the view that the last point of contact could be confusing and lead to unreasonable extension of time limits. They thought a record of the decision was more definitive.
25. There were few objections and many comments in favour of the main proposition in Recommendation 4, i.e. that matters which fall outside statutory appeals procedures should be considered for the conduct of a section 270 review. Salisbury Council expressed the view of many on this issue:

In relation to matters that fall outside statutory appeal procedures...there may be occasions where a matter should be afforded consideration of a review. In those

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<sup>2</sup> I have used the term 'Recommendation' hereafter in this section as shorthand for the Draft Recommendations under discussion in my provisional report.

<sup>3</sup> I note also the very useful work done by the LGASA to develop and continually update its *Internal Review of a Council Decision: Model Policy and Procedure* for the guidance and use by SA councils.

circumstances the merits of the matter should be afforded consideration on a case by case basis. Given this, it would be appropriate for information to that effect to be included within the Review of Decisions Procedure.

The City of Norwood Payneham & St Peters agreed, adding the caveat that:

..there needs to be clarity and consistency around such a provision and this therefore could be considered as part of the Local Government Association of South Australia's Model Policy - Internal Review of Decision.

The second part of Recommendation 4 appeared to be the most contentious amongst the audit councils. There were strong objections to the internal review procedure allowing for a discretion for review 'even where a statutory appeal is available for the decision'. Most councils shared the opinion that complainants should not be allowed to pursue internal review of a decision where there is an existing statutory appeal process. On this issue, the Adelaide Hills Council represented the point succinctly:

..we do believe in the right to request a review of a council decision, however, as this process is resource intensive and requires appropriate expertise, it is considered inefficient and a waste of limited resources to provide the ability for a review of council decisions under two separate statutory appeal processes, especially where there may be a chance that the review is duplicated by different agencies at the same time.

My provisional report notes at paragraph 84 that internal review should not be used where there are statutory appeal rights available, e.g. in development approval matters. Recommendation 4 proposes that council procedures allow a *discretion* for review (and therefore does not mandate review) - and fill the gaps in the law where a complainant has no right of review (such as in the example given by Roxby Council, where an internal review was undertaken in relation to a development application because the applicant had no appeal rights). Two councils, (DC Robe and Port Pirie Regional Council) suggested that the Development Act should be amended to cover review of all planning matters. While perhaps not to that extent, some clarification of the legislation may be considered to avoid the grey area that gives rise to the confusion regarding when internal review should be available. Regardless, I have taken note of the concerns raised about duplication and a potential to confuse the public and deleted the reference to discretionary review in the final recommendation.

26. While most audit councils were open to the idea of an independent review panel, as proposed by Recommendation 5, they considered that engagement of the panel should remain at their discretion. Without the full support of councils, particularly given that most indicated a preference to resolve complaints before they reached the formal review stage, the costs of the formation of an independent review panel may end up outweighing its value. Some councils were also concerned with the potential cost of the process. Two councils, (City of Charles Sturt and Adelaide Hills Council) proposed that an independent panel of reviewers (as a discretionary option) would be best organised through the auspices of the LGASA, rather than through regional Local Government Associations. I have no disagreement with this approach if it is preferred by councils.
27. Councils were generally supportive of the proposal in Recommendation 6 that they evaluate internal reviews and document their learning outcomes. Some suggested that they already do this internally. Five councils (Norwood Payneham & St Peters, Salisbury, Charles Sturt, Adelaide Hills and Gawler), noted that they share review information with the Local Government Governance and Policy Officer's Network



(GPON), 'with a view to streamlining processes and ensuring consistency across the local government sector'. Many commented that such sharing should be at the discretion of each council. Councils were more concerned with that part of the recommendation that suggested they share review outcomes with external parties such as the LGASA. Two councils, (City of Norwood Payneham & St Peters and City of Salisbury) further considered that this was not part of the role of the LGASA, although one council (City of Charles Sturt) considered that sharing through the LGASA to be more effective. I have taken note of these concerns and amended the final recommendation to acknowledge that sharing of review learning outcomes with external bodies should be discretionary. I have, however, retained the reference to GPON as this forum is recognised as a council auspiced entity across the local government sector.<sup>4</sup>

28. Three councils (City of Charles Sturt, Adelaide Hills Council and DC Tumby Bay) believed that the LGASA should be involved in facilitating Recommendation 7. It proposed investigation of a single complaints policy format incorporating the procedure for internal review of council decision. Adelaide Hills Council cites the LGASA's Model Policy process as a prospective way forward. Two councils (City of Norwood, Payneham & St Peters and City of Salisbury), considered complaint handling and internal review to be linked, but separate processes. Some suggested that it would be beneficial for there to be consistency between councils about how complainants are treated, but overall there is not strong support for a single policy framework. The City of Salisbury argued that the complaints processes should remain separate to maintain impartiality. At Salisbury complaints and internal reviews are handled by different departments - so they are conducted by different people. After reflection on the issues and various points of view, I have decided to omit draft Recommendation 7 from my final report. As suggested by a number of councils, this matter may best be pursued by councils in dialogue with the LGASA.
29. Given the references made to GPON in the examination of the issues around the development of a single model complaints policy for local government, I had cause to revisit my findings and commentary on the Network at section 5.1.3. I asked the question there: 'do councils need more governance support?' Some councils have put it to me that there is a need, in an increasingly regulated local government environment, for greater sharing of governance expertise amongst councils. Not all councils believe this is necessary. However, on balance, I decided to recommend that the GPON members and the current leadership group initiate a discussion with councils to explore this topic and to make decisions for themselves as appropriate. As such, I have added concluding remarks and a new Recommendation 7 on the topic.
30. In their responses, two councils raised the issue that arose in the provisional report of merits review versus process review. DC Tumby Bay was particularly interested in the arguments made by two councils about disallowing applications for merits review and considered that the idea of process review had a lot of value. DC Robe was also concerned with the use of merits review, which it considered did not foster consistency when it felt that the consistent application of process was paramount. This is a particularly important issue, and my report accordingly finds that the legislation provides for *both* merits and process review.
31. I have considered the submissions from all councils and taken account of them as I consider appropriate in preparing this final report. I note in particular that I have amended recommendations 3, 4, 6 and 7 from my provisional report.

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<sup>4</sup> See section 5.1.3 'Do councils need more governance support?' for a more detailed discussion of the role of GPON.

## PART 2

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### THE LEGISLATIVE FRAMEWORK

## 2.1 A right of appeal?

32. In 2016 the South Australian *Local Government Act 1934* was repealed with the passage of amendments to the successor *Local Government Act 1999*.
33. The 1934 Local Government Act contained no right of review for a decision made by the elected local government council or the administration that served it.
34. In our legal system, an appeal is the process in which cases are reviewed, where parties request a formal change to an official decision.<sup>5</sup> In the courts, appeals are intended to provide a mechanism for error correction and also a process for clarifying and interpreting the law. Although appellate courts have existed for hundreds of years, common law countries did not incorporate an affirmative right to appeal into their jurisprudence until the 19th century.
35. Local government in South Australia (and elsewhere) came to consider the right to an appeal much later. The issue was canvassed at length in the Local Government Revision Committee report to the Minister of Local Government, the Hon. Geoff Virgo, in July 1970.<sup>6</sup> Documenting a litany of local ratepayer complaints to the Committee about council decisions that could not be challenged, the report took account of the findings of the 1962 Whyatt Report, produced by the British Section of the International Commission of Jurists. On the 'right of appeal' in local government, Whyatt said:

The remedy available to a citizen aggrieved by an act of maladministration is the same as that available to a citizen aggrieved by a discretionary decision; it is to complain to the elected representatives of the council and try to persuade them to redress his grievance. This method of seeking redress presents serious difficulties since complaints of maladministration in local government are, in effect, complaints against a Committee of the elected representatives, rather than officials, because of the close, direct control which elected representatives exercise over the administrative processes of local government. The elected representatives are therefore, judges in their own cause and the only external checks are public criticism and the ballot-box at the next election.<sup>7</sup>

36. The Revision Committee report asserted that introducing a right of appeal (review) in the proposed new Local Government Act would cause council decisions to be made more carefully because councils would be aware that their determinations were now open to challenge. It was considered that this would lead to better decision making in councils. This, in turn, would 'substantially obviate the need to appeal'. The report went on to conclude that:

If local government is to survive as an effective force it must gain a very much better public image. The Committee believes that it would be greatly helped in that regard by a right of appeal. The experience with Courts of Appeal in the ordinary legal system, and the experience with ombudsmen overseas, show that the percentage of cases in which the decision needs to be reversed is much smaller than the number of cases in which the decision is upheld; but the fact that the decision can be tested is important: the ratepayer feels that he is getting a fair go - he is given an opportunity of testing his council's decision, and of testing it fairly.<sup>8</sup>

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<sup>5</sup> For the purposes of this background discussion I have located the right of review in the framework of English and Australian common law. Whilst the term 'appeal' was used in the 1970 Local Government Revision Committee report, it is more commonly associated with the function of the courts. The term 'review', with essentially the same meaning, is the subject of this audit report, and is consistent with the much more recent statutory obligation of local government.

<sup>6</sup> *Report by the Local Government Act Revision Committee on Powers, Responsibilities and Organisation of Local Government in South Australia* - Parliament of South Australia, July 1970.

<sup>7</sup> *ibid.* p.666. From: *The Citizen and the Administration* (the Whyatt Report) p.88.

<sup>8</sup> *ibid.* p.667.

## 2.2 What the Parliament said

37. The 1970 Revision Committee report was a thorough and progressive study that confronted most of the administrative and representative anomalies in the legislative framework of the 1934 Act. However, it took the State Parliament another 19 years to introduce local government legislation that conformed to the principles of modern public administration. The right to review council decisions was one such reform.
38. Introducing the second reading of the Local Government Bill on 17 February 1999, the Hon Mark Brindal, Minister for Local Government, canvassed the essential elements of each chapter of the proposed legislation. He noted, at Chapter 13, that the Bill sought to establish new methods for the review of the conduct of elected members, and also brought together provisions that regulated review of actions, decisions and operations of councils. These included a new requirement for councils to put in place internal grievance procedures. He said:

There is no intention that the latter provision should impede in any way the right of citizens to approach other sources of remedy for illegal actions on the part of councils, whether the Ombudsman under the Ombudsman Act, or the courts under their various jurisdictions, or the Minister responsible to Parliament for the administration of the Local Government Act. Nonetheless it is the intention of this legislation that councils should make every effort to deal with problems locally, including those arising from their own decisions and operations.<sup>9</sup>

## 2.3 The Statute

39. Various amendments in 2011 and 2016, Section 270 of the *Local Government Act 1999* (SA) provides a process for the internal review of Council decisions. Today it reads as follows:

### Section 270—Procedures for review of decisions and requests for services

- (a1) A council must develop and maintain policies, practices and procedures for dealing with—
  - (a) any reasonable request for the provision of a service by the council or for the improvement of a service provided by the council; and
  - (b) complaints about the actions of the council, employees of the council, or other persons acting on behalf of the council.
- (a2) The policies, practices and procedures required under subsection (a1) must be directed towards—
  - (a) dealing with the relevant requests or complaints in a timely, effective and fair way; and
  - (b) using information gained from the council's community to improve its services and operations.
- (1) Without limiting subsections (a1) and (a2), a council must establish procedures for the review of decisions of—
  - (a) the council;
  - (b) employees of the council;
  - (c) other persons acting on behalf of the council.
- (2) The procedures must address the following matters (and may address other matters):
  - (a) the manner in which an application for review may be made;
  - (b) the assignment of a suitable person to reconsider a decision under review;

<sup>9</sup> *Hansard*. House of Assembly. South Australian Parliament. 17 February 1999, p.807.

- (c) the matters that must be referred to the council itself for consideration or further consideration;
  - (ca) in the case of applications that relate to the impact that any declaration of rates or service charges may have had on ratepayers—the provision to be made to ensure that these applications can be dealt with promptly and, if appropriate, addressed through the provision of relief or concessions under this Act;
  - (d) the notification of the progress and outcome of an application for review;
  - (e) the time frames within which notifications will be made and procedures on a review will be completed.
- (3) A council is not entitled to charge a fee on an application for review.
- (4) A council, or a person assigned to consider the application, may refuse to consider an application for review if—
  - (a) the application is made by an employee of the council and relates to an issue concerning his or her employment; or
  - (b) it appears that the application is frivolous or vexatious; or
  - (c) the applicant does not have a sufficient interest in the matter.
- (4a) The policies, practices and procedures established under this section must be consistent with any requirement prescribed by the regulations.
- (5) A council must ensure that copies of a document concerning the policies, practices and procedures that apply under this section are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) by the public at the principal office of the council.
- (6) A council may amend the policies, practices or procedures established by the council under this section from time to time.
- (7) Nothing in this section prevents a person from making a complaint to the Ombudsman at any time under the *Ombudsman Act 1972*.
- (8) A council must, on an annual basis, initiate and consider a report that relates to—
  - (a) the number of applications for review made under this section; and
  - (b) the kinds of matters to which the applications relate; and
  - (c) the outcome of applications under this section; and
  - (d) such other matters as may be prescribed by the regulations.
- (9) The right of a council to recover rates is not suspended by an application for the provision of some form of relief or concession with respect to the payment of those rates (but a council may then, if appropriate in view of the outcome of the application, refund the whole or a part of any amount that has been paid).

## PART 3

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### STAGE ONE AUDIT - SURVEY RESULTS

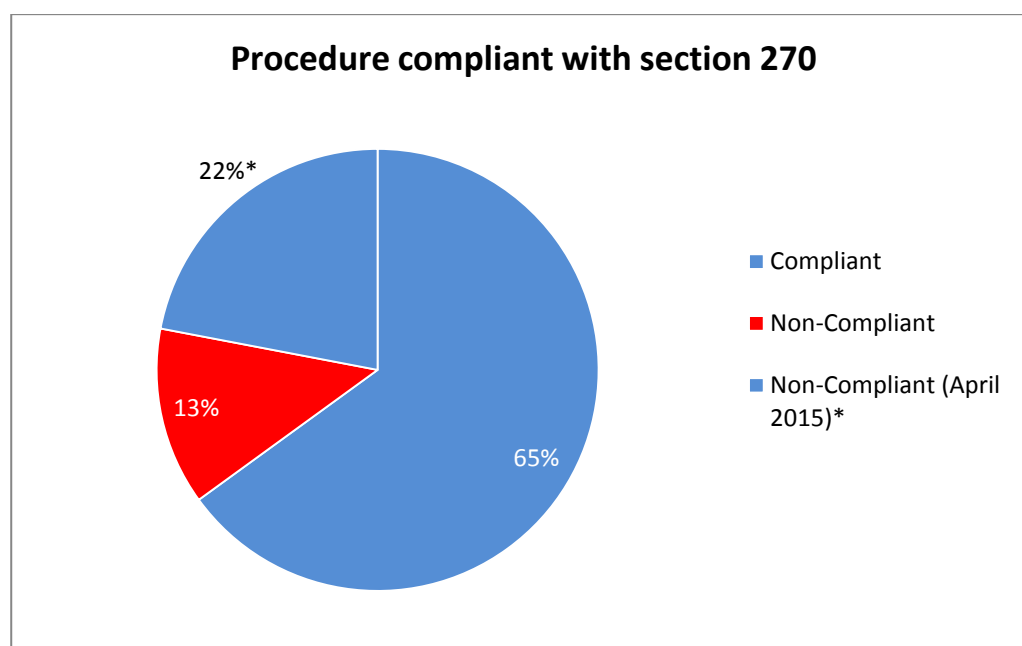
### 3.1 Stage One - The Audit Survey of all councils

40. In June 2015 I wrote to all 68 councils enclosing the Stage 1 Audit Survey. The letter requested responses to two questions about compliance with the requirements of section 270(1) to (9) of the Act. It also notified councils that I would subsequently conduct a Stage 2 audit with a group of 12 councils as part of an in-depth examination of the practices around internal review of council decisions.

41. The questions were:

1. Has your council a current internal review of council decisions policy/procedure which complies fully with the requirements of section 270 (1) to (9) of the *Local Government Act 1999*, including section 270(2)(ca)? Yes or No?
2. When is the council's internal review of council decisions policy/procedure next due for review? Next review date.....

42. All 68 councils responded to the survey. 59 of 68 answered in the affirmative, saying their policy/procedure documents were fully compliant with the Act. Two others stated that they were compliant, but on examination, were found to be non-compliant. A total of nine councils, or 13 per cent of the total, fell into this category.



**Diagram 1**

43. Diagram 1 shows the level of council compliance with section 270(1) to (9) of the Act. The diagram also shows that the number of non-compliant councils has fallen from 15 in April 2015 (22%) to nine in July 2015 (13%). Whilst nine councils is still a serious number, I acknowledge the efforts many councils have recently made to review and update their policy/procedure for internal review of council decision.

44. With regard to question two about the next date of review, many councils responded 'under review currently' - or similar. This was because many councils had exceeded their own nominated date of review - in some cases by years. It appears, again, that my question acted as a prompt for some councils to undertake a review and update their policy/procedure. I welcome this development.

45. Whilst most of the nine councils in the non-compliant category were in breach because they failed to address Section 270(2)(ca), relevant to rates and service charges, there were other examples of omissions and errors in policy which led to non-compliance. Some of these were:
- stating which matters may be referred to the council for consideration rather than stating which matters must be referred to the council as required by section 270(c)
  - no policy information about when and how complainants will be notified about the progress of their application as required by section 270(d)
  - no policy information about the timeframes within which notifications will be made and procedures on a review will be completed as required by section 270(e)
  - advice in a council policy to the effect that the CEO may 'refer the customer to the State Ombudsman'. To the extent that this is suggesting that the council may refuse to deal with an application under section 270 of the Act, and may instead refer the matter to the Ombudsman, then that is inconsistent with the Act.
46. During the course of this audit my Office has referred many councils to the LGASA *Internal Review of a Council Decision: Model Policy and Procedure* document. I note that this document was updated in October 2015. It is available to all councils at <https://www.lga.sa.gov.au/webdata/resources/files>.

### 3.2 Seven year profile - total numbers of section 270 reviews

47. In order to gather evidence about the extent of use of the internal review of council decision procedures, my Office approached the South Australian Local Government Grants Commission for data on the numbers of section 270 complaints received and resolved by all 68 councils for the seven-year period 2009-2015.<sup>10</sup>

Year	Total Complaints Received	Total Complaints Resolved
2009	42	31
2010	60	53
2011	65	61
2012	46	39
2013	62	62
2014	79	71
2015	89	84

**Table 1**

48. Table 1 and Chart 1 (overleaf) show the numbers gradually doubling from 42 in 2009 to 89 in 2015. Whilst this is still an average of just 1.3 applications per council (up from 0.6 per council in 2009), it is a significant increase over that period of time, and some indication that the procedures are becoming better known in the community.<sup>11</sup>

<sup>10</sup> The Grants Commission, or SALGGC, analyses a General Information Return from all councils annually that contains a series of questions on council financial and other performance. These are specifically related to the distribution of untied Commonwealth Financial Assistance Grants to local governing authorities in South Australia. One question relates to the number and outcome of section 270 requests for review of decision received by councils.

<sup>11</sup> The 'total complaints resolved' column refers to those matters completed at the close of each reporting period. Therefore, some matters have been commenced but not finalised in each of the report years, hence the discrepancy in numbers.



49. A notable statistic emerged from the data. It showed that a total of 29 councils had not had a section 270 application for five or more years of the seven year period.

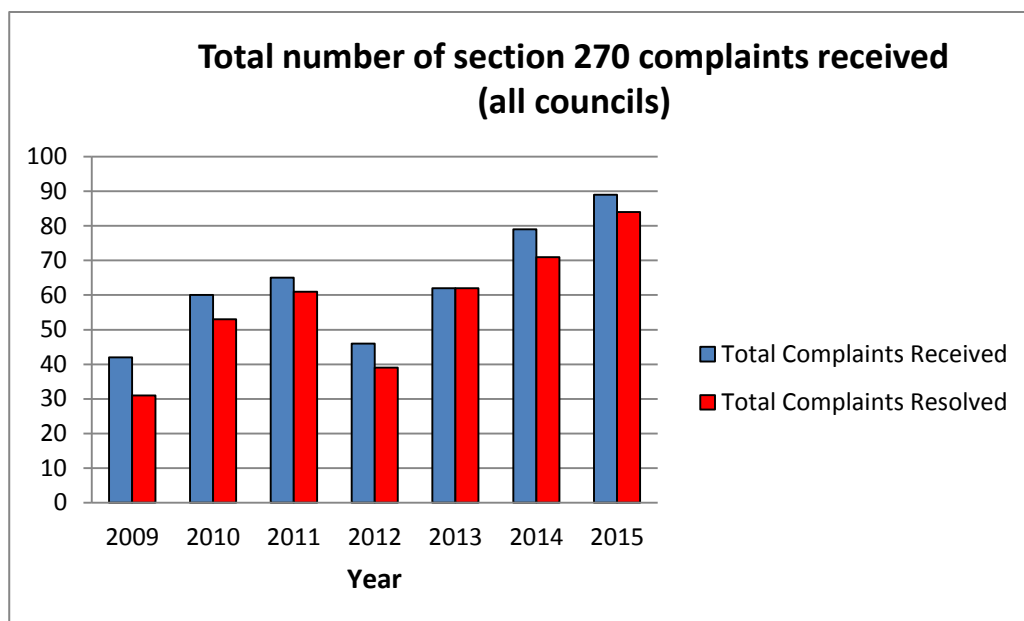


Chart 1

## PART 4

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### STAGE TWO AUDIT - RESPONSES FROM COUNCILS

## 4.1 Council Audit Questionnaire

50. Stage 2 of the audit process commenced with the distribution of a questionnaire to the 12 audit councils. The questionnaire sought answers to ten questions designed to examine a broad range of issues in the internal review process. The following is a summary of the information and analysis of council responses to the seven key questions arising from that research.

### 4.1.1 Availability of internal review policy/procedure to the public

1. Considering the availability of the council's section 270 internal review policy/procedure to members of the public, do you consider that: *(Please tick as many boxes as are relevant)*

- ☐ The policy/procedure is in a prominent place on the council website
- ☐ The policy/procedure could be more prominently displayed *(please explain)*
- ☐ The policy/procedure is not available on the council website *(please explain)*
- ☐ The council does not promote the internal review policy/procedure as we prefer to resolve matters before a formal review is necessary *(please explain)*

51. The question is directed at the approach taken by councils to ensuring wide accessibility of the review of council decision policy and procedure to the community.
52. The principle involved is that people should be made aware of their right to request review of a council decision and the process that will be followed.
53. Figure 1 shows that eight of the 12 audit councils indicated that their 'Internal Review of a Council Decision' policy was located in a prominent place on the council website and was therefore easily accessible to the public. Four councils conceded that they could do more to make the policy easy to access. One council does not promote the policy because of a preference for informal resolution.

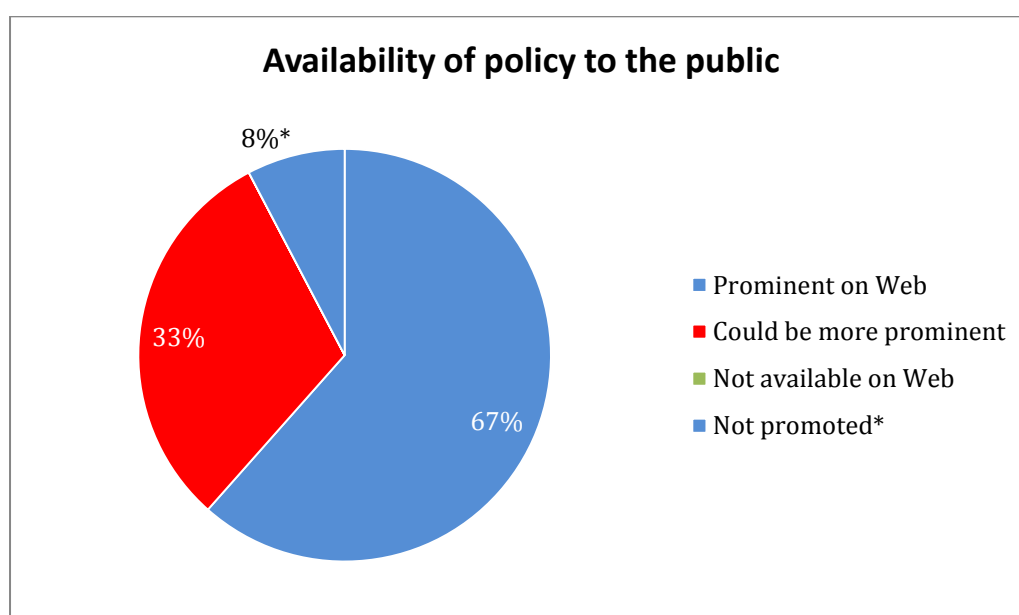


Figure 1

54. Commenting on improved public access, the City of Salisbury noted:

Currently the City of Salisbury's Internal Review of Council Decisions Procedure is accessed on the council's website by searching for 'Internal Review'. Following the review of the Procedures, currently underway, the Procedures will be included on the Policies page to facilitate easier access. The reviewed Policy will also be linked to Council's Customer Compliments, Comments and Complaints Policy.

55. An obvious impediment to access is the name of the document. 'Internal Review of a Council Decision' is not the first search phrase that might occur to a person looking to make a complaint or, more specifically, to challenge a council decision. As noted by the City of Salisbury, some councils are now looking to link their Internal Review policy to the more obvious section that gives information on complaints procedures. Whilst this is useful, it is clear that there is work that councils can do to make their policies and procedures more widely available.
56. A related and equally important issue is the promotion of the policy. Most councils involved in this audit readily admitted that they did not actively promote the internal review policy because they did not want to have to use it. The City of Norwood Payneham & St Peters was an exception. They stated their position as follows:

Whilst we do promote the policy, we always aim to resolve issues without the use of the policy.

57. Many, perhaps more than half, of all 68 councils' internal review policies include wording similar or identical to the following:

The council will attempt to resolve all complaints about council decisions without the need for formal requests for review of those decisions to be lodged.

58. Most council Chief Executive Officers (**CEOs**) took this position. Many expressed the view to me that, because an internal review of decision was a formal statutory investigative process, it was necessarily time consuming and costly to the council. A minority also felt that the current internal review provisions in the Act allow residents to seek the review of a council decision without the need to establish any *prima facie* flaw in the decision making process. One CEO described this as 'a waste of public money'.
59. I acknowledge the concerns raised by council CEOs, particularly in regard to the resource implications of some internal review processes. I address this issue elsewhere in this report. I also address the related issue of people's right to use the formal internal review process instead of opting for a negotiated or conciliated settlement to their grievance.
60. I accept that councils will most often use every endeavour to avoid the formal review process. That is legitimate if the council is seeking to resolve the matter through informal means - and this approach is acceptable to the complainant. Aside from conducting a formal investigation, there are other options, such as the alternative dispute resolution (ADR) process discussed below.
61. Regardless of the other methods of resolution available, I consider that people should always be made aware that they have a right to the formal internal review process. In my view, councils have a responsibility to promote all mechanisms available under the Act to resolve grievances received from members of the public.

**Conclusion**

Audited councils all recognise the importance of making their internal review of decisions procedure available to the public. However, most councils do not actively promote the procedure, preferring to steer complainants towards informal or negotiated procedures to resolve grievances. Whilst this is legitimate, I consider that councils should make people aware of their right to a formal review of decision.

**Recommendation 1**

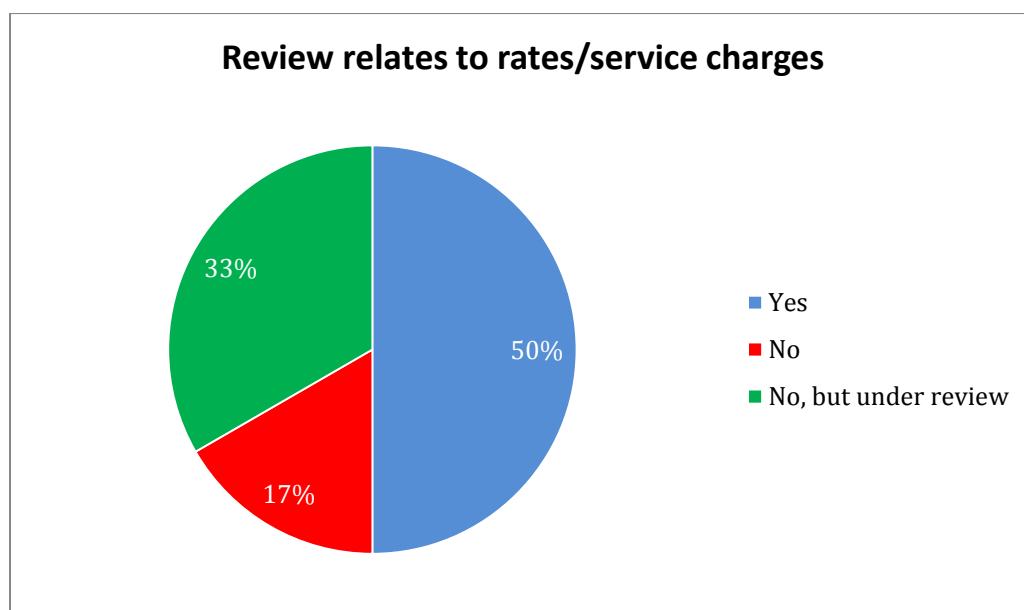
That all councils highlight a direct link on their website homepage to a plain English description of the procedure available for making an application for internal review of council decision. The procedure could usefully be linked to the council's complaint handling policy information that also outlines steps that can be taken for informal resolution of complaints.

**4.1.2 Applications for review which relate to rates or service charges**

**2. Does your council's current internal review of council decisions policy/procedure include a provision to ensure that applications that relate to rates or service charges can be dealt with promptly? [Section 270(2)(ca)]**

- ☐ YES  
☐ NO (*please explain*)  
☐ No, but currently under review (*please explain how/when*)

62. The question seeks to identify Internal Review of Council Decisions policy compliance with the Local Government Act. In this case, the question addressed section 270(2)(ca) which requires provision to be made in the review procedure for applications relating to the impact of a declaration of rates or service charges.
63. The principle involved is that councils have an obligation to ensure their policies and procedures comply fully with the law.
64. As Figure 2 shows, six of the 12 audit councils indicated that their 'Internal Review of a Council Decision' procedure was not compliant because there was no appropriate reference to applications for review that relate to rates and service charges. At the time of the audit survey, four of the six non-compliant councils stated that they were in the process of reviewing their internal review policy and would rectify the omission.
65. Of greater concern was one council which also omitted information on the manner in which a review may be made [s.270(2)(a)]; made no provision for notification of the progress and outcome of a review application [s.270(2)(d)]; and gave no indication of timeframes within which notifications will be made and procedures on a review will be completed [s.270(2)(e)].
66. I note the former Ombudsman's previous audit findings in his November 2011 report, *Valuing Complaints*, and the clear recommendation he made to ensure full compliance with the requirements of section 270 of the Act. As such, I am concerned to report that six of the 12 audit councils were not fully compliant with the Act at the time of this audit survey. I am further concerned to note that one council from the audit group is in breach on at least four requirements of the statute.



**Figure 2**

67. One council in the audit group, the City of Charles Sturt, stated that decisions related to rates were considered only under the council's Rate Rebate Policy. Indeed, the council's Internal Review of Council Decisions policy specifically states that 'council will not review decisions of council in respect to the setting of council rates'. I am also aware of other councils, outside the audit group of 12 that have taken this approach to review of rates decisions.
68. In his explanation to me, the CEO of Charles Sturt correctly pointed out that valuation decisions are not within the council's purview and are the responsibility of the Valuer General. He also said that decisions of the council in respect to the setting of council rates (emphasis mine) were not within the remit of the section 270 internal review policy because this is inconsistent with section 151 of the Act. He noted that the community has the ability to have input into the rate setting policy of the council through the Annual Business Plan Consultation process. He submitted that:
- Council would be concerned if applications could be made to review the rates set as this may take some time (in fact the complaint may not be lodged until after the rates are struck, the budget determined and the rates notices sent). As with decisions of council that are clearly set out in the City of Charles Sturt Business Plan and budget council continually allowing these decisions to be reviewed would mean council would not be able to operate.
69. However, whilst it is correct that section 270 does not allow for challenges to the setting of council rates (as per section 151(9) of the Act)<sup>12</sup>, it does mandate at 270(2)(ca) a procedure for grievances:
- ...that relate to the impact that any declaration of rates or service charges may have had on ratepayers—the provision to be made to ensure that these applications can be dealt with promptly and, if appropriate, addressed through the provision of relief or concessions under this Act;
70. It may be that there is confusion in some councils between the issue of setting of council rates and grievances that relate to the impact of rates levied on ratepayers.

<sup>12</sup> An exception to this may be if a council does not correctly follow the statutory procedures for setting rates and in so doing exposes its declaration of rates to a challenge that the decision is *ultra vires*.

These may include issues such as remissions, rate rebates, rate capping and division of land. However, the statute is clear. There must be provision made for grievances about rates and service charges in the council's section 270 internal review procedure. It is not appropriate for these matters to be referenced only in the council's Rate Rebate Policy or similar.

71. Several other councils made mention of their policies related to Debtor Management or to Rates Notices that contain information about 'Objections to Valuations' and 'Objections to Land Use'. One states that complaints regarding rates and service charges usually involve incorrect description of the property or valuation details 'which are managed via administrative procedures'.
72. By contrast, the Adelaide Hills Council accepted and processed an application for review of decision under section 270 in response to a complaint about separate rates for one property and the declaration of the commercial rate. The council reviewed the decision to create separate assessments by the Rates Department, and also the council resolution for the creation of the commercial rate. The outcome was that the original decisions were upheld, citing detailed reasons to the complainant about why the decisions were made and the legislative basis for them.

### Conclusion

Despite an earlier Ombudsman SA audit on complaint handling conducted in 2011, half of the 12 audited councils in this survey were still not compliant with the law as it applies to grievances that relate to the impact that any declaration of rates or service charges may have had on ratepayers. All audit councils accept that this omission needs to be remedied.

### Recommendation 2

That all councils ensure that their internal review of decisions procedure is fully compliant with the requirements of section 270 of the *Local Government Act 1999*. Further, that all council CEOs confirm in writing to the Ombudsman their full compliance with section 270 of the Act by 31 March 2017.

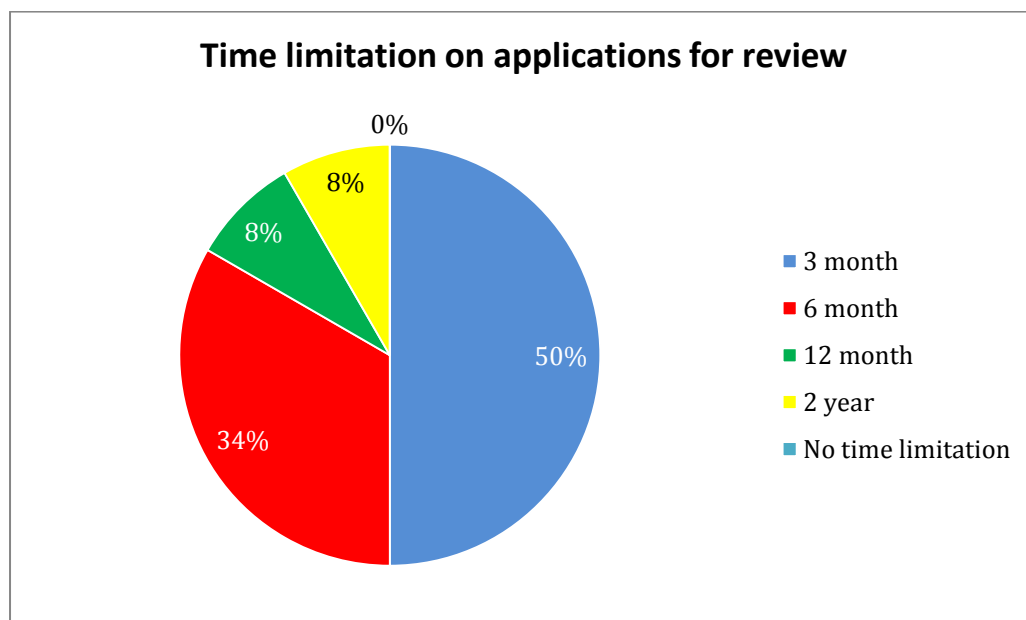
#### 4.1.3 Time limitations on applications for an internal review of decision

3. The Act does not provide for any time limitation on applications for internal review. However, some councils require applications to be lodged within a certain time period. What do you think should be a reasonable benchmark across the local government sector?

- ☐ Three months
- ☐ Six months
- ☐ Twelve months
- ☐ Two years
- ☐ No time limitation

73. The question is directed at identifying an appropriate and reasonable timeline after the council decision is made for terminating access to the review process.
74. The principle involved is that people should have adequate time to be made aware of a council decision that affects their interests and to initiate a formal request for review of that decision if other means of resolution fail.

75. Six of the 12 audit councils indicated that three months was an adequate amount of time before access to the section 270 review process was cut off. One of those councils later revised their position to advocate six months as a more appropriate time limitation on applications. Four councils preferred six months and two other councils preferred one year and two years respectively.



**Figure 3**

76. There were a range of views expressed on the time limitation issue that perhaps reflect the different approaches to the value and effectiveness of the review mechanism itself. Two councils advocated for the three month time limit to be incorporated into the Local Government Act, arguing that consistency across local government was important and legislation was needed to 'ensure compliance'. The City of Mitcham submitted that:
- A statutory time limit of 3 months is supported to ensure that matters can be challenged quickly and to avoid the s270 process becoming a mechanism that can be misused to excessively delay the implementation of a council or administrative decision.
- Council does, however, believe there should be an 'exceptional circumstances' exemption to any statutory timeframe and would find it useful for guidance on exceptional circumstances to be provided in the legislation.
77. Other perspectives on the issue concentrated on the realities of decision-making and questions of fairness. One council submitted that the 'last point of contact' should be the point when the time limit commences rather than the date of the actual decision. This is because 'the applicant may initially try to have the matter addressed outside of the section 270 process and shouldn't be prejudiced by these actions'.
78. The City of Salisbury revised its policy position upwards from three to six months after an internal review of their public document. Its second submission says:
- [Our] updated 270 Review policy provides for a period of 6 months as an appropriate limitation on applications for internal review. This is in recognition of the time taken to implement decisions, and also the likelihood that members of our



community are not necessarily well versed in terms of processes available to them to question a decision that affects them.

By allowing 6 months, there should be sufficient time for individuals to make contact with the council to express concerns about an issue, and then be provided with information about options available to them. Our focus remains on resolving issues of concern with members of our community and providing them with fair and equitable access.

79. My own legislation has a 12 month time limit within which complaints may be made to my Office. The period commences 'from the day on which the complainant first had notice of the matters alleged...' Importantly, I have a discretionary power available to assess a matter and accept the complaint outside that time limit if, 'in the all the circumstances of the case, it is proper to entertain the complaint'.<sup>13</sup> I am aware of at least one council that has received requests for section 270 reviews for matters that go back more than five years. These are invariably resource intensive, and I see little advantage in any requirement allowing such old matters to be reviewed in a local government context.
80. On the other hand, I see merit in the arguments for consistency across the sector. There is also a case for discretion to be exercised by individual councils in accepting matters for review that are outside the standard time limit. I do not, however, consider that it is necessary to legislate or regulate the time within which applications for review may be made.
81. Rather, I propose that all councils include a six month time limit for accepting applications in the next update of their Internal Review of a Council Decision: Policy and Procedure. The wording of the time limit clause should also include a reference to an appropriate discretion to be exercised by the council or it's CEO in cases where the time limit may have been exceeded. On reflection, and in view of submissions made in response to my provisional report, I do not consider it necessary to recommend that the last point of contact be taken as the point of determination for review. This is appropriately covered by the time limit discretion.

### **Conclusion**

Council section 270 procedures allow for varying or no time limits for acceptance of applications for internal review of decisions. The Act is silent on the issue and there is no fetter on applying a time limit. There is an argument for consistency in approach across all councils. Most councils consider that a period of six months or more is appropriate. Councils are mindful that section 270 reviews may be resource intensive and are reluctant to consider older matters when no application was received at or near the time of decision.

### **Recommendation 3**

That all councils include a reference to a six month time limit for accepting internal review of council decision applications in a revised version of their internal review of decisions procedure. Consideration should also be given to the exercise of a discretion by councils to allow a longer time limit to apply in particular cases.

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<sup>13</sup> *Ombudsman Act 1972*, Section 16 - Time within which complaints may be made.

#### 4.1.4 Decisions to which the internal review process can apply/cannot apply

4. Subject to a bona fide application, would your council conduct a section 270 internal review of decision for any of the following: (Please tick as many boxes as are relevant)

- ☐ A complaint where there is no appeal right (e.g. non-complying development)
- ☐ Where the complaint relates to how the council has handled alleged breaches of the Development Act (e.g. decisions about whether to take enforcement action)
- ☐ Where the complaint relates to how the development was categorised (and there is no review right available under section 86(1)(f))
- ☐ Where the matter relates to conduct of a delegate but doesn't fall within the Minister's Code in the Development Act
- ☐ A complaint relating to an expiable offence
- ☐ None of the above

82. The question is directed at identifying council policies and practices when considering applications for internal review of decision where another appeal mechanism may not be available.
83. The principle involved is that people should be able to access an appropriate avenue for review if their grievance is the result of a council decision. As such, a *bona fide* application for review should not be frustrated by apparent gaps in legislative review provisions.
84. Two of the 12 audit councils indicated that they would conduct a section 270 internal review of decision on all the five example decisions proposed. A third council accepted all the Development Act related decisions for review, but rejected the expiation offence example. Another three councils indicated that they would not conduct a review on any of the examples proposed. Six councils accepted some of the examples given as grounds for conducting a section 270 review of decision.

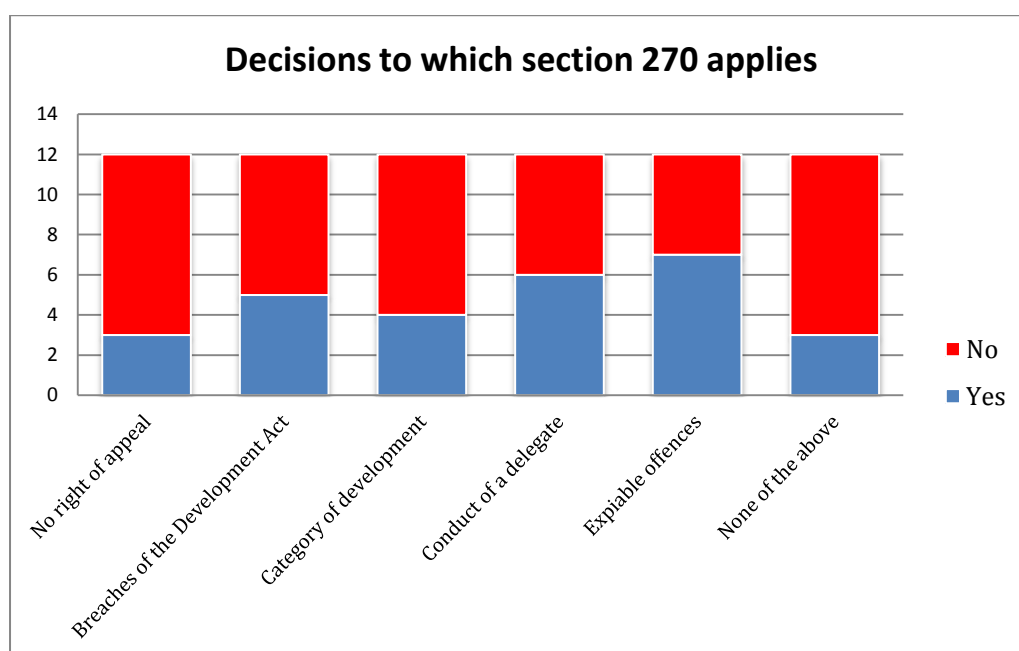


Figure 4

85. Whilst applications for a review of decision about development related issues represent less than 20% of the sample cases identified by the 12 councils, the range of views expressed on the scope of the policy were wide and varied.<sup>14</sup> Roxby Council explained its approach to development matters as follows:

As the Development Act contains detailed, specific appeal and review mechanisms, it is considered appropriate, as a 'general principle' that applicants make use of the statutory scheme specifically set up to deal with complaints regarding decisions surrounding development applications.

However, that is not to say that the council refuses to conduct section 270 reviews of matters determined pursuant to the Development Act itself. As recently as August 2015, the council undertook a section 270 review at the request of an applicant who had submitted a development application for a non-complying proposal that had been refused development plan consent. The applicant had no appeal rights.

86. The central issue inherent in the question is whether a council can limit the types of matters/decisions that could be subject to the section 270 internal review processes. Section 270(4) of the Act proscribes the limitations on the types of decisions that may be subject to review. It states:

A council, or a person assigned to consider the application, may refuse to consider an application for review if—

- (a) the application is made by an employee of the council and relates to an issue concerning his or her employment; or
- (b) it appears that the application is frivolous or vexatious; or
- (c) the applicant does not have a sufficient interest in the matter.

87. On my reading of the provision, the Act does not enable councils to limit the types of matters it is prepared to accept for review of decision under section 270 unless it falls into category (a), (b) or (c), above.

88. However, the real difficulty in interpretation of the statute is highlighted by the exclusions that some councils have identified and promoted. These specify 'Matters outside the scope of the policy and procedures'. Some councils, among them the City of Mitcham, state that a 'section 270 review is not applicable with regard to development matters under the Development Act 1993'. The council made a submission to me as follows:

In broad terms, State legislation and regulations, (including the Development Act) provide a range of appeal processes. It is felt that where these appeal processes are provided for in the legislation and/or regulation, the parliament has had the opportunity to determine what appeal rights should be provided. We therefore feel that a complainant should not be able to [access] a general provision within the Local Government Act (s270) to have unlimited appeal rights on matters that relate to other legislation...

There is also a jurisdictional issue in our view - i.e. matters being assessed under the Development Act should only be reviewed under provisions within that Act, not carry over into reviews available under provisions within the Local Government Act. By allowing section 270 reviews of matters, the powers of the Development Act are undermined.

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<sup>14</sup> For the financial year 2013-2014 the 12 councils identified four development related matters from a total of 21 internal review applications across their jurisdictions in that year.

89. Although I understand that there is confusion in local government about how some statutory appeals processes apply to decisions of the council, there is no basis in law for asserting that review rights must be embodied only within an Act that generally applies to that area of governance. As the Minister told the Parliament when the new Local Government Bill was introduced in 1999: 'there is no intention that the provision should impede in any way the right of citizens to approach other sources of remedy for illegal actions on the part of councils...'
90. In my view, a reasonable interpretation of this is that section 270 was designed to provide an avenue of review for grievances that do not fit into any other legislative or regulatory framework relevant to the operation of local government.
91. The LGASA Model Policy<sup>15</sup> correctly cites other provisions in the Local Government Act (such as objections to land valuations) where prescribed appeal arrangements exist and should be used. Similarly other legislation, including the *Development Act 1993* and the *Environment Protection Act 1993*, include their own proscribed appeal procedures that should be used. Despite that, it is not uncommon to find council internal review procedures citing a list of prohibited matters that the council will not consider reviewing under the section 270 provisions. Usually these identify particular legislation or an area that council considers is covered elsewhere, such as Code of Conduct matters.
92. As noted, some councils consider that development or planning matters, for example, should only be reviewable under that legislative umbrella. No right of review should be available under section 270 of the Local Government Act. However, the main problem my audit identified is the interpretation that many councils give to the prescribed appeal procedures under the Development Act.
93. A common view seems to be that if the grievance is a development or planning matter, an appeal under that Act is the only source of redress for the complainant. This is the interpretation of council internal review policies that is sometimes given to inquiring members of the public. My Office has frequently had cause to review this advice. In some cases we have referred the matter back to the council for reconsideration as a section 270 matter; and the review has been conducted.
94. As the varying responses from the 12 audit councils show, there is a wide spectrum of approaches to the question of exclusions. Using the development example, some councils have accepted, or will accept, a request to review a development application for a non-complying proposal that had been refused development plan consent. In the case cited above by Roxby Council, the applicant had no appeal rights.
95. On the other hand, there are councils that consider any development related matter is outside the parameters of the section 270 provisions. Given the 'grey' area that this issue highlights, it is not surprising that a number of councils were cautious in answering the question. The Port Pirie Regional council put its position this way:
- While council would review each applicant on its merit, the Development Act is generally quite clear on appeal rights available to all parties.
96. In my view, there is a need for consistency across local government in South Australia on matters which fall outside the scope of the review process. It is unsatisfactory and inconsistent with the intent of the legislation for there to be situations where a review is allowed in one council area, but the same, or a similar review, disallowed in a neighbouring jurisdiction. Such inconsistencies are rightly

<sup>15</sup> *Internal Review of a Council Decision: Model Policy and Procedure* - LGASA, October 2015.

seen as unjust and may well erode confidence in the integrity and professionalism of local government.

97. On the question of review applications relating to expiation of offences, there was more consistent support - by seven of the 12 audit councils. For those not inclined to accept an application for review in this category, a common explanation was that there is 'no legislative intent' for an appeal to be available. Roxby Council took a more inclusive view:

With respect to expiable offences however, the decision to issue an infringement such as a parking fine is usually taken at officer level without the considered period of external review. Whilst these issues are usually black and white there may be a case of extenuating circumstances that would warrant a review and potential withdrawal of the infringement. For instance, a Doctor's car parking in a no parking zone whilst attending an emergency might warrant an infringement but a review on practical grounds.

98. Roxby Council was entirely correct in its example of 'extenuating circumstances' that would likely warrant the offence being deemed 'trifling' and potentially subject to review under section 270 of the Act. The relevant legislation in this case is the *Expiation of Offences Act 1996*, specifically sections 4(2), 6(1)(ha) and 8A(1). Section 8A(1) provides that a person who has been given an expiation notice may apply for a review of the notice on the ground that the offence is trifling.<sup>16</sup> There may be other circumstances that warrant consideration for internal review. An example might be where the council is challenged about confusing speed sign changes and agrees that there may be a case to consider waiving fine notices.
99. In summary, I consider that all councils should be open to accepting an application for internal review of decision in matters where there is evidence that no right of appeal exists under any other Act. That said, an internal review under section 270 should not be used where there are statutory appeal rights available, e.g. in a development approval matter, because only a court can overturn a decision on the granting or refusal of a development application. In so saying, I note the new provisions for rights of review and appeal at section 202 of the *Planning, Development and Infrastructure Act 2016*. When the Regulations are finalised, the new Act will eventually replace and initiate the repeal of the *Development Act 1993*.
100. I have taken note of the concerns raised by councils about the potential for process duplication and for the public to be confused if the internal review procedure were to allow for a discretion when a statutory appeal is also available for the decision. Instead, I have accepted the suggestion that councils consider approaching the LGASA to include the commitment to a fully inclusive review remit in the LGASA *Internal Review of a Council Decision Model Policy and Procedure*.

## Conclusion

There is a wide range of policy positions determined by councils in South Australia on appeal and review arrangements in the areas of planning, development and expiation of offences. Some councils wrongly decline to consider a section 270 application for review in these categories on the basis that the area is covered, or should be covered, by the provisions of legislation outside the Local Government Act, e.g. the Development Act.

<sup>16</sup> The Supreme Court of South Australia considered 'trifling' in the case of *Roberts v Police* [2013] SAS 190. A relevant finding at [17] was that 'a deliberate breach will rarely be described as trifling save in cases where humanitarian considerations or considerations of urgency arise'.

**Recommendation 4**

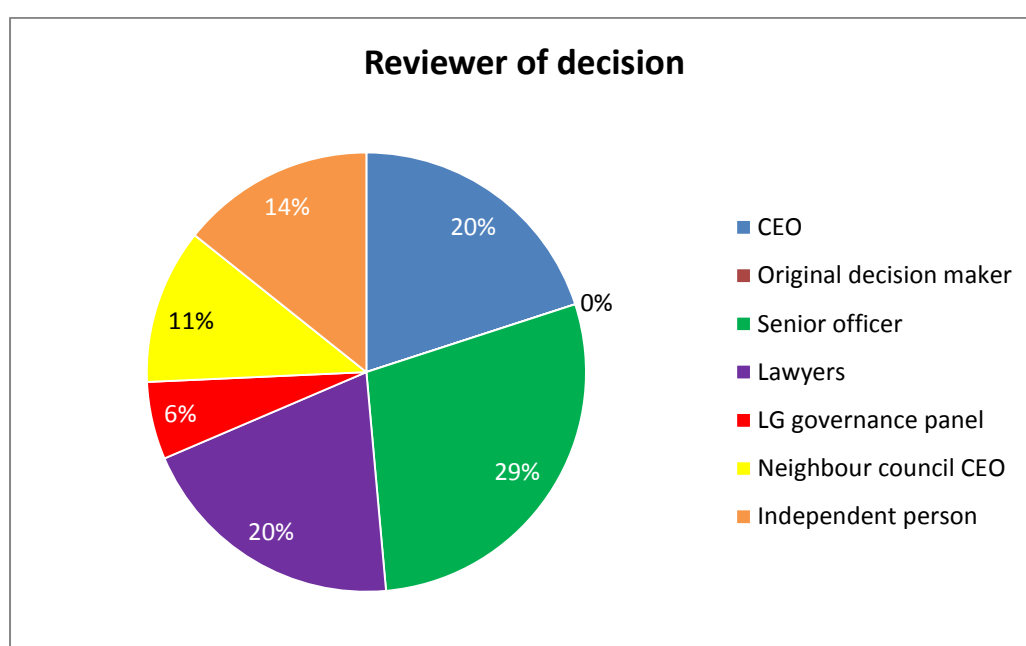
That all councils revise the part of their internal review of decision procedure that deals with 'Matters outside the scope of the policy and procedures' to explicitly state that matters that fall outside statutory appeals procedures will be considered for the conduct of a section 270 review on the merits of the individual application. Further, that councils discuss with the LGASA the desirability of including this commitment in the LGASA *Internal Review of a Council Decision Model Policy and Procedure*.

**4.1.5 Independent conduct of an internal review of decision**

5. The issue of separating the original decision-maker from the internal review decision-making process has been raised with the Ombudsman. In general terms, who is best placed to conduct an internal review of decision for the council? (Please tick as many boxes as are relevant)

- ☐ The CEO
- ☐ The original decision-maker
- ☐ A senior officer of the council not part of the original decision
- ☐ Lawyers engaged by the council
- ☐ The Local Government Governance Panel
- ☐ A neighbouring council CEO or senior manager
- ☐ An independent person with a knowledge of local government governance issues but not currently serving

101. The question is directed at identifying council policies and practices when deciding how to conduct an internal review of decision in circumstances where conflicts of interest arise with the original decision-maker.
102. The principle involved is that no-one involved in making the original decision should conduct the internal review; and that a senior person not associated with the original decision should conduct the internal review to ensure that grievances are assessed and adjudicated transparently and impartially.



**Figure 5**

103. The LGASA provides guidance on this issue in the form of advice on assignment of applications for review in its Model Policy document. Many councils have chosen to incorporate this passage in their Internal Review Procedure. It says, at clause 6.1:

Wherever possible and appropriate, council will seek to involve an external person or panel to assist with the review, including the enlistment of employees of other councils.

*[Optional: council has established a panel of external experts and experienced reviewers from which it is able to draw for this purpose.]*

104. Notwithstanding the range of choices made in the survey, not all councils were in agreement with the principle that the original decision-maker should be separated from the internal review process. One Chief Executive stated openly that he would be prepared to review his own decision. He told me that he would 'look at it myself and see if I'd change my mind'. He went on to suggest that seeking independent assistance in a review of decision from a neighbouring council would not be accepted in his community because, 'people wouldn't trust another council...it would be seen as boys looking after boys'. Three councils in the audit group also conceded that they had used the original decision-maker to conduct section 270 internal reviews.

105. The interviews I conducted with councils did, however, reveal a broad consensus on the question of decision-maker conflict of interest. Most CEO's readily agreed that an internal review of decision should be conducted at arm's length from the original decision-maker - regardless of the fact that that person was often the CEO. As the figures show, the largest number opted simply for a senior manager in the administration to conduct the review. In many instances the key consideration appears to be a selection based on management experience and the most effective way to bring the review matter to a close. The Town of Gawler identified its approach as follows:

The Governance team have not had a lot of experience in investigating section 270 reviews and have used Executive management and lawyers to assist. Neighbouring councils have offered their experience if required but this offer has not been taken up to date.

An independent panel would be a useful avenue if a complaint is about an executive officer or no experienced council officer is available to investigate a complaint. We are aware of the LG Governance Panel but have not had to contact them to date.

106. Some councils thought that matters which relate to a decision of the CEO are best handled by an independent reviewing officer. In most cases, this has meant engaging lawyers to conduct the review, although there were a number of instances cited where councils have engaged neighbouring council senior officers or retired public servants to conduct the review. Despite general agreement that external reviewers are a desirable option, there were some strong views expressed against any regulatory requirement to use external reviewers or a panel of experts.
107. Some smaller councils, including the District Council of Yankalilla, expressed the opinion that an independent panel of experts was worth considering:

It would be a good resource, enabling referrals to an external body. It would allow for independent review of the complaint. [It] would free up resources within our small council.



It is not essential for panel members to have a local government background. Any person with suitable investigation experience/mix of suitable skills could do it. Sometimes it would be useful to use non-local government reviewers because it can be hard to find people in smaller communities to conduct reviews who are not involved with the council members or the CEO in some way.

The District Council of Robe had a broadly similar view and a suggestion about resource sharing:

An independent panel would be worthwhile except the costs incurred would be substantial. A neighbouring council would do the investigation for 1/10<sup>th</sup> the cost. Maybe a regional panel could be established as part of the LGA regions. This would reduce costs.

108. Implicit in the discussion about the independence of reviewers is the associated issue of the relevant expertise to conduct the review. As stated above, some councils have suggested drawing on the expertise of people outside of local government, particularly people with investigation and alternative dispute resolution (ADR) skills.<sup>17</sup>
109. With an externally facilitated ADR process, for example, it is sometimes possible to resolve protracted and difficult disputes through the auspices of an independent third party, usually a professional mediator. It is also worth noting, as many councils have demonstrated to me, that they already use mediation and conciliation techniques to resolve disputes at the secondary level of complaint handling.
110. Whilst there are excellent resources available to councils to develop in-house investigation skills, there would appear to be a case for more training and development across the sector in this area.<sup>18</sup> Some councils will continue to prefer the services of lawyers to conduct formal investigations. However, as the LGASA has demonstrated with the Local Government Governance Panel, there is also an option of a sector driven process or body to provide external review services and support.

### Conclusion

Many South Australian councils have developed internal review practices that seek to manage situations where an original decision-maker (often the CEO) may have a conflict of interest. Whilst internal senior delegation of responsibility is a preferred option, many councils are willing to involve independent reviewers where possible and when available.

### Recommendation 5

That all councils, through the auspices of regional Local Government Associations, consider and report to the Ombudsman by 31 March 2017 on the option of developing regional panels of independent reviewers who can assist councils with complex review matters.

<sup>17</sup> ADR is also known as 'external dispute resolution'.

<sup>18</sup> See The Australian/New Zealand Standard *Guidelines for complaint management in organisations* and the *Better Practice Guide to Complaint Handling* endorsed by Australian Parliamentary Ombudsman.



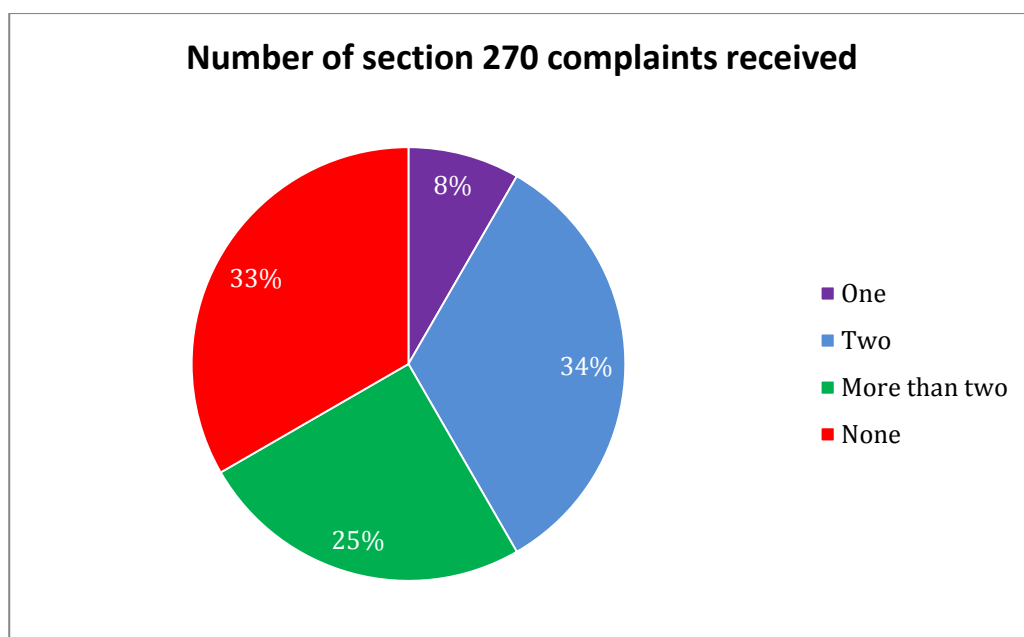
#### 4.1.6 Matter types and learning outcomes from internal review of decision

6. In your return to the Local Government Grants Commission for 2013-14 council reported numbers of complaints received under the 'Internal Review of Council Decision Procedures'. If you received complaints, please attach a brief summary of all complaints under the following headings:

- Nature of complaint
- Identity of Reviewer
- Review process
- Giving reasons for the decision
- Resolution
- ☐ No s.270 internal review complaints received

111. The question aims to identify the frequency of section 270 internal review applications to audited councils and the types of matters people sought to have resolved through this mechanism.
112. The principle involved is that people have a right to request a formal internal review of council decision and the legislation intends a wide variety of matters will be eligible for review.
113. Figure 6 shows one of the 12 audit councils reported a single section 270 application in the year 2013-2014; four councils reported two applications each and three councils reported four applications each.<sup>19</sup>
114. As detailed in Table 1, the number of reviews across the local government sector has been increasing steadily over the last seven-year period. In 2009 the number of review applications received across all councils was just 42. In 2015 the sector reported over twice as many - with 89 recorded by the Local Government Grants Commission. It is interesting to note that there also seems to be a contrast between several larger metropolitan councils, where section 270 review application numbers are highest - and a cluster of smaller regional councils where application numbers are low, or non-existent.
115. It is reasonable to observe that the increased numbers of review applications are a reflection of a variety of factors. These include better promotion of the review policy/procedure by some councils; more internal review referrals from my Office; and a greater willingness and confidence by councils to use the review mechanism where informal resolution has failed. The nature of the council's business and community engagement profile are also likely to be factors.

<sup>19</sup> As reported by councils, not all section 270 applications proceeded to a formal review. Some matters were resolved by negotiation, others were rejected on various grounds, including referral to another appeal process. Interestingly, at least one of the section 270 matters reported was the result of an instruction from the council CEO that a section 270 review of decision was to be conducted after receiving a verbal complaint from a resident.



**Figure 6**

116. The 12 audit councils reported the following types of review matters to me in case studies submitted in response to question 6:

- decision regarding development-related matters by Planning staff
- decision to decline request for rate capping
- decision to decline application for removal of a street tree<sup>20</sup>
- decision to locate a Telstra tower
- decision not to remove vagrants from a council reserve
- decision to remove a regulated tree from a council park
- decision not to undertake a Traffic Impact Statement
- decision to enforce a by-law
- decision to levy a separate rate for a commercial property
- decisions and council action re investigation of a dog complaint
- decision to remove signage from a public place
- decision not to publicly advertise a council position
- decision re sale of council assets
- decision to dispose of steel sections
- decision not to waive a marquee hire fee
- decision not to offer a promotion package for a community event
- decision re Code of Conduct review.

117. Question 7 in the survey questionnaire asked councils for an indication of the remedies they had applied after a section 270 internal review had been completed. In many instances, councils reported that the outcome was to provide an explanation to the complainant because, after review, the original decision had been upheld. Two councils offered complainants an apology for mistakes made by council staff; there were numerous reports of internal reviews leading to a review of particular council policies and/or procedures and training for staff. There was also a report that a debt had been waived and, another, that a staff member had been disciplined for an error.

<sup>20</sup> This matter was reported as an example of a section 270 application received but rejected on the grounds that there had never been a request to the council to remove the tree and therefore there was no council decision against which to lodge a complaint. Further discussion and negotiation with the complainant resulted in the tree subsequently being removed to the satisfaction of the complainant.

118. Audit councils were also asked about administrative improvement and learning outcomes from internal reviews. The CEO of the District Council of Loxton-Waikerie reflected on the outcomes of two reviews that were conducted by senior managers of the council:

In [the first] instance the primary lesson learnt was the Section 41 committee members were not as aware of the nature and limitations of the role of the committee as they could have been, i.e. the committee had committed to waive a fee that they did not have the delegated authority to do so.

Council developed training for all section 41 committee chair persons and members in an attempt to ensure that all were much better informed of the role of a section 41 committee, i.e. in making a recommendation to council.

In the second example the waiver of the fee was also determined not to be warranted and the offer of free tickets [in exchange] was not deemed appropriate.

In both instances I am confident that an independent review would have reached the same conclusion, given the nature of the decisions that were taken, and the scope of the investigations.

In each circumstance, internal review has been viewed as a valuable opportunity to review and improve policy, procedure and practice.

119. Commenting on the outcomes of two reviews undertaken - one about a council officer decision in relation to the enforcement of a by-law; the other a complaint about separate rates for one property and the declaration of the commercial rate, the CEO of Adelaide Hills Council noted:

The process generally worked well. Given scant resources meeting specified timeframes was very difficult, especially where the investigation was complex - the timeframe was too optimistic. Undertaking both the contact officer role and the investigator role was difficult. Consideration could be given to ensuring the two roles are separated.

Of the two reviews not completed by the end of the 2014-2015 financial year one is now resolved. The review had been completed but the matter had been left open until a policy was reviewed. However, in retrospect, it would have been more appropriate to close the review once the determination was finalised, with a recommendation that the specified policy be reviewed.

120. The CEO of the Town of Gawler commented:

We are happy with the reviews conducted in regards to removal of signage and the recruitment process. Both instances were investigated by the Governance Department and found that officers had acted in line with the policies and procedures of the Town of Gawler. Lawyers also gave an opinion during these investigations.

121. The CEO of the City of Charles Sturt told me at interview:

In terms of lessons learnt, it is important to have a reviewer who fully understands the issues and to maintain communication between parties and stakeholders. It is also important to follow up [internally] after the determination.

### Conclusion

The statistics from the Local Government Grants Commission show that section 270 applications received by councils have doubled in the past seven years. Whilst the numbers are still low, and concentrated largely in metropolitan councils, there is some evidence that councils are willing to use the internal review mechanism more now than in the past. Councils have shown an ability to analyse review outcomes to inform better administrative practice.

### Recommendation 6

That all councils periodically evaluate their section 270 review investigations and document learning outcomes relevant to their administrative practices and functional responsibilities. That, as appropriate, these learning outcomes are shared with the Local Government Governance and Policy Officers Network (GPON) and relevant local government interests.

#### 4.1.7 The effectiveness of the legislation requiring internal review of council decisions

7. Section 270 of the Act was recently amended to incorporate new requirements, including a policy covering complaints about the services and actions of the council. Do you consider the current section 270 legislation is working effectively?

- ☐ YES  
☐ NO, it needs amendment *(please explain)*  
☐ The current section 270 should be scrapped and replaced with *(please explain)*

122. The question is directed at identifying council views on the suite of legislative requirements in the current Local Government Act that provide for complaint handling and internal review of council decisions.
123. The principle involved is that the legislation must be followed by councils, but acknowledges that complaint handling expectations from the community are changing and that the legislation should be amended in practical ways.

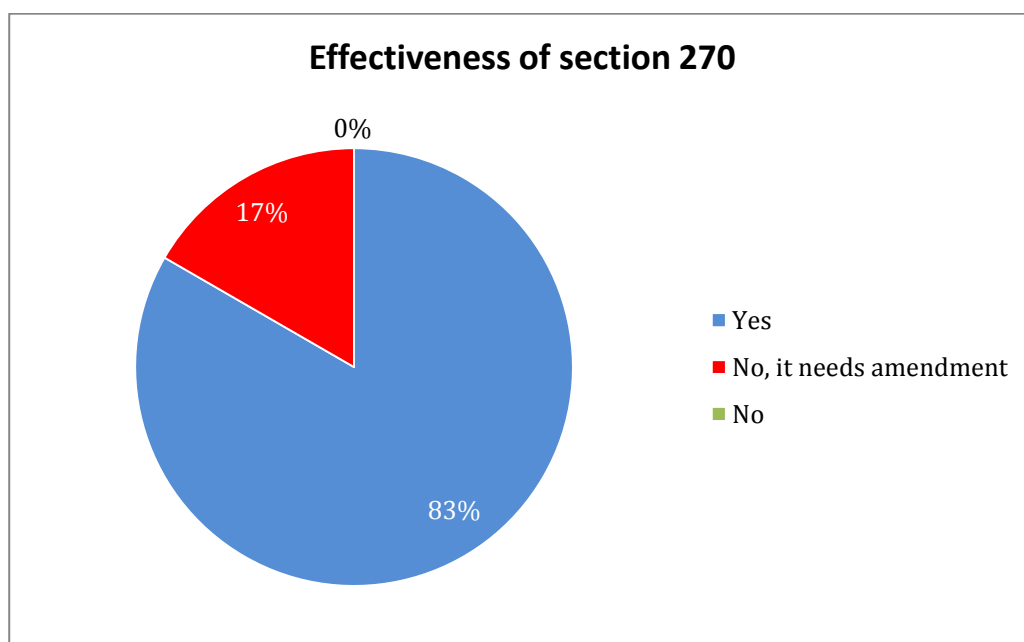


Figure 7

124. Figure 7 shows that 10 of the 12 audit councils are satisfied that the legislation is working as intended and does not need amendment. Two councils submitted that the legislation needed amendment on the grounds that it allows review of merit as well as process, and they consider it should not. I examine these views at greater length in the next section.

125. No council put forward a submission that the legislative requirement for review of decision should be scrapped. In other words, it is reasonable to conclude that the right of the public to challenge a decision of a council is overwhelmingly accepted by the local government sector. The Adelaide Hills Council commented that:

The requirements of s270 are reasonable and appropriate to ensure accountability and transparency.

126. Amendments to the Local Government Act that came into effect on 10 December 2011, included a new requirement for councils to develop and implement complaint handling and request for services policies. These requirements were simply added to the original section 270 with a commensurate minor amendment to section 270(1). They read as follows:

- (a1) A council must develop and maintain policies, practices and procedures for dealing with—
  - (a) any reasonable request for the provision of a service by the council or for the improvement of a service provided by the council; and
  - (b) complaints about the actions of the council, employees of the council, or other persons acting on behalf of the council.
- (a2) The policies, practices and procedures required under subsection (a1) must be directed towards—
  - (a) dealing with the relevant requests or complaints in a timely, effective and fair way; and
  - (b) using information gained from the council's community to improve its services and operations.
- (1) Without limiting subsections (a1) and (a2), a council must establish procedures for the review of decisions of—
  - (a) the council;
  - (b) employees of the council;
  - (c) other persons acting on behalf of the council.

127. It is apparent from the audit evidence that the effect of the amendments has been to cause some confusion in councils and, it is reasonable to assume, in the community as well. The problem, it seems, is that most councils have complied with the legislation by introducing a complaint handling policy and procedure to comply with (a1) and (a2) in addition, and separate to, the existing internal review procedure already required by section 270(1).

128. The confusion arises with the reference often made by councils to 'section 270', which of course now also provides for generic complaint handling processes and procedures. Those procedures usually include an internal review of decision element as the 'third step' in the complaint handling process. The result is that almost all councils now list their complaint handling policy and procedure on their website [usually alphabetically under ['c']] - and, in a separate location under ['i'], most list the 'Internal Review of a Council Decisions Procedure'. The practical effect of having two documents under different headings is to distance the internal review procedure from the council's complaint handling policy.

129. A few councils have decided to overcome the separation by simply including the internal review of council decision procedure in the complaint handling documents. That seems reasonable, given that the statute titles section 270 as: 'Procedures for review of decisions and requests for services'. Nevertheless, most councils have not done this, and keep the two processes as separate policy and procedure documents.
130. It may be that most councils prefer to keep the instruments separate, because they do not want complainants to escalate their grievance to an internal review. As stated above, all councils place strong emphasis on early resolution and a preference to resolve matters 'promptly at the initial point of contact and at the appropriate officer level'.
131. Interestingly, all but two of the 12 audit councils agreed that people have a right to request a formal internal review of decision if they are not satisfied by an informal officer-level review or a negotiated settlement. The CEO of the Town of Gawler put it succinctly:

If the person wishes to go directly to an internal review, that option is available to them.

### **Conclusion**

The evidence from the audited councils shows that there is a potential for the public to be confused by the separation of complaint handling and internal review policy and procedure documents. A large majority of councils believe the legislation is working as it stands and most agree that people have a right to review of decision without participating in informal resolution processes.

## PART 5

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### GOVERNANCE STANDARDS AND ADMINISTRATIVE LAW

### 5.1.1 A universal review procedure across local government?

132. One of the issues raised during the course of the audit was the question of a consistent or universal standard for internal review of decision procedures across councils.
133. Asked if the LGASA Model Policy and Procedure for internal reviews should be universally adopted as a standard across the local government sector, councils generally responded in the affirmative. Five councils gave an unqualified yes, another five said yes, but with variations included in the document to reflect local factors. The District Council of Loxton Waikerie was unequivocal in support of a universal standard:

Members of the public should be able to expect comparable process of review [across all councils].

134. Another council CEO agreed that the LGASA Model Policy was a useful source document to the extent that it covered all matters involved with section 270 reviews. However, he informed me that his council did not prefer it because 'the model policy is hard to read and follow as there is no logical sequence with policy and procedure being scattered throughout the document'.
135. The City of Charles Sturt was one of the two councils that responded in the negative on the question of a universal standard across local government. Whilst being clear that they did not favour a universal standard, the CEO did voice his agreement with the concept of consistency:

Given all councils have very different scale and structures a universal standard may not be appropriate. Councils as individual entities should be able to have the ability to develop and implement relevant policies and procedures. However, having model policies is a good way of supporting consistency.

136. Some councils indicated that a revised model policy could usefully clarify the application of the 'sufficient interest' test in the legislation. Section 270(4)(c) reads:

(4) A council, or a person assigned to consider the application, may refuse to consider an application for review if-

(c) the applicant does not have sufficient interest in the matter

137. Many councils commented that refusal of an application for internal review was not done without full consideration of the issues raised. In general terms, they deemed applicants to have 'sufficient interest' in a matter if they are personally affected by the decision in question. Whilst one commented that 4(c) was a useful 'filter' test for applicants, the council also emphasised that each matter should be, and would be, considered on its merits.
138. My Office has done some research on the issue of the application of the sufficient interest test at law. In summary, the question of 'standing' in administrative review is closely linked with the doctrine of procedural fairness and a complainant's right to be heard (the hearing rule). There is some relevant case law that consistently supports the principle that an applicant must establish that they have an interest in the subject matter, over and



above that of the general public. It is acknowledged that this is not an unduly high test, and that decisions relating to standing must be determined on the facts and circumstances of individual cases.<sup>21</sup>

139. The Ombudsman Act has a similar provision at section 15(3)(a) which provides that, subject to some exceptions, a complaint must not be entertained by the Ombudsman unless made by a person or body of persons directly affected by the administrative act to which the complaint relates. This standing test is consistent with, or perhaps a higher test threshold than the provisions contained in section 270(4)(c). It may be that some guidance on an appropriate application of the sufficient interest test would be a useful addition to the LGASA Model Policy.
140. Consistent with the recommendation that I have made above in section 4.1.4, I consider that it would also be appropriate for councils to discuss with the LGASA the desirability of revising its Model Policy at 2.2: 'Matters outside the scope of the policy and procedures'. Such a discussion would aim to encourage consistency across the sector. Current wording is unclear about what happens to applications that fall outside prescribed appeal procedures. The revision could clearly state that grievance matters that fall outside statutory appeals procedures will be considered for the conduct of a section 270 review of decision on the merits of the individual application.

### 5.1.2 A process review of decision only?

141. As reported at 4.1.7, two councils made detailed submissions proposing amendments to the Local Government Act to disallow applications that seek to challenge the merits of a council decision. Both councils consider that only reviews of the process of decision-making should be allowed under section 270.
142. The Commonwealth Administrative Review Council has articulated the most commonly accepted discussion of the characteristics of a merits review - and contrasted it with the more limited focus of a process (or judicial) review. It says:

Merits review is the process by which a person or body, other than the primary decision maker, reconsiders the facts, law and policy aspects of the original decision and determines the 'correct or preferable decision'. In a merits review, the whole decision is made again on the facts. This is different to judicial review, where only the legality of the decision making process is considered. Judicial review usually consists only of a review of the procedures followed in making the decision.

The objective of merits review is to ensure administrative decisions are correct or preferable - that is, they are made according to law, or if there is a range of decisions that are correct in law, the best on the relevant facts. It is directed to ensuring fair treatment of all persons affected by a decision, and improving the quality and consistency of primary decision making.<sup>22</sup>

143. In his 2011 audit of complaint handling in local government, my predecessor came across at least one example of a council that explicitly disallowed a

<sup>21</sup> For example, the commentary of White J in *Clothier and Simper v City of Mitcham* (1981) 45 LGRA 179 at 186.

<sup>22</sup> Administrative Review Council, *What decisions should be subject to merits review?* (1999). Cited in the *Australian Administrative Law Policy Guide* © Commonwealth of Australia 2011, p.12. *Note:* The Australian Government announced on 11 May 2015 that it had decided to discontinue the Administrative Review Council as a separate advisory body, and to consolidate its functions into the Attorney General's Department.

merit review in its section 270 procedure document. He suggested that the council modify its procedures document, commenting:

This is a wrong interpretation of the statute. I can find no impediment to reviewing the merits of a decision in the legislation. Further, as a matter of good governance, complainants are entitled to a review of all aspects of a decision, including merit, under section 270 of the Local Government Act.<sup>23</sup>

144. The issue of whether section 270 provides for both process and merits review arose in an investigation conducted recently by my Office, which concerned a council's decision to remove a tree.<sup>24</sup> The complainants in that matter sought internal review of the decision under section 270. The council's review noted:

This report will not deal with [this part of] the Applicant's complaints, as it is not the role of procedures under Section 270 of the Act to discuss or determine on the merits of opposing arguments. Rather, the purpose is to ensure decisions were made reasonably, fairly, and followed appropriate processes. As such, this review will only deal with procedural matters relating to the decision itself.

The council later advised me that:

The council did consider the merits of the decision in relation to the decision making processes and whether the views of different parties had been appropriately considered.

145. This submission indicated the apparent confusion surrounding the distinction between a review of the decision-making process (a process review) and a merits review. Review of the decision-making process and whether the views of different parties were appropriately considered is a separate matter to the conduct of a merits review, which requires the fresh consideration of all relevant information, including the original circumstances and arguments. The council advised that it did not do this, and in my view, section 270 necessitates such a consideration. I therefore found that the council had erred by its failure to consider the merits of the decision in the section 270 review.

146. On this basis, I recommended that the council:

review its Complaint Operating Guideline (including section 270 internal review of council decisions or grievances) to clearly outline how the council undertake its section 270 review process and to make it clear that such a process should include an assessment of the merits of the decision ...

147. The Council has subsequently indicated to me its commitment to fully implementing this recommendation, as well as commencing a full merits review of the decision.
148. I note that one audit council made a submission to me on this issue, recognising that the Local Government Act does not restrict internal reviews to process only, and therefore that merits review was part of the existing statute.

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<sup>23</sup> *Valuing Complaints* - An audit of complaint handling in South Australian councils - Ombudsman SA, November 2011, p.65.

<sup>24</sup> The council subject to the investigation was not one of the 12 councils involved in this audit.

149. Instead, they argued that in some cases, the right to challenge a decision of the elected council body (as distinct from the council administration) has led to delays in implementation of project decisions at significant cost to ratepayers and/or third parties. On this basis, the City of Mitcham thought the legislation needed to be amended because:

We are concerned that complainants are using the s270 process as an opportunity to try to get a decision they don't like overturned (irrespective of whether they believe the process was right or wrong) or are using the s270 provisions to simply delay or frustrate the implementation of a valid Council/Administrative decision...

Council supports the right of customers/residents to lodge a complaint or to request a review of a decision if they feel that the process was unfair or flawed. However, this review process should not be used to frustrate the business of Council or the implementation of lawful decisions. Local Government is the only level of government subject to such review rights and as such should not be subjected to excessive additional costs or delays due to these provisions.

150. In fairness to the two councils supporting a legislative amendment to disallow merit reviews, I acknowledge here that some others, notably the City of Norwood Payneham & Saint Peters, also raised concerns with me about the potential for lawful council decisions to be frustrated by internal review applications.<sup>25</sup>
151. However, it is not accurate to assert that only local government is subject to the exercise of internal review rights by citizens. Many agencies at state and federal level have formal systems of internal review, and it may be provided for in legislation. Some decisions are also subject to external review by a tribunal or a regulator, reviewing decisions under a decision-making power, or through the auspices of an independent officer from another agency. Nevertheless, I acknowledge that there is no comparable right to review decisions made by the Cabinet of a State or the Federal government.
152. The City of Charles Sturt commented on this issue. They decided that the review of a council decision should be retained, but that the statute should be clarified to explicitly state whether the internal review should be merit based or process based. They said:

Section 270's primary purpose should be to provide an Internal Review Process for decisions. It would be good to have clarity as to if the scope should be a review of the decision making process or the decision itself (or both). That is, does it confer an 'appeal right' of the decision or should it look only at the decision making process for future learning? If it is to confer an appeal right, at what point can a decision be acted upon? Should action be halted once a Review of Decision application is made and what would prevent this being misused to delay by an aggrieved party?

153. The short answer to the very reasonable questions posed by the council is that the law confers a right to both merit and process review of decision. The statute is clear, if not explicit. I agree that there should be definition about time limitations for an internal review of decision application. In my view, it is

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<sup>25</sup> See the *Eastern Courier Messenger*, March 16, 2016 p.15: '\$5m Oval upgrade delayed'. The story tells of a resident's complaint leading to an internal review which took three months to complete. The council was quoted as saying the review was 'partly responsible' for a delay in work commencing on an upgrade of Norwood Oval.

not reasonable that people can ask councils to review decisions that were made years ago. Councils have a responsibility to contain costs, including for legal services provided. They cannot be expected to revisit decisions where decisions are already long ago implemented. There should also be a reasonable emphasis on informal and alternative dispute resolution options to resolve matters before a formal review is conducted.

154. Having said that, the legislation provides for members of the public to have access to the formal review of decision mechanism. Notwithstanding some concerns about individual cases taking too long, and delays in implementing some decisions, I have no body of evidence before me that indicates the internal review process is too onerous for councils to manage. I have concluded that councils need to accept the parameters of the law and manage their internal review processes accordingly.<sup>26</sup>

### 5.1.3 Do councils need more governance support?

155. One of the terms of reference for this audit covers identifying opportunities for administrative improvement in councils' use of the section 270 internal review procedures. At the interview stage of the audit, I asked all councils a question about their internal governance support arrangements and the importance of these dedicated resources to the handling, resolution and learning from complaints - including internal reviews. I also inquired about the councils membership, or otherwise, of the Local Government Governance and Policy Officers Network (GPON).
156. Nine of the 12 councils involved in the audit had a dedicated governance officer or team as part of their senior administrative structure. The role of the 'governance team' is, generally speaking, to provide policy development and review, training for staff and council members, legislative advice and complaint handling services to the council and its senior managers.
157. Some councils have composite teams or units with titles such as Governance, Governance and Risk and the Governance and Business Support Team. Some are small, with only a single Governance Officer. Larger councils may have teams with six to eight staff with a range of significant governance and business support roles allocated to them. There is broad agreement across the sector that governance support is an increasingly important area of council operations and needs to be appropriately resourced.
158. In their discussion of approaches to internal reviews and governance issues, the Loxton-Waikerie, Port-Pirie and Yankalilla councils described inter-council cooperation models and partnerships that I found to be both practical and creative.
159. Yankalilla has developed a governance advisory relationship with the much larger and better resourced Onkaparinga council. Port Pirie has supported the neighbouring Flinders Rangers Council by conducting an internal review for them; while Loxton-Waikerie has entered into a formal governance

<sup>26</sup> I acknowledge here the comment made by the CEO of the City of Mitcham who observed that changing a council decision requires a majority of council [elected] members to vote for the decision to be overturned. He said that 'there is already provision for this to occur via a rescission motion; s270 is not required in my view. If there is no Elected Member willing to move a rescission the review will not succeed. If the decision was made by Administration I would support a review of the decision under s270 to occur'.

support relationship with the City of Unley that will involve training and secondments across both councils.

160. Many of the 12 audit councils also mentioned their use of private legal services for governance advice; although some expressed reservations about expenditure of ratepayer's money on lawyers. Three councils communicated a desire to see the LGASA re-establish its now defunct 'legal services unit' which had been valued as source of information and advice on some of the more complex governance matters. The CEO of City of Mitcham said:

Mitcham was an inaugural partner and strongly supported the establishment of a legal services team within the LGA to provide expert advice based on common interpretation of the LG Act. We continue to promote the need to reinstate the service and additional services such as mediation could be included in the model.

161. Councils were also asked about their membership in, and the value of, the GPON. Councils came together to establish the Network some years ago, aiming to:

meet regularly to address issues of common interest in the areas of governance and policies for the benefit of each participating council, individuals and the advancement of governance best practice principles throughout local government in South Australia.

The Network will be available for the Local Government Association to consult on relevant governance and policy matters.<sup>27</sup>

162. Ten of the 12 audit councils are members of GPON. All of these expressed support for the Network as an information sharing and problem solving forum. Some, not all, argued for an expanded role for the Network as a more formal entity along the lines of the South Australian Local Government Finance Managers Group (FMG)<sup>28</sup>

163. Several suggestions were made by council CEO's to give GPON 'more clout'. A skills audit for Network members; developing and publishing a library of Frequently Asked Questions; developing a website and taking the Network to regional LGAs - were all proposed as enhancements. Without specifically advocating for the FMG model, the City of Salisbury nevertheless had a clear view about the development of the Network:

The GPON is primarily an informal group that shares information in relation to governance/policy matters. There would be some value in a more structured approach from the GPON, subject to appropriate resourcing, that would enable them to respond to sector wide initiatives in a more formal manner. It could be a useful forum to test policy issues, directions etc. to gain input from a range of councils and could also provide structured feedback to the LGA in relation to council matters. There is a point of difference between the operational experience of Governance officers that contribute to the network and the LGA perspective, which is more of a policy/political focus and there could be merit in the LGA working more closely with the GPON.

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<sup>27</sup> *Terms of Reference* - South Australian Local Government Governance and Policy Officers Network, May 2014. See Appendix C attached to this report.

<sup>28</sup> Part of the FMG's role is carrying out projects and research into a range of financial management topics. The Group has its own website and publishes reports, manual and guidelines for use by practitioners in SA councils.

164. I consider that the many governance issues raised by councils throughout this audit are evidence that councils are keen to find ways to strengthen and develop their in-house governance expertise. I note also the creative ways in which councils are looking to support each other on matters such as section 270 review procedures and interpretation of the Local Government Act and Regulations.
165. In my view, there is an argument for GPON to take a stronger governance leadership role across the sector. There may be value in establishing a GPON website presence to promote best practice and aim for consistency and excellence in governance standards. There may also be an opportunity for the Network to work with the LGASA on model policy development, and to take and disseminate advice on legal matters relevant to local government.

### **Conclusion**

The evidence from councils about the value of the GPON as a forum for issues of common interest in governance policy and practice is strong. A majority of South Australian councils now participate and there is a clear body of support for GPON to extend its influence and relevance across the local government sector in its area of expertise.

### **Recommendation 7**

That the existing membership and leadership of GPON consider if there is a case to be made to all councils for an expanded role for the Network - whether this be expanded membership, development of a website and/or project and research relevant to governance standards in councils - or other governance priority identified by the Network.

## PART 6

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### CONCLUSIONS

## 6.1 Conclusions

166. It is perhaps ironic that the *Local Government (Accountability and Governance) Amendment Act 2015* finally enabled the abolition of the 1934 Local Government Act. With it went the last remnants of the nineteenth century system of governance where the elected bodies of local government were 'judges in their own cause' and no right to review of decisions existed for citizens.
167. I highlight the observations of the 1970 Local Government Act Revision Committee, whereby a right of review was proposed to extend the democratic rights of citizens and ratepayers to enable council decisions to be challenged. In so doing, the principles that underpin section 270 of the Act were also articulated as a stimulus to enable better decision making in councils.
168. This audit has provided some evidence that this is the case. Although the use of section 270 reviews is still uneven and inconsistent, there is some confirmation from councils that the reviews are being conducted more confidently, openly and with clearer resolutions in mind. If this is, in fact, the case, the right to review is a 'pressure release' mechanism that adds to the credibility and positive public image of councils. This is particularly important in an era where good governance is expected and valued.
169. I consider that the affirmation by councils of the need for an internal review mechanism is confirmation that councils are willing to strengthen and develop their decision making accountability measures. Many councils are also looking to promote these mechanisms to the public. I note also the creative ways in which some councils are looking to support and collaborate with each other on governance matters.
170. If my recommendations are adopted by councils, there is every chance that the recent trend toward the public showing greater confidence in the section 270 review process will continue. If that is the case, I hold a reasonable expectation that internal 'testing' of decision making will demonstrate both fairness to the public and excellence in governance standards.





## AUDIT OF LOCAL GOVERNMENT ACT SECTION 270 INTERNAL REVIEW OF COUNCIL DECISIONS PROCEDURES - JUNE 2015

### COUNCIL AUDIT SURVEY

As part of a more detailed audit of a select number of councils, the Ombudsman is seeking feedback from all South Australian councils on compliance with the section 270 Internal Review of Council Decisions provisions of the *Local Government Act 1999*.

Data from this proforma will be included in the final audit analysis. The information from each council will be collated for a report to be made to the Parliament in 2016.

A completed copy of this two question survey is requested by **Friday, 31 July 2015** to Ombudsman SA - PO Box 3651 Rundle Mall SA 5000.

*(Please tick the relevant multiple choice box and make any comment below)*

#### Section 270 Internal review of council decisions

1. Has your council a current internal review of council decisions policy/procedure which complies fully with the requirements of section 270 (1) to (9) of the *Local Government Act 1999*, including section 270(2)(ca) ?

- ☐ YES  
☐ NO *(please explain)*

Comment:

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2. When is the council's internal review of council decisions policy/procedure next due for review?

Next review date.....

Council name.....

CEO *(for sign-off)*

Name.....

Signature.....

Date.....



## AUDIT OF LOCAL GOVERNMENT ACT SECTION 270 INTERNAL REVIEW OF COUNCIL DECISIONS PROCEDURES - 2015

### COUNCIL AUDIT QUESTIONNAIRE

As part of its administrative improvement role, Ombudsman SA is undertaking an operational audit of a sample group of 12 councils. The aim is to highlight the operation of section 270 of the *Local Government Act 1999* (**the Act**). Specifically, the focus of the audit is an examination of council compliance with, and the implementation of, the section 270(1) to (9) requirements for internal review of council decisions.

The audit does not include an examination of general complaint handling policies and procedures which are mandated under section 270(a1) and (a2) of the Act.

This document is in addition to the Council Audit Survey sent to all SA councils in June 2015. It commences Stage 2 of the audit process.

Data from this questionnaire will be included with other council responses. The information from each council will be analysed for a report to be made to the Parliament in 2016.

A completed copy of this questionnaire is requested by **Friday 11 September 2015** to Ombudsman SA - PO Box 3651 Rundle Mall SA 5000.

If it is deemed desirable/necessary, the Ombudsman will make an appointment to meet with council representatives to discuss issues arising from council responses.

#### Council details

Council name.....

CEO (*for sign-off*)

Name.....

Signature.....

Date.....

*(Please tick the relevant multiple choice boxes and attach additional pages where more space is required for comments)*

### Availability of internal review policy/procedure to the public

3. Considering the availability of the council's section 270 internal review policy/procedure to members of the public, do you consider that: *(Please tick as many boxes as are relevant)*

- ☐ The policy/procedure is in a prominent place on the council website
- ☐ The policy/procedure could be more prominently displayed *(please explain)*
- ☐ The policy/procedure is not available on the council website *(please explain)*
- ☐ The council does not promote the internal review policy/procedure as we prefer to resolve matters before a formal review is necessary *(please explain)*

Comment:

### Applications for review which relate to rates or service charges

4. Does your council's current internal review of council decisions policy/procedure include a provision to ensure that applications that relate to rates or service charges can be dealt with promptly? [Section 270(2)(ca)]

- ☐ YES
- ☐ NO *(please explain)*
- ☐ No, but currently under review *(please explain how/when)*

Comment:

### Time limitations on applications for an internal review of decision

5. The Act does not provide for any time limitation on applications for internal review. However, some councils require applications to be lodged within a certain time period. What do you think should be a reasonable benchmark across the local government sector?

- ☐ Three months
- ☐ Six months
- ☐ Twelve months
- ☐ Two years
- ☐ No time limitation

Comment:

### Decisions to which the internal review process can apply/cannot apply

6. Subject to a bona fide application, would your council conduct a section 270 internal review of decision for any of the following: *(Please tick as many boxes as are relevant)*

- ☐ A complaint where there is no appeal right (eg non-complying development)
- ☐ Where the complaint relates to how the council has handled alleged breaches of the Development Act (eg decisions about whether to take enforcement action)
- ☐ Where the complaint relates to how the development was categorised (and there is no review right available under section 86(1)(f))
- ☐ Where the matter relates to conduct of a delegate but doesn't fall within the Minister's Code in the Development Act
- ☐ A complaint relating to an expiable offence
- ☐ None of the above

Comment:

### Conduct of a section 270 internal review of decision

7. The issue of separating the original decision-maker from the internal review decision-making process has been raised with the Ombudsman. In general terms, who is best placed to conduct an internal review of decision for the council? *(Please tick as many boxes as are relevant)*

- ☐ The CEO
- ☐ The original decision-maker
- ☐ A senior officer of the council not part of the original decision
- ☐ Lawyers engaged by the council
- ☐ The Local Government Governance Panel
- ☐ A neighbouring council CEO or senior manager
- ☐ An independent person with a knowledge of local government governance issues but not currently serving

Comment:

### Your experience with section 270 internal review of decisions

8. In your return to the Local Government Grants Commission for 2013-14 council reported numbers of complaints received under the 'Internal Review of Council Decision Procedures'. If you received complaints, please attach a brief summary of all complaints under the following headings:

- Nature of complaint
- Identity of Reviewer
- Review process

- Giving reasons for the decision
  - Resolution
- ☐ No s.270 internal review complaints received

### Remedies

9. If your council has conducted one or more internal review of decision in the **past two years**, which of the following remedies has been applied? *(Please indicate how many times in the comment box)*

- ☐ Provide an explanation
- ☐ Change the decision
- ☐ Mediation
- ☐ Admission of fault
- ☐ Correction of records
- ☐ Remission of a penalty
- ☐ Apologise
- ☐ Pay or provide financial or remedial compensation
- ☐ Waive a debt
- ☐ Change a relevant council policy or procedure
- ☐ Discipline staff for an error
- ☐ Other *(please explain)*

Comment:

### Annual reporting requirements

10. Section 270(8) requires a report to be produced annually which relates to the number of internal review applications, the kinds of matters considered and the outcome of applications dealt with. Has your council produced a report and published it in the 2013-14 Annual Report? *(If yes, please attach the AR extract)*

- ☐ YES
- ☐ NO

Comment:

### Policy/procedure standards and consistency across the local government sector

11. The Local Government Association of South Australia (LGA) has a current *Internal Review of a Council Decision Model Policy and Procedure* in circulation. Do you consider that the LGA Model Policy and Procedure should be universally adopted as a standard across the local government sector in order to provide consistency to all members of the public?

- ☐ YES
- ☐ NO

- ☐ Yes, in large part, but allowing for some local factors *(please explain)*

Comment:

### The legislation and the regulations

12. Section 270 of the Act was recently amended to incorporate new requirements, including a policy covering complaints about the services and actions of the council. Do you consider the current section 270 legislation is working effectively?

- ☐ YES  
☐ NO, it needs amendment *(please explain)*  
☐ The current section 270 should be scrapped and replaced with *(please explain)*

Comment:

### Your contact with Ombudsman SA on section 270 matters

13. Ombudsman SA frequently refers complaints from members of the public back to the relevant council for a 'section 270 internal review'. Can you please comment on this practice from your perspective and provide any relevant case study information about how you deal with such referrals.

Comment:

14. Please attach any other comments you wish to make on the operation of section 270(1)-(9) of the Act.

*Thank you for completing this survey.*

## **TERMS OF REFERENCE**

### ***South Australian Local Government Governance and Policy Officers Network***

Last amended May 2014

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#### **Purpose**

The purpose of the South Australian Local Government Governance and Policy Officers' Network (Network) is to meet regularly to address issues of common interest in the areas of governance and policies for the benefit of each participating Council, individuals and the advancement of governance best practice principles throughout Local Government in South Australia.

The Network will be available for the Local Government Association to consult on relevant governance and policy matters.

#### **Membership**

The Network will consist of staff representatives from South Australian Councils who have a role or work in the areas of governance and legislative policy development and review.

Representatives from the Local Government Association and the State Government Department relevant to Local Government may attend Network meetings as invited guests.

Key staff, consultants or representation from stakeholder groups may attend meetings from time to time to provide information and recommendations. Attendance will be by invitation from the Network only.

#### **Protocols and Operating Principles**

Decisions made by consensus will be preferred and it is not intended that votes be taken on matters.

Confidential items will not be minuted and discussion should remain confidential where agreed.

Participating Councils will be invited to provide the resources to support the Network including briefing papers, which may be prepared for each agenda item. Where possible all documentation will be prepared and distributed via electronic methods thus avoiding costs of printing and postage.

The Agenda will be distributed to the Network three days prior to meeting dates, and meeting noted distributed as soon as possible after meetings.

The Network will meet quarterly at a time as agreed by the Network. The venue will rotate around various councils mainly within the metropolitan area of Adelaide.

No membership fees will be applicable for membership to the Network.



**Role of Chairperson**

The Chairperson shall be a person appointed from the membership for the purpose of chairing meetings. This position will be reviewed in the first meeting of each calendar year.

The Chairperson is responsible for authorising any correspondence from the Network.

**Role of Secretary/Deputy Chair**

The Secretary/Deputy Chair shall be a person appointed from the membership for the purpose of coordinating meetings, maintaining the membership database, recording notes of key matters arising from each meeting and coordinating and distributing questions raised between meetings. This position will be reviewed in the first meeting of each calendar year.







OmbudsmanSA



## PROCEDURE FOR INTERNAL REVIEW OF A COUNCIL DECISION

Procedure Type:	Council Procedure
Responsible Department:	Office of the CEO
Responsible Officer:	Group Manager, Governance & Risk
Related Policies and Procedures	Requests for services, compliments and complaints policy. Complaints handling procedure under Council Members' Code of Conduct
Date Adopted:	25 June 2007
Last Council review:	26 May 2014
Next review date:	May 2017
ECM Doc Set ID:	1731990

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### 1. INTRODUCTION

- 1.1 The City of Unley recognises the importance of transparency in Council decision-making and the need to provide a fair, objective and consistent process for the internal review of Council decisions.
- 1.2 The procedure is mandatory under section 270(1) of the *Local Government Act 1999*.

### 2. COMMUNITY GOAL

- O5.2 A customer-centric approach;
- O5.3 Good governance and legislative framework.

### 3. POLICY OBJECTIVES

- 3.1 The primary objectives of the Procedure for Internal Review of a Council Decision are to:
  - (i) satisfy the mandatory requirements of Section 270(1) of the Local Government Act 1999;
  - (ii) provide a fair, objective, and consistent procedure for the review of decisions of the Council, employees of the council, and other persons acting on behalf of the council;

- (iii) Where appropriate, use information obtained during the review to improve council decision making processes and service delivery.

#### **4. PRINCIPLES**

- 4.1 The review will examine the process by which the original decision was made, not the decision itself. However, the review may or may not result in the disputed decision being reconsidered and overturned.
- 4.2 The internal review process will aim for procedural fairness to ensure that all parties have the opportunity to express their point of view in relation to the decision under review, provide relevant information, and respond to issues raised.
- 4.3 All reasonable attempts will be made to review a decision quickly and efficiently without the need for a formal application for internal review to be lodged.

#### **5. SCOPE**

- 5.1 A review of an operational matter should be directed to the "Requests for services, compliments and complaints policy". Where simple resolution of a grievance cannot be achieved and a formal application for review is received, then the internal review procedure is to be used.
- 5.2 Any person with a sufficient interest in the decision may apply for an internal review of a decision of Council, a council employee, or other person acting on behalf of Council. The decision may include a Council policy, procedure, access to a service or fee.
- 5.3 Council operates under a range of legislation and this procedure will not apply where other statutory review or appeal processes are available to review a decision under particular legislation. (see Appendix 1)
- 5.4 The Council will not normally internally pursue an application for review of a Council decision which is currently under consideration by any other authority or agency with statutory appeal powers, or where other review processes are available, as this is likely to duplicate and misuse resources and/or to be inappropriate.
- 5.5 Whilst Council prefers to work with all persons to resolve requests for review quickly and effectively, a person may make a complaint, at any time during or after any of the steps of the process, to the Ombudsman under the *Ombudsman Act 1972*. Note that as a general rule, the Ombudsman prefers matters be addressed by Council in the first instance unless that is not appropriate to the circumstances.
- 5.6 Full co-operation with any such authority will be afforded as necessary, in order to resolve the matter as quickly as possible.

#### **Refusal to review**

- 5.7 The Council through its delegate, the Chief Executive Officer, may refuse to consider an application for Review of a Council Decision in accordance with Section 270(4) of the *Local Government Act 1999* if:

- (i) The application is made by an employee of the Council and relates to an issue concerning his or her employment; or
- (ii) It appears that the application is frivolous or vexatious; or
- (iii) The applicant does not have a sufficient interest in the matter.

The Chief Executive Officer may also refuse to consider an application where:

- (iv) The matter is currently under consideration by any other authority or agency with statutory appeal powers, or where other review processes are available; or
- (v) The application relates to decisions of Council that are set out in the Council's Annual Business Plan and Budget; or
- (vi) The application relates to decisions of Council made in accordance with the *Development Act 1993* and *Development Regulations 2008* or the City of Unley Development Plan.

5.8 Elected Members, when exercising their statutory duties, may not use the grievance process provided under Sections 270(1) and 271 of the *Local Government Act 1999*. To attempt to do so would be considered a vexatious request, as the *Local Government (Procedures at Meetings) Regulations 2013* provide Elected Members with the opportunity for a rescission motion to alter a decision of Council.

#### 5.9 Rates or service charges

- (i) Pursuant to Section 270(2)(ca) of the *Local Government Act 1999*, where the application for review relates to the impact that any declaration of rates or service charges may have had on ratepayers, the Council will ensure the application for internal review is dealt with promptly, and, if appropriate, addressed through the provision of relief or concessions under that Act.
- (ii) It is important to note that section 270(9) of the Act provides as follows:  
"The right of a council to recover rates is not suspended by an application for the provision of some form of relief or concession with respect to the payment of those rates (but a council may then, if appropriate in view of the outcome of the application, refund the whole or a part of any amount that has been paid)."

## 6. PROCESS

6.1 Council has nominated the Council's Chief Executive Officer or his/her delegate as the officer responsible for dealing with any formal application for internal review.

6.2 A formal application for an internal review of a Council decision must be made in writing, marked "Internal review request", and addressed to the Chief Executive Officer or the Mayor:

- (i) If the request is for a review of a decision made by the Council as the elected body, or a decision made by an employee of the Council, or other person acting on behalf of Council, the application should be addressed to the Chief Executive Officer of the City of Unley; or



- (ii) If the request is for a review of a decision made by the Chief Executive Officer, the application should be addressed to the Mayor.

By post or hand-delivered:

Internal review request  
The Chief Executive Officer or Mayor  
City of Unley  
181 Unley Road  
UNLEY 5061 SA

or

By email:

The Chief Executive Officer or Mayor  
[pobox1@unley.sa.gov.au](mailto:pobox1@unley.sa.gov.au)

or

By facsimile:

Internal review request  
The Chief Executive Officer or Mayor  
City of Unley  
(08) 8271 4886

6.3 A formal application for an internal review:

- (i) should use the attached “Application for Review of a Council Decision” (form 1);
- (ii) must provide full details of the decision for which the applicant is seeking a review; and
- (iii) must be lodged within six (6) months of the original decision being made (with discretion provided by the CEO to allow a longer time limit to apply in particular cases. This will be assessed on a case-by-case basis.).

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- 6.4 The process for applying and participating in a review of a Council decision is to be made as accessible as possible, with assistance provided if considered necessary. Assistance may include interpreter and/or translation services, assistance with writing the application, or ensuring ease of physical access to meeting rooms etc. If a person refuses assistance, that does not negate their right to proceed with the application.
- 6.5 The CEO or delegate (or Mayor where appropriate) will assess the application and determine the appropriate action. This may include direct referral of the matter to Council, or to an external person or panel independent of the Council to conduct the review, or to SAPOL if a criminal matter or to the Office of Public Integrity.
- 6.6 The CEO may appoint another council officer (the “reviewing officer”) such as a member of the Executive Management Team or senior officer, who was independent of the original decision, or set up a panel for the express purpose (i.e. it does not have permanent status) to conduct the review.
- 6.7 Where the CEO or delegate, or Mayor, or reviewing officer has reasonable suspicion that the complaint involves corruption in public administration, serious or systemic misconduct in public administration, or serious or systemic maladministration then the

matter **must** be reported to the Office of Public Integrity (OPI) in accordance with the *Independent Commissioner Against Corruption Act 2012*.

6.8 The role of the reviewing officer is to:

- (i) Explain the procedure to the applicant and explore any alternative options to resolve the matter, such as alternative dispute resolution prior to an application for review;
- (ii) Acknowledge receipt of the application;
- (iii) Ensure that the application is recorded on the Internal Review Register;
- (iv) Outline the timeframes involved and the action to be taken in the first instance;
- (v) Undertake a preliminary investigation to determine what (if any) actions have already been taken to try to resolve the matter;
- (vi) Keep the applicant informed of progress;
- (vii) Ensure that adequate records of the review process and findings are produced and maintained;
- (viii) Provide a report(s) to Council at intervals through the review process and a final report at the conclusion of the process.

6.9 In undertaking the internal review, the CEO, or Council, or delegated party will review the decision in question to ensure that the original decision making process had regard to the following;

- (i) The decision maker had the power to make the decision;
- (ii) All matters relevant to the decision were considered and were not influenced by extraneous factors;
- (iii) The process was free from bias;
- (iv) The decision maker did not exercise a discretion or power in bad faith or for improper purpose;
- (v) The decision was made on facts and evidence;
- (vi) The decision was reasonable.
- (vii) Any relevant legislation, policies or procedures were considered;
- (viii) The decision maker did not exercise a discretionary power at the direction of another person.

6.10 Where a request for review is referred to Council, the CEO or delegate (or Mayor) will prepare a report to Council which will include all relevant information about the decision being reviewed.

6.11 Matters to be referred direct to Council for consideration or reconsideration include:

- (i) A decision made by formal resolution of Council;
- (ii) A decision or recommendation made by a Section 41 Council Committee;
- (iii) A decision made by the CEO;
- (iv) Civic and ceremonial matters;
- (v) Any other matters at the discretion of the CEO.

Where a request for review has been referred to Council, the applicant will be advised of the date that the report will be presented and will be given the opportunity to provide a written or verbal submission (i.e. deputation) in relation to the report for the Council's consideration.

- 6.12 Applications for a review of a Council decision are to be formally acknowledged within 3 working days of receipt, including advice to the applicant about the anticipated review process and time line.
- 6.13 In most cases requests for review will be considered and determined within 28 days. However, in some circumstances the review process may take longer.
- 6.14 The applicant will be encouraged to participate co-operatively in the review process.
- 6.15 The applicant will be kept informed about the progress of the review either by email, letter or telephone.
- 6.16 Opportunity to provide additional information:
  - (i) After initially assessing an application for an internal review of council decision, the reviewing officer may (if deemed appropriate) invite the applicant to provide further information to assist in understanding the applicant's concerns, the issue to be investigated and the outcome or remedy sought.
  - (ii) Applicants are able to supply information relevant to the initial application at any time during the review process. However, if the additional information is determined to be of a different nature the applicant will be advised of the need to submit a separate application for an internal review of a council decision.
- 6.17 The applicant will be informed in writing of the outcome of the review within 5 business days of the determination being made.
- 6.18 While there is no statutory requirement to give reasons for a decision, Council may provide reasons for the decision of the reviewing officer where practicable. Council will aim to give reasons to explain the outcome where:
  - (i) A decision is not in accordance with the adopted policy;
  - (ii) A decision is likely to detrimentally affect rights or interests of individuals (or organisations) in a material way;
  - (iii) Conditions are attached to any approval, consent, permit, licence or other authorisation.

6.19 There is no application fee for a formal internal review under section 270(1) of the *Local Government Act 1999*.

## **7. PROCEDURAL FAIRNESS**

7.1 Council will observe the principles of procedural fairness (also called “natural justice”) when exercising its statutory powers which could affect the rights and interests of individuals.

7.2 “Procedural fairness” involves:

- (i) Giving an individual;
  - (a) a right to put their case forward, and,
  - (b) an opportunity to provide all relevant documentary evidence, rather than an oral hearing.
- (ii) Ensuring that the reviewer is not biased and does not have a personal interest in the outcome, and
- (iii) Acting only on proper evidence.

## **8. REMEDIES**

8.1 Where the review of a decision upholds the applicant’s grievance an appropriate remedy or response will be determined which is consistent and fair for both Council and the applicant. The remedy will be proportionate and appropriate to the matter. The range of outcomes includes:

- (i) An explanation;
- (ii) Mediation, conciliation, or neutral evaluation;
- (iii) A change of policy, procedure or practice;
- (iv) A correction of misleading records;
- (v) Disciplinary action;
- (vi) Referral of a matter to an external agency for further investigation or prosecution.

## **9. CONFIDENTIALITY**

9.1 The details of any request for internal review will be kept confidential as far as practicable. When no longer practicable, the applicant will be advised.

9.2 The applicant will be encouraged to observe confidentiality as this is likely to achieve the fairest result for all concerned.

- 9.3 The applicant's personal information will be used by the reviewing officer in relation to investigating and reviewing the application.
- 9.4 Only relevant parties will be involved in the internal review process.
- 9.5 Where a request for review is referred to the Elected Council for determination, the Council may consider the matter in confidence where it is lawful and appropriate to do so, subject to there being grounds under section 90(3) of the *Local Government Act 1999*.
- 9.6 If the application is referred to the Ombudsman, the council will share any relevant information relating to the application with the Ombudsman's office in accordance with the *Ombudsman Act 1972*.
- 9.7 Information contained within the application may be accessible under the *Freedom of Information Act 1991*.

## **10. RECORD KEEPING**

- 10.1 The reviewing officer must keep written records of interviews and the process undertaken.
- 10.2 Records must be factual and objective.
- 10.3 Records must be securely stored and lodged in council's records management system and in compliance with the *State Records Act 1997*.
- 10.4 Only those persons with a genuine need to view the material will be allowed access to the records.

## **11. ANNUAL REPORTING**

- 11.1 In accordance with section 270(8) of the *Local Government Act 1999*, the Council will, on an annual basis, initiate and consider a report that relates to:
- (i) The number of applications for review made under this section, and
  - (ii) The kinds of matters to which the applications relate; and
  - (iii) The outcome of the applications made under this section; and
  - (iv) Such other matters as may be prescribed by the Regulations under the Act.

## **12. COMPETITIVE NEUTRALITY COMPLAINTS**

- 12.1 Matters regarding competitive neutrality pricing should be addressed to the;

Competitive Neutrality Complaints Secretariat  
Department of Premier and Cabinet  
200 Victoria Square, Adelaide SA 5000.

12.2 The complaint must be made in writing and contain full details of the alleged infringement.

12.3 Further information is available on the Department of Premier and Cabinet website; [www.dpc.sa.gov.au](http://www.dpc.sa.gov.au)

### 13. DISPUTE RESOLUTION

13.1 At its absolute discretion, and in accordance with section 271 of the *Local Government Act 1999*, the Council may use alternate dispute resolution methods such as mediation, conciliation or neutral evaluation to resolve an application in circumstances where the CEO or his/her delegate deems such a course of action appropriate and the applicant is amenable to that process.

13.2 Costs and expenses associated with mediation, and/or conciliation or neutral evaluation will be shared equally between the Council and the other party in accordance with section 271(7) of the *Local Government Act 1999*.

### 14. DEFINITIONS

An “**applicant**” is the party lodging the request for internal review. For example a resident, ratepayer, members of a community group, users of Council facilities and visitors to the area.

“**Business day**” means a day when the Council is normally open for business (i.e. Monday to Friday, excluding public holidays).

“**CEO**” is the Chief Executive Officer of the Corporation of the City of Unley.

“**Council**” is the Corporation of the City of Unley.

A “**council decision**” is a formal decision of the Elected Council or a section 41 Council Committee, a decision made under delegation by an employee of Council, or a decision by other persons acting on behalf of Council.

“**Employee**” includes a person employed directly by the Council in a full-time, part time or casual capacity (whether that position is permanent or contractual) and a person providing services to, or on behalf of, the Council even though they may be employed by another party.

“**Reasonableness**”; the appropriate standard or quality of decision-making that must be brought to bear when making an administrative decision.

A “**Vexatious request**” is any request;

- (i) From an applicant who has consistently, over a period of time, complained about minor matters or the same matter, which have previously been dealt with and no new information has been provided by the applicant,

and/or

- (ii) Is considered by the reviewing officer to be mischievous, without sufficient grounds or serving only to cause annoyance.



## 15. LEGISLATION / REFERENCES

15.1 The procedure is mandatory under section 270(1) of the *Local Government Act 1999*.

15.2 "Revised Clause 7 Statement on the application of competition principles to local government under the Competition Principles Agreement." South Australian Government in conjunction with the Local Government Association of South Australia. September 2002. See; [www.dpc.sa.gov.au](http://www.dpc.sa.gov.au)

15.3 Other legislation:  
Freedom of Information Act 1991  
Independent Commissioner Against Corruption 2012  
Ombudsman Act 1972  
State Records Act 1997

## 16. POLICY DELEGATIONS

16.1 Full information about the sub-delegated powers and duties is contained in the Council Delegations Register.

## 17. ROLES/RESPONSIBILITIES

17.1 Council has nominated the Council's Chief Executive Officer or his/her delegate as the officer responsible for dealing with any formal application for internal review except where the application should be referred to the Mayor. (See also clauses 6.1, 6.2 and 6.5)

## 18. AVAILABILITY

18.1 The policy is available for public inspection during normal office hours from;

Civic Centre  
181 Unley Road  
Unley SA 5061

18.2 A copy may be purchased for a fee as determined annually by Council.

18.3 It is also available for viewing, download and printing free of charge from the Council's website, [www.unley.sa.gov.au](http://www.unley.sa.gov.au)

## 19. DOCUMENT HISTORY

Date:	Council/Committee/Internal	Comment:
25 June 2007	C124/07	
19 April 2010	CSP306/10	
14 May 2012	CSP108/12	
28 May 2012	C420/12	
26 May 2014	C1148/14	
27 March 2017		

**OTHER REVIEW PROCESSES**

The following list provides examples of legislation which include review or complaint processes. The list is not exhaustive, and officers should check for other mechanisms which may be available to the applicant.

Development Act 1993

Expiation of Offences Act 1996

Fire and Emergency Services Act 2005

Food Act 2001

Freedom of Information Act 1991

Local Government Act 1999 – Elected Member conflict of interest - District Court

Local Government (Elections) Act 1999

Ombudsman Act 1972

South Australian Public Health Act 2011

Valuation of Land Act 1971

HACC complaints

**CITY OF UNLEY****INTERNAL REVIEW OF A COUNCIL DECISION****APPLICATION FORM**

In accordance with Section 270(1) of the Local Government Act 1999

**Applicant's Details**

Applicant's name: .....

Applicant's address: .....

.....

Email: .....

Telephone: ..... Date of Application: .....

Application received by: .....

Application referred to: .....

**Summary of decision to be reviewed:**

.....

.....

.....

**List of attachments:**

.....

.....

.....

**Assistance required:**

Type: (eg interpreter).....

Council to arrange: Yes / No

Applicant to arrange: Yes / No

Signature of applicant: ..... Date: .....

Name of staff member: (please print): ..... Position: .....

Signature of staff member: ..... Date: .....

**CITY OF UNLEY**  
**INTERNAL REVIEW RECORD**  
**ASSESSMENT**

---

**Applicant's details:**

Applicant's name: .....

Applicant's address: .....

.....

Email: .....

Telephone: ..... Date of Application: .....

**Check List:**

1. Summary of decision: .....

.....

2. Staff involved in original decision making process: .....

.....

3. Date of original decision: .....

4. Applicant's reasons for requesting a review: .....

.....

.....

5. Any relevant legislation: (Is this the correct review/appeal mechanism?):

.....

6. Other persons/ parties affected by the decision: .....

.....

**Findings:**

.....

.....

.....

**Action:**

1. Resolved (give details): .....

.....

2. Referred for further action to: .....

.....

3. Referred to external review mechanism (specify which Legislation etc): .....

.....

4. Referred to Council: .....

5. Referred to external mediator, conciliation or neutral evaluation:

Name: ..... Telephone: .....

Organisation: .....

Address: .....

---

**List of attached documents:** .....  
.....  
.....

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**Applicant notified:**

Officer: ..... Date: ..... Method: .....  
(please print) (eg. By post)

Position: .....

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**Reviewing Officer** (print): ..... Signature: .....

Position: ..... Date: .....

**CITY OF UNLEY****REVIEW OF A COUNCIL DECISION****RESOLUTION FORM**

In accordance with Section 270(1) of the Local Government Act 1999

**Applicant's Details**

Applicant's name:

.....

Applicant's address:

.....

.....

Email:.....

Telephone: ..... Date of Application: .....

**Outcome:**Original decision: ☐ Stands ☐ Reversed ☐ Modified

Recommendations to be implemented:

.....

.....

.....

.....

.....

.....

Timeframe: .....

**Summary of costs:** Attach list showing amount, to whom paid, type of cost (eg. Court fees)

Total cost:

.....

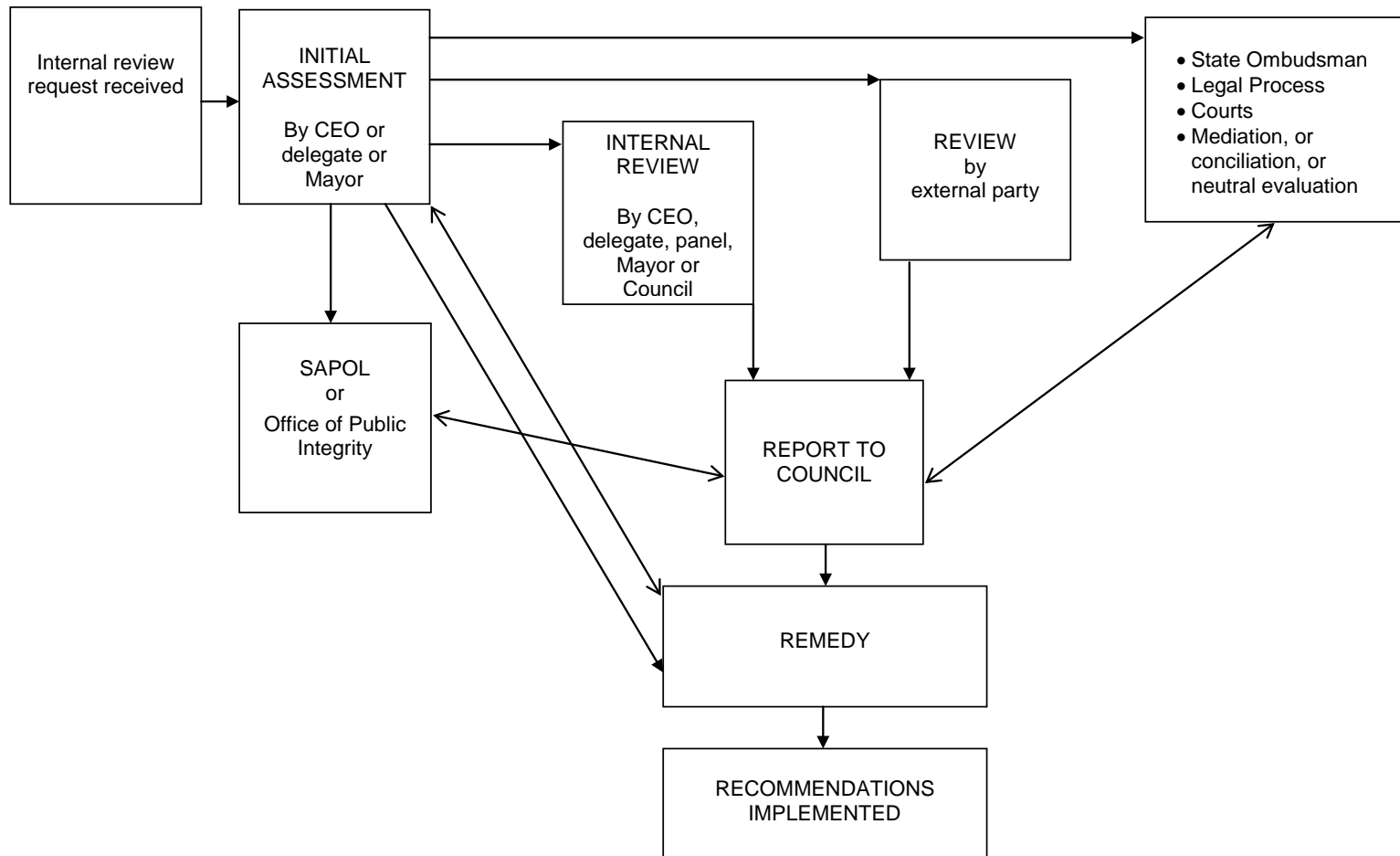
**Applicant notified:**☐ Yes☐ No

Notification Method: .....

Officer's Name: (print)..... Position: .....

Officer's signature: .....Date: .....

## Section 270(1) - INTERNAL REVIEW PROCESS



## DECISION REPORT

**REPORT TITLE:** LEVEL OF SERVICE FOR PROPERTY, ROAD,  
FOOTPATH AND BRIDGE ASSET CLASSES

**ITEM NUMBER:** 801

**DATE OF MEETING:** 27 MARCH 2017

**AUTHOR:** BRENTON CURTIS

**JOB TITLE:** MANAGER STRATEGIC ASSETS

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### 1. **EXECUTIVE SUMMARY**

Council has an obligation in relation to its Strategic Asset Management Plan and the Long Term Financial Plan (LTFP) to ensure that it maintains all its assets in a fit for purpose condition for the residents of Unley and that is to be achieved in the most cost effective and sustainable manner.

Service levels are the key link between managing community expectations and the cost of providing the service and should be periodically reviewed. Generally, a higher Level of Service (LoS) costs more to deliver than a lower service which obviously has an impact on the budget.

At the Council briefing session on 15 August 2016, a presentation was given on the current level of service for Property, Road, Footpath and Bridge asset classes with a proposed course of action to ensure that Council meets its obligations in relation to the cost effective and sustainable management of its assets through its preventive maintenance programs.

At a subsequent Council briefing session on 21 November 2016, a presentation was given on the current and proposed future level of service for the reactive maintenance of footpaths, relating to the customer service requests it receives annually.

The purpose of this report is to present Council with an opportunity to review the current and proposed targeted level of service for a number of its key asset classes that deliver services for the Unley community. This review enables Council to meet its commitment to the community by providing fit for purpose assets in the most cost effective manner while presenting an opportunity to realise some savings within the capital budget, (Attachment 1 to Item 801/17). Secondly it provides options for Council's consideration to address the level of service for reactive maintenance as a result of customer request received annually for footpaths. These options will result in an increase in cost of between \$100K to \$250k per annum (Attachment 2 to Item 802/17).

*Attachments 1 & 2*



## **2. RECOMMENDATION**

That:

1. The report be received.
  2. Council endorse the proposed targeted Level of Service as indicated in Attachment 1 for the Property, Road, Bridge, Asset Classes and preventative maintenance for Footpaths.
  3. Council endorse option ..... as the targeted Level of Service for reactive footpath maintenance (Attachment 2 to Item 802/17) for consideration as part of the 2017-18 budget.
-

## **1. RELEVANT CORE STRATEGIES/POLICIES**

Council's Strategic Asset Management Plan, its Asset Management Policy, and the Local Government Act all have the goal of facilitating the delivery of legislated and/or desired levels of service for both present and future communities via the provision and management of physical assets in a cost effective and sustainable manner.

## **2. DISCUSSION**

Council is charged with the responsibility of ensuring that it maintains all of its assets in a fit for purpose condition for the communities of Unley and should achieve this in the most cost effective and sustainable manner giving consideration to both its Strategic Asset Management Plan and the Long Term Financial Plan.

Service levels are the key link between community expectations and the cost of providing the service. Generally, the higher a level of service the more it costs to deliver, which consequently has an impact on the budget required.

For Council to meet its management goals in relation to the effective and sustainable management of community assets, a periodical review of its levels of service for each asset class should be undertaken to ensure it is meeting its community's expectations in a sustainable manner.

Maintenance of assets can be considered in 3 separate categories, namely preventative planned, preventative routine, and reactive. The first category covers much of the renewal funding. Generally this should be capital funds as it extends the asset life, and is often linked to depreciation. This category of maintenance includes replacement work or reseals, and activities such as painting and replacement of carpets in buildings, etc.

Preventative routine maintenance includes the regular cyclic maintenance activities carried out in parks and buildings, street sweeping, regular storm water pit cleaning, etc. This category is sourced from operational funds.

Reactive maintenance covers unplanned work on assets to remedy a defect, meaning that the asset has dropped below the targeted service level. This type of maintenance includes Customer requests, or defects identified during condition assessments or the other categories of maintenance.

Council has recently purchased and implemented its first ever Asset Management software system, which includes a prediction modelling and decision support tool (Assetic My Predictor) for long-term planning of infrastructure assets using proven and tested algorithms. It enables Councils to optimise service level outcomes with both capital and maintenance expenditure and generate preventive maintenance programs to deliver these service level outcomes.

This software has been used by Council along with the recently collected condition audit data for both road and footpath asset classes to accurately forecast the health of the entire network by modelling different renewal and maintenance scenarios while achieving a fit for purpose level of service while identifying possible savings.

It is proposed to use this approach on all asset classes as the information becomes available.

At a Council briefing session on 15 August 2016, a presentation was given on the current levels of service for Property, Road, Footpath and Bridge asset classes with a proposed course of action in relation to the types of preventative maintenance.

At subsequent Council briefing sessions, detailed discussions were had around the reactive maintenance of Council footpaths which dealt with intervention levels and response times associated with customer requests relating to defects on footpaths (mostly trip hazards). These discussions did not include general condition (evenness) or width of the footpaths. Through these briefing sessions, a considerable amount of time was spent reviewing current operational practices, Levels of Service categories across the footpath network in the City, along with bench marking against industry standards and practices as well as feedback from elected members.

This assessment allows Council to review what is proposed as a possible future targeted Level of Service for the four key asset classes that have been reviewed and the opportunity it presents Council to meet its commitment to the community by providing fit for purpose facilities in the most cost effective manner while realising some savings within the capital budget.

### **Property Asset Class**

This asset class covers all Civic and Community buildings, public toilets, sport and recreation clubs and commercial properties.

A condition audit undertaken in 2013/14 found all property assets to be in a condition of 3 or better (3 represents an overall good condition and fit for purpose). This result supported staff's view that current maintenance and renewal levels were generally appropriate to meet user expectations.

A review of the capital replacement program for properties has identified that while no major works should be deferred, improvements in operational and procurement practices has provided the opportunity to refine the replacement programs across the portfolio resulting in on going savings of approx. \$90k/yr. from the current LTFP.

### **Roads Asset Class**

This asset class covers the road network under the care and control of the City of Unley.

Condition audits of the physical condition of the asset are undertaken on this asset approximately every 5 years.

These audits have indicated that the network has an overall average condition rating of 3 (overall good condition and fit for purpose with good ride ability).

With this data collected, Council staff were able to undertake some predictive modelling in regard to the current maintenance and renewal program which identified that it was possible to hold the current condition of the road asset with an ongoing saving of \$300k/yr. in the annual budget with no change in the life expectancy of the asset.

The savings would come from an extension to the life of existing pavement, meaning that the reseals would occur less frequently than today but still achieve the same pavement standard.

If Council also undertook additional preventative maintenance treatments such as crack sealing and slurry rather than reseals for example it could realise additional budget savings of \$100k/yr. giving a total ongoing saving for the road asset class of approx. \$400k/yr. from its current LTFP.

### **Bridge Asset Class**

This asset class covers all road and footbridges under the care and control of Council. These structures are audited for condition and structural integrity on a regular basis.

Renewal and upgrade of these structures is based on both the structural integrity and the water flow capacity of the structure. The current preventative maintenance program is focussed on managing the structural integrity of the structure to ensure the structure achieves its full design life and to extend its remaining service life. A number of these structures have been identified as lacking in water flow capacity as part of the Brownhill/Keswick creek catchment management plan and will be required to be upgraded to achieve the objectives of the flood protection works. Some of these structures have been included in Council's LTFP for bridge replacement and as such, it is recommended that these works be deferred and the works be undertaken as part of the Brownhill/Keswick Creek flood protection project. This would result in savings in Council's current LTFP of approx. \$1.5m over the next 5 years. (equivalent to approx. \$300k/yr.)

### **Footpath Asset Class**

This asset class covers the footpath network under the care and control of the City of Unley.

Condition audits of the physical condition of the asset are periodically undertaken on this asset approximately every 5 years.

These audits have indicated that the network has an overall average condition rating of 3 (overall good condition and fit for purpose).

With the collected data, Council staff were able to undertake some predictive modelling looking at different asset condition rating outcomes by varying the intervention treatments to achieve a rating from 2.5 to 3.5 (2.5 is improved LoS and 3.5 is a lesser LoS) as compared to the current average condition of 3. With 80% of the footpath network being an average of 3 or better, the modelling demonstrated that a slight reduction in asset maintenance will have no impact on the condition or the life expectancy of the asset, resulting in a reduction in the annual budget for renewal.

This would allow Council to realise additional ongoing budget savings totalling approx. \$250k/yr. from its current LTFP. This proposal is only related to the renewal of the footpath asset. The savings associated with the footpath renewal program cannot be realised until the bitumen footpath replacement program is completed, as Council approved the acceleration of this replacement program by bringing forward works in LTFP to achieve this objective, this program is on track to be completed by the 30 June 2019.

## **Reactive Maintenance for Footpaths**

The existing City's footpath network is broken up into categories across the City based on pedestrian volume, movement and risk.

- Category A =17% of the total footpath network, has a response time of 10 days, and covers: High volume foot traffic areas such as the Civic, Retail precincts, Schools, Community Centres, Age care facilities and reserves etc.
- Category B = 15% of total footpath network, has a response time of 20 days, and covers: Medium volume foot traffic along Collector roads / streets and areas close to category A.
- Category C = 68% of total footpath network, and repair work is programmed for when teams are next scheduled to be in that zone, and covers, Low volume foot traffic along Residential streets (typically maintenance crews operate on a 6 week cycle across this category).

Due to the large percentage of the footpath network in Category C, it is considered prudent to split this category in two enabling an improved tailoring of the footpath maintenance service across the City. It is proposed that category C be broken into two equal portions C1 & C2.

Three alternative intervention levels of service are being proposed for consideration by Council for managing the defects identified through Council's customer service request system.

- **Alternative 1 Improved current LoS (lift & relay)**

This is an improved level of service from today and takes into account recent efficiency gains within the operations area with a 10-20mm intervention trigger for categories A and B and still using 20mm defect trigger across all categories both C1 and C2 categories. The targeted response times for all categories are indicated below. This will mean that there will be no defects greater than 10mm across categories A&B remaining after CR's have been actioned.

The proposed intervention will result in;

- nothing greater than 10mm across category A within 20 days,
- nothing greater than 10mm across category B within 30 days,
- nothing greater than 20mm across category C1 within 60 days,
- nothing greater than 20mm across category C2 programmed over 12 months

This alternative will result in an increase in the footpath maintenance operating costs of \$100k per year.

- **Alternative 2 (lift & relay)**

This is an improved level of service with a 10-15mm intervention trigger for categories A and B, and a 15mm defect trigger for categories C1 and C2. This option has response times for all categories as alternative 1 but at an additional cost due to the reduced intervention level. This will mean that there will be no defects greater than 10mm across all three categories remaining after CR's have been actioned.

The proposed intervention will result in;

- nothing greater than 10mm across category A within 20 days,
- nothing greater than 10mm across category B within 30 days,
- nothing greater than 15mm across category C1 within 60 days,
- nothing greater than 15mm across category C2 programmed over 12 months.

This alternative will result in an increase in the footpath maintenance operating costs of between \$150-\$250k per year.

- **Alternative 3 (Combination of lift and relay and bitumen wedge)**

This is offering the same improved level of service with a 15mm defect trigger for categories C1 and C2 and 10mm for categories A and B. Targeted response times for each category are shown below. In addition to this, an alternative treatment of a bitumen wedge (or ramping) is being offered in categories B, C1 and C2 to remove the hazard faster temporarily allowing the permanent repair to be scheduled over the next 12 months. This would be at an additional cost over alternative 1 but less than alternative 2. This will mean that there will be no defects greater than 10mm across all three categories remaining after CR's have been actioned.

The proposed intervention will result in;

- nothing greater than 10mm across category A within 20 days,
- nothing greater than 10mm across category B within 90 days,
- nothing greater than 15mm across category C1 programmed over 12 months,
- nothing greater than 15mm across category C2 programmed over 12 months.

This alternative will result in an increase in the footpath maintenance operating costs of \$100k per year. (Attachment 2 to Item .../17)

This review of Council's targeted level of service for these key asset classes has provide an opportunity to ensure that the services and facilities provided for the community are fit for purpose. It has also identified the possibility of budget savings while still maintaining a similar targeted level of service for these assets.

## 5. **ANALYSIS OF OPTIONS**

Option 1 Council endorses the proposed targeted Level of Service as indicated in Attachment 1 for the Property, Road, Bridge, Asset Classes and preventative maintenance for Footpaths which should be reviewed at least every 5 years in association with major condition audits conducted on these asset classes.

Council decide on the proposed targeted Level of Service in relation to the reactive maintenance of footpaths.

These options will provide a level of service that is appropriate for each asset class across the City while providing an opportunity to realise up to approx. \$1.0m/pa savings in the capital renewal budget, while an increase in the current operating budget would reduce Councils' operating surplus ratio.

This would ensure Council is managing its assets in a cost effective and sustainable manner while still meeting the needs of its community now and into the future by providing a fit for purpose service or facility. The savings achieved as a result of this review could be realised by Council and redirected to other activities as directed by Council in future budgets. This option will also deliver an improved level of service in relation to footpath maintenance.

Option 2 – Council endorses an alternative targeted Level of Service for the Property, Road, Footpath & Bridge Asset Classes

This may result in Council's key asset classes as listed, having an improved targeted level of service over time. This would mean that the opportunity to realise these savings from the renewal budget, which could be redirected for other opportunities, would be forfeited. Alternatively a lower level of service could be endorsed resulting in increased savings but to the detriment of a fit for purpose service.

## 4. **RECOMMENDED OPTION**

Option 1 is the recommended option.

## 5. **POLICY IMPLICATIONS**

In relation to asset management the relevant objective is outlined in "***Emerging our path to a future City***" with Council's, Strategic Asset Management Plan goal being facilitate the delivery of legislated and/or desired level of service for both the present and future community via the provision and management of physical assets in a cost effective and sustainable manner.

### **5.1 Financial/budget**

The proposed target level of service will impact Council's Long Term Financial Plan (LTFP) in both an operating and capital perspective.

The change in level of service to preventative planned maintenance (renewal funding Attachment 1) will decrease the level of borrowings currently required to fund the renewal program over the life of the LTFP by approx. \$1m per annum.

The change in level of service to reactive maintenance, if endorsed (customer requests Attachment 2) for footpaths will increase Council's operating expenditure. To maintain the target operating surplus ratio over the life of the LTFP, the amount of revenue required from rates will have to increase by \$150 – 250k unless other sources of revenue or other savings in expenditure are identified.

As we are now formulating the draft 2017-18 Budget it is advised that the change in level of service to footpath reactive maintenance be considered along with other key decisions required in the development of next year's budget.

### **5.2 Legislative/Risk Management**

The Local Government Sector in South Australia is self-insured through the LGAMLS, which has stipulated that all Councils in South Australia must put in place appropriate management strategies to reduce the sector's public liability risks.

This project will assist in reducing Council's risk by providing a fit for purpose level of service for these asset classes across the City to all users.

### **5.3 Environmental/Social/Economic**

The cost effective and sustainable management of assets across the City to deliver fit for purpose services and facilities has a positive impact on environmental, social and economic benefits for the Unley community and business across the City.

### **5.4 Stakeholder Engagement**

This project has undertaken consultation with key stakeholders within Council.

## **6. ATTACHMENTS**

- Agreed Level of Service
- Footpath Level of Service alternatives.



**7.     REPORT AUTHORISERS**

<b><u>Name</u></b>	<b><u>Title</u></b>
John Devine	General Manager City Development
Peter Tsokas	Chief Executive Officer

**Agreed Level of service for Property, Road, Footpath and Bridge Assets**

<b>Asset Class</b>	<b>Proposed targeted Level of Service</b>	<b>Description of Level of Service</b>	<b>Estimated Savings</b>
Property	Average of condition 3 (good and fit for purpose)	<ul style="list-style-type: none"> <li>• Buildings / facilities are attractive, clean, damage free.</li> <li>• All items and fixtures in working condition and fit for purpose.</li> <li>• Management in line with DDA requirements, CoU Ageing Strategy and CoU DDA Action Plan.</li> <li>• Legislative compliance testing:               <ul style="list-style-type: none"> <li>• Elec test and tag</li> <li>• Asbestos</li> <li>• Fire and Life Safety</li> </ul> </li> </ul>	\$90 000
Road	Average of condition 3 (good and fit for purpose)	Renewal program treatments will maintain a good ride ability and fit for purpose road service	\$400 000
Preventative Footpath	Average of condition 3 (good and fit for purpose)	Renewal program will ensure evenness and fit for purpose surface is maintained.	\$250 000
Bridge	Average of condition 3 (good and fit for purpose)	Renewal program will ensure the structural integrity and flow capacity are fit for purpose	\$300 000
<b>Total</b>			<b>\$1 040 000</b>

## Proposed Footpath Level of Service

Category	Existing	Alternative 1	Alternative 2	Alternative 2	Alternative 3
Service Offering Description	Intervention will result in; <20mm across cat. A within 20 days, < 20mm across cat B within 30 days, < 20mm across category C2 programmed over 12 months	Intervention will result in; <10mm across cat. A within 20 days, < 10mm across cat B within 30 days, < 20mm across cat C1 within 60 days, < 20mm across category C2 programmed over 12 months	Intervention will result in; <10mm across cat A within 20 days, <10mm across cat B within 30 days, <15mm across cat C2 programmed over 12 months.	Intervention will result in; <10mm across cat A within 20 days, <10mm across cat B within 30 days, <15mm across cat C1 within 60 days, <15mm across cat C2 programmed over 12 months.	Intervention will result in; < 10mm across cat A within 20 days, < 10mm across cat B within 90 days, < 15mm across cat C programmed over 12 months. Bitumen wedge placed as a temporary fix for category B & C.
A – Network %	17	17	17	17	17
B – Network %	15	15	15	15	83
C1 – Network %	0	34	0	34	0
C2 – Network %	68	34	68	34	0
Additional cost over current budget	\$ 0K	\$ 100K	\$ 150K	\$ 250K	\$ 100K

### Assumptions;

- Of the 2250 footpath CR's /yr. ~ 60% are category A&B; 40% category C
- Improvements made in years 15/16 &16/17 have enabled the delivery of an improved level of service (existing) with the current budget moving forward.

## DECISION REPORT

<b>REPORT TITLE:</b>	BUYING LOCAL CAMPAIGN – COMMUNITY ENGAGEMENT
<b>ITEM NUMBER:</b>	802
<b>DATE OF MEETING:</b>	27 MARCH 2017
<b>AUTHOR:</b>	AKARRA KLINGBERG
<b>JOB TITLE:</b>	COORDINATOR BUSINESS AND ECONOMIC DEVELOPMENT

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### 1. **EXECUTIVE SUMMARY**

On 12 December 2016, Council endorsed a motion (C702/2016) for Administration to conduct a survey with local businesses and residents to measure the need, level of interest and commitment for a 'Buy Local' campaign in the City of Unley.

This report is to provide Council a summary of the community engagement undertaken in February - March 2017 and seek Council's direction on how to progress this initiative.

The community engagement process commenced Tuesday, 7 February and concluded Friday 3 March 2017. Two separate surveys were created; one targeting businesses and one targeting residents. The engagement was widely promoted online, on Council's website, through direct email and the Trader Associations.

During the consultation period, a total of 131 resident and 45 businesses provided feedback. The majority of businesses (84.4%) indicated that they would actively support and be involved in a 'Buy Local' campaign.

All feedback has been considered and a recommendation presented to Council consistent with the community preference.

### 2. **RECOMMENDATION**

That:

1. The report be received.
  2. Council consider funding of \$29,000 for a 'buy local' campaign as a New Initiative in the 2017-2018 Budget
-

## **1. RELEVANT CORE STRATEGIES/POLICIES**

- 1.1 The City of Unley 4 Year Plan 2013-2016, Goal 1 Emerging Our Path to a Future City.
- 1.1 A thriving and prosperous business community
  - 1.2 Emerging Technology is embraced
  - 1.3 A dynamic mix of uses and activities in selected precincts
- 1.2 The 'Find Your Everything' digital marketing campaign (FYE) an element of the Unley Mainstreet Digital Economy Strategy. The campaign aims to strengthen, protect and foster the City of Unley's local economy by embracing emerging digital technologies to promote traders operating traditional 'bricks and mortar' businesses in Unley.
- 1.3 One of the key principals of the City of Unley's Procurement Policy is to maximise opportunities to benefit the local community, its economy, and the environment.

## **2. DISCUSSION**

On 12 December 2016, Council endorsed a motion (C702/2016) for Administration to conduct a survey of local businesses and residents to measure the need, level of interest and commitment for a 'Buy Local' campaign in the City of Unley.

Two surveys were created; one for businesses and one for residents.

The questions for residents were as follows:

- How important is shopping locally to you
- What does the term 'buy local' mean to you?
- What percentage of your weekly shopping and entertainment budget is spent at local businesses (including cafes/restaurants)?
- What prevents you from buying locally in Unley?
- Would a 'buy local' campaign increase the likelihood of you 'buying locally' more often?

The questions for the businesses were as follows:

- Do you think Unley residents are committed to shopping locally?
- What percentage of your customers do you think are from the local area?
- Is your business a part of any other 'buy local' campaign? (eg 'I Choose SA')
- Do you believe a 'buy local' campaign will generate additional trade for your business?
- Would your business actively support and be involved with a 'buy local' campaign? (eg provide incentives, display collateral)
- Would you be willing to pay a membership fee to participate in a 'buy local' campaign?
- Do you think a 'buy local' campaign is a good use of Council resources in supporting local businesses within the City?

Community engagement commenced Tuesday, 7 February 2017 and concluded at 5pm Friday, 3 March 2017. The surveys were extensively promoted via:

- The *Your Say Unley* online hub
- Information placed on the front page of Council's website
- Council's Social Media
- Direct email and follow up emails
- Trader Associations

The questions were targeted at determining residents support for a 'buy local' campaign and what buying local means to them, and business interest in and commitment to such a campaign.

## **Community Engagement Results & Finding**

### **Resident feedback results:**

In summary, 131 residents participated in the engagement initiative, providing valuable feedback. Overall, the majority of resident respondents (82%) indicated that shopping locally is important or very important to them with 27% saying a 'buy local' campaign would increase their likelihood of buying local more often.

When asked what 'buy local' means to them, 85% of respondents indicated that it is buying South Australian made/grown/owned, 74% indicated that it meant shopping in the local, Unley, area and 60% indicated it is shopping at local, independent stores. Respondents were able to choose more than one option.

Currently, 57% of respondents spend more than 50% of their weekly shopping and entertainment budget at local businesses and 57% indicated that 'choice' is what prevents them from buying locally.

The main advantages of a 'buy local' campaign identified by resident respondent were:

- A campaign would create more awareness of the 'choice' of businesses and services in the Unley area
- It would be good to remind people that where they spend their money has an impact
- To maintain a diversity of local shops and services in the future they must be supported now

The main disadvantages of a 'buy local' campaign identified by resident respondents were:

- There is a lack of 'choice' in the Unley area
- Already committed to shopping locally so don't need a campaign to be encouraged to do so
- Lack of independent supermarkets stocking local produce so would still need to shop outside the Unley area
- Convenience of online shopping

- Limited parking

### **Businesses feedback results:**

45 businesses provided feedback with the majority of respondents (88.9%) indicating that a *'buy local' campaign would be a good use of Council resources in supporting local businesses*. 84% of businesses stated that they would actively support such a campaign by offering incentives and/or displaying collateral and 69% believed it would generate additional trade.

Only 16% of businesses were willing to pay a membership fee to participate in such a campaign and only 31% are already part of a 'buy local' campaign, predominantly Brand SA's 'I Choose SA'.

The main comments in favour of a 'buy local' campaign identified by business respondent were:

- It would be great to have a positive and uplifting campaign
- Great way to be supported
- Fabulous idea, complimented by Council purchasing from local businesses
- Definitely be involved

The main comments against a 'buy local' campaign identified by business respondent were:

- Concern regarding a 'membership fee'
- Difficulty in changing people's behaviour

Additional comments were provided around the lack of discretionary income and atmosphere in the precincts.

Responses received from the businesses in the City of Unley, indicated they are in favour of a 'buy local' campaign. For such a campaign to be successful, it is imperative that businesses are actively involved and the results of the survey strongly indicate that they would be.

The results also highlight that Unley residents believe that shopping locally is important yet 'choice' is seen as a limiting factor. A 'Buy Local' campaign would aim to highlight the variety of businesses and choice in the City of Unley to residents and consumers generally.

A Buy Local campaign aligns with Council's current 4 year plan, the Unley Mainstreet Digital Economy Strategy and Council's procurement policy and through the engagement process, results indicate there is a high level of interest in and commitment for such a campaign.

Before the Administration can structure an effective 'buy local' campaign, a project budget will need to be defined.

Following the response from businesses stating their willingness to be actively involved in a 'buy local' campaign, it is suggested an incentive approach is undertaken.

This would include:

A communications campaign aimed at the local community would spread awareness about the importance of shopping locally while using incentives to encourage locals to support local businesses. There would also be a focus on businesses supporting other businesses in the area and Council using local businesses where applicable.

Competitions (both on and off social media) would be rolled out encouraging people to shop at a local business during an allocated time period to go in the draw to win prizes.

Like our Take the Pledge campaign that encourages people to recycle, we could have people Take the Pledge (or make the promise/commitment or similar) to commit to shopping locally. By 'making the promise' they could register to go in the draw to win prizes.

Another competition idea would be to ask locals to tell us in 100 words or less who their favourite business is and why.

The strategy will be to share lots of stories of great local businesses while communicating the message about the importance of buying local. Businesses would be encouraged to help promote the campaign by distributing merchandise, flyers promoting the competition, displaying posters etc.

A campaign launch could be held at the Adelaide Showgrounds Farmers Market.

### **Marketing tool cost estimates**

<b>Marketing tool</b>	<b>detail</b>	<b>Cost</b>
*Visual brand development	Develop a strong visual identity for the Buy Local campaign using professional graphic design services	\$5,000
*Launch event	Small event or launch at the Farmers Market	\$5,000
*Prizes	Businesses vouchers or products	\$5,000
*Posters	For display in shop front windows	\$1,000
Merchandise	Develop merchandise packs including branded items such as shopping bags, fridge magnet shopping lists etc.	\$1,000 - \$5,000
Photography	Photography will be required for campaign material and social media	\$1,500
*Over the road banner	Standard branding	\$2,000
*Outdoor event banner	Flag banners	\$1,000



Advertising in Messenger	¼ page	\$1,500
DL Flyer	Distribute to all residents	\$2,000
*Website (Council and Find Your Everything)	Ongoing updates to page content. Share information and stories via the Council website highlighting the importance of buying local	nil
*Social Media (Council and Find Your Everything)	Develop a social media campaign focusing heavily on local businesses and people, promoting retailers in the Unley Council area, and highlighting the importance of buying local	nil
*Media	Promote the campaign key messages through stories in local media	nil
*Unley Life column	Promote activities and competitions	nil
*Unley Life Magazine	Editorial and advertising	nil
*Find Your Everything E-newsletter	Promote activities	nil
Total cost		\$19,000 - \$29,000

\*Recommended minimum requirements.

### 3. **ANALYSIS OF OPTIONS**

#### Option 1 – Council consider funding of \$29,000 for a ‘buy local’ campaign as a New Initiative in the 2017-2018 budget

This option is supported through the results of the community consultation. It will allow the Administration to work with the community to create and implement a ‘buy local’ campaign aimed at residents including branding, engagement, merchandise and advertising. Businesses will be encouraged to be actively involved and provide incentives.

#### Option 2 - Do not proceed

This option will result in no further work is undertaken on this initiative. It could be argued that the Mainstreet Trader Associations should be doing this as part of their marketing activities through the separate rate levy raised.

### 4. **RECOMMENDED OPTION**

Option 1 is the recommended option.

## **5. POLICY IMPLICATIONS**

### **5.1 *Financial/budget***

- Option 1 will require an additional budget allocation to implement. A project brief has been submitted be considered as a New Initiative in the 2017-18 budget.

### **5.2 *Legislative/Risk Management***

- There are no legislative or risk management issues

### **5.3 *Staffing/Work Plans***

- Significant staff hours from both the Economic Development and Communications teams would be required to implement and maintain the proposed option. This will mean that other initiatives/work would not be undertaken.

### **5.4 *Environmental/Social/Economic***

- Local products are transported a shorter distance, so less energy is consumed and fewer carbon emissions are produced.
- Small local businesses are the largest employer nationally, and in our community, provide the most jobs to residents.
- Many of our local businesses are operated by people who live in our community, and are more invested in the community's future.
- Building of local relationships – business to business and business to consumer.

### **5.5 *Stakeholder Engagement***

- Community consultation with local businesses and residents was undertaken. Two separate surveys were created through *Your Say Unley* and promoted through various channels including email, social media and online.

## **6. REPORT CONSULTATION**

Internal consultation has been undertaken with Media and Communications team.

## **7. REPORT AUTHORISERS**

<b><u>Name</u></b>	<b><u>Title</u></b>
Peter Tsokas	Chief Executive Officer

## DECISION REPORT

**REPORT TITLE:** NOTICE OF MOTION FROM COUNCILLOR  
KOUMI RE ROAD CLOSURE OF KING  
WILLIAM ROAD ON SUNDAYS

**ITEM NUMBER:** 803

**DATE OF MEETING:** 27 MARCH 2017

**AUTHORS:** AKARRA KLINGBERG

**JOB TITLE:** COORDINATOR BUSINESS AND ECONOMIC  
DEVELOPMENT

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### 1. **EXECUTIVE SUMMARY**

At the Council meeting of 24 October 2016, a notice of motion from Councillor Koumi (C630/2016) was endorsed as follows:

*The Administration prepare a report on the cost and requirements of closing King William Road as a thoroughfare to vehicles between Mitchell and Bloomsbury Streets, or similar, on Sundays during the warmer months of the year for the purpose of on street outdoor dining, trade and entertainment.*

*The report be prepared in time for consideration in the 2017/18 budget.*

This report gives consideration and provides indicative costing to closing King William Road as a thoroughfare to traffic, as well as provides detail in respect to the essential operational requirements and necessary notification to local residents, businesses and relevant authorities.

In considering this opportunity, 2 options have been identified, with option 1 proposing further investigation and trader engagement be undertaken and a feasibility study brought back to Council.

Please note, the cost and nature of the activities proposed to activate the space and extended community engagement have not been included as part of this report.

### 2. **RECOMMENDATION**

That:

1. The report be received.
2. Council supports, in principle, the presented costs and requirements associated with the closure of King William Road as a thoroughfare to

traffic between Mitchell and Bloomsbury Streets, or similar, on up to six Sundays during the warmer months of 2017/18.

AND

The Administration undertakes further investigation and trader engagement on the proposed closures with a feasibility study to be presented at the May Council Meeting.

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## **1. RELEVANT CORE STRATEGIES/POLICIES**

- 1.1 The City of Unley 4 Year Plan 2013-2016, Goal 1 Emerging Our Path to a Future City.
  - 1.1 A thriving and prosperous business community
  - 2.1 Highly desirable and diverse lifestyle
  - 2.2 Activated places
- 1.2 Community Engagement and Public Consultation Policy
- 1.3 Section 33 of the Road Traffic Act 1961

## **2. DISCUSSION**

On 24 October 2016, a notice of motion from Councillor Koumi (C630/2016) was endorsed as follows:

*“The Administration prepare a report on the cost and requirements of closing King William Road as a thoroughfare to vehicles between Mitchell and Bloomsbury Streets, or similar, on Sundays during the warmer months of the year for the purpose of on street outdoor dining, trade and entertainment.*

*The report be prepared in time for consideration in the 2017/18 budget.”*

This report details the related indicative costs of closing a road, including any necessary temporary parking and traffic management controls, in addition to outlining any statutory notifications and essential operational requirements such as provision of additional toilets and bins on King William Road (Attachment 1 to Item 803/17).

*Attachment 1*

It is worth noting that the cost and scope of the following have not been considered as part of this report:

- Activities proposed to activate the space including infrastructure and entertainment
- Extended community and business engagement
- Communications and promotion of the initiative
- Project management of the initiative

### **Open Space Plaza concept**

There are many examples, both locally in Adelaide and from around the world, which demonstrate that closure of a road can act as catalysts to activate normally unusable spaces and places, encouraging increased visitation, vibrancy and economic prosperity within a precinct. There are also many examples of permanent, open space plazas that successfully act both as places of celebration and of quiet reflection – encouraging social exchange and connection, cultural diversity, community health and wellbeing and providing a focal point for civic and community activities. Local examples of this include the closure of Leigh Street to traffic and temporary closure of Peel Street for a defined time (Thursday – early hours Monday) each week over summer.

### **King William Road**

King William Road is under Council's care, control and management. Given the width, typography, high street ambience and retail offering and level of traffic, King William Road works well as an event location. It has successfully been closed to stage many activities in the past, including the Unley Gourmet Gala, Tour Down Under, Variety on King William and SALA On Show.

### **Delegation to close the road and consultation with authorities**

Legal advice was sought regarding the closing of King William Road as a thoroughfare for traffic on a regular basis.

King William Road is under Council's care, control and management and as such, under Section 33 (1) of the Road Traffic Act (the Act), the Minister has, by the *'Notice to Council to Use Traffic Control Devices and to Close Roads and Grant Exemptions for Road Events'* delegated the power to make such decisions to the Council.

As King William Road intersects with Greenhill Road, which is under the control of the Commissioner for Highways, the Chief Executive Officer is unable to exercise sub-delegated authority and Council must close the road by resolution at a Council Meeting.

As King William Road is a public transport bus route, Department of Planning, Traffic and Infrastructure (DPTI) approval is required to be sought to detour buses. Early engagement with DPTI suggests they support this initiative in principle provided Council bears the cost associated with the detours. The costs are expected to be in the order of \$1000 per closure. DPTI have also strongly encouraged Council to consider the impact to public transport passengers in the area.

Additionally, as King William Road plays a substantial role as a thoroughfare for local traffic, traffic travelling to and from the City of Adelaide, traffic travelling around the City on Greenhill Road and DPTI buses, the following key stakeholders should be consulted prior to Council making the decision to close the road:

- The City of Adelaide
- Highways Commissioner
- Commissioner of Police

If it is resolved to close King William Road to traffic on a number of Sundays during the warmer months of 2017/18, Council is required under section 33(1) of the Act to notify the following agencies:

- Commissioner of Highways
- SA Metropolitan Fire Service
- SA Country Fire Service
- SA State Emergency Service
- SA Ambulance Service
- Public Transport Service Division of DPTI and
- Commissioner of Police

### **Public Notification**

Section 33(3) of the Road Traffic Act requires that road closures must be advertised at least two clear days of an event/closure occurring. Due to the frequency of the closure(s), notification should be placed in both The Advertiser and The Messenger. A single advertisement containing all dates of the road closures in the above publications will achieve compliance.

As outlined in the City of Unley Events Toolkit, affected businesses and residents will need to be notified of any closures via direct mail (letterbox drop). As with the public notification, this notification could include dates of all proposed Sunday road closures in one notification. If the closures are endorsed, the Administration would work with the King William Road traders to promote the closure beyond the required notifications.

### **Traffic Management**

A Traffic Management Plan is required to be developed for the specified closure. The Plan would include detours and parking restrictions similar to those implemented for previous closures of King William Road (e.g. Unley Gourmet Gala and Variety on King William). Consideration should be given to feedback received from traders and residents in relation to past road closures.

Advance warning notification signs (electronic message boards) will need to be utilised clearly indicating the times and dates of the temporary road closures. Due to concern from traders regarding signage and messaging in relation to previous events, messaging will need careful consideration.

### **Operational requirements**

Whilst the purpose of this report is to outline the cost of closing King William Road, there are some additional operational requirements that should be considered. While the exact nature of the activity planned to activate the closed road is currently undetermined, the purpose of the initiative is to bring people to the area resulting in an increased demand on public amenities such as toilets and bins.

Currently, there is only one public toilet on King William Road so additional toilet facilities would be essential. As per the Safework SA guidelines outlined in the City of Unley Events Toolkit, as a minimum requirement, events where alcohol is not available with less than 500 people require 1 male toilet, 2 urinals and 6 female toilets. Based on this, an additional 7 toilets would be necessary. If endorsed, a feasibility study will determine the nature of any activation and the number of additional toilets required. Consideration has also been given to street sweeping and provision of additional bins in the cost analysis (Attachment 1 to Item 803/17).

*Attachment 1*

With recent acts of vehicle related terrorism at events outside of Australia, SA Police (SAPOL) have recently made a recommendation that all events involving road closures install water filled barriers to prevent the possibility of a vehicle entering the event area. It is suggested that Council implement the recommendations made by SAPOL and such barriers should be used for the

proposed closure of King William Road as they were for the recent Unley Gourmet Gala and Australia Day events. Currently, contracted traffic management crews are unable to fill and decant the barriers; therefore a City of Unley staff member would be required to undertake this task.

### **Cost**

Attachment 1 provides a cost analysis of both the estimated costs for each event as well as the one-off costs required to notify affected residents and businesses (Attachment 1 to Item 803/17). The time and duration of the closure would have limited impact on the costs presented.

*Attachment 1*

Cost per road closure - \$6,680 (includes implementation of road closure and associated temporary parking controls, street sweeping and additional toilet and bin facilities)

One-off costs - \$4,540 (includes resident and business notification)

### **Trader Engagement & Further Investigation**

Should Council support the associated costs with closing the road presented in this report, Administration recommends that the next step would be to undertake a further investigation and trader engagement regarding the proposed closures. Consultation should include but is not limited to; traders on King William Road and the King William Road Traders Association. The scope and associated cost of any activation on the road, number and timing of the closures, management, communication, marketing and implementation would also need to be investigated.

## **3. ANALYSIS OF OPTIONS**

Option 1 – Council supports, in principle, the presented costs and requirements associated with the closure of King William Road as a thoroughfare to traffic between Mitchell and Bloomsbury Streets, or similar, on up to six Sundays during the warmer months of 2017/18.

### **AND**

The Administration undertake further investigation and trader engagement with a feasibility study to be presented at the May Council Meeting.

This option will allow the Administration to carefully consider the road closures and seek stakeholder feedback. The nature, scope and cost of the activation planned for the road closure and responsibility of any such activity will also need to be determined.

If this option is endorsed, depending on the outcome of the feasibility study, if it is recommended that Council play a role in the activation of the space there could be additional costs to consider. These costs could include; event activation, marketing and project management.



A proposal outlining the costs to close King William Road as a thoroughfare to traffic on 6 occasions throughout the warmer months of 2017-18 has been included for Council's consideration in the 2017-18 budget. This proposal does not include any costs associated with activating the space.

It is also worth noting and considering that the King William Road Master Plan and redevelopment, which is likely to include provisions for event infrastructure, may reduce the cost to implement the regular closures.

#### Option 2 - Do not proceed

This option would result in a lost opportunity to activate King William Road and create vibrancy and economic prosperity in the precinct.

However, given the recent feedback received from King William Road businesses and surrounding residents regarding closure of the road and lack of access to their property, this option is likely to be received favourably by some businesses and residents.

#### **4. RECOMMENDED OPTION**

Option 1 is the recommended options.

#### **5. POLICY IMPLICATIONS**

##### **5.1 *Financial/budget***

- Should Option 1 be endorsed: Depending on the outcome of the feasibility study, there could be additional budget implications if it is recommended that Council play a role in the activation of King William Road. This could include event costs, marketing and project management.
- A New Initiative Project Brief has been submitted for consideration as part of the 2017-18 Budget. This Project Brief includes the costs associated with closing the road as a thoroughfare to traffic on six occasions throughout the 2017/18 financial year. It does not include:
  - Activities proposed to activate the space including infrastructure and entertainment
  - Extended community and business engagement
  - Communications and promotion of the initiative
  - Project management of the initiative

##### **5.2 *Legislative/Risk Management***

- Council's lawyers were engaged to provide advice on the proposed closure of King William Road as a thoroughfare to traffic on Sundays
- Council is able to close the road under Section 33 (1) of the Road Traffic Act 1961 by resolution of the Council

- Council must adhere to Section 33 (3) of the Road Traffic Act 1961 regarding advertising the closure of a road
- If the closure proceed, under section 33(1) of the Act Council must notify the following agencies: Commissioner of Highways; SA Metropolitan Fire Service; SA Country Fire Service; SA State Emergency Service; SA Ambulance Service; Public Transport Service Division of DPTI and Commissioner of Police

### **5.3 Staffing/Work Plans**

- Subject on the outcome of a feasibility study, if recommended by Council, staff hours from Events, Economic Development, Traffic and Transport and the Depot would be required to implement the proposed road closures.

### **5.4 Environmental/Social/Economic**

- Should the road closures be endorsed and be successful, it is anticipated they would encourage increased visitation and economic growth for the precinct. As mentioned above, there will also be an impact on parking and public transport to the area and if endorsed, managing this impact will form part of a feasibility study to be brought back to Council.

### **5.5 Stakeholder Engagement**

- As this report concentrates on the costs and requirements of closing King William Road as a thoroughfare to traffic limited stakeholder engagement was undertaken. If either of the recommended options is endorsed, extensive community and stakeholder engagement is recommended.

## **6. REPORT CONSULTATION**

<b>INTERNAL CONSULTATION</b>	
Carly Hemus	Event Management Specialist
Satyen Ghandi	Manager Transportation & Traffic
Ben Parkinson	Coordinator Open Space & Trades
Rebecca Wilson	Group Manager Governance & Risk
<b>EXTERNAL CONSULTATION</b>	
Council's Lawyers	
Department of Planning, Traffic & Infrastructure	

## **7. REPORT AUTHORISERS**

<b><u>Name</u></b>	<b><u>Title</u></b>
Peter Tsokas	Chief Executive Officer

## Estimated KWR Summer Road Closure Costs Per Event

### Road closure from Mitchell to Bloomsbury

		Notes	Estimated Cost per closure/event
Essential costs per closure		6 water filled barriers to meet new SAPOL recommendations regarding increased terrorism risk at places of mass gathering *Note - Contractors do not have the capacity to fill and decant barriers	\$480*
	Road closure	re-routing of Adelaide Metro busses	\$1,000.00
		Internal Staff to set up and remove traffic controls	\$1,320.00
		Electronic Message Boards *2	\$800.00
	Street sweeping / cleansing after the event	Depot staff time (Additional crew)	\$660.00
	Waste Management / Cleaners	Additional bins would be required to manage waste due to increased patronage and temporary food stalls / outdoor dining. Cleaners would need to be engaged to clear outdoor dining tables and manage street litter. Cost based on 2 cleaners and additional bins.	\$1,500.00
	Temporary toilet facilities	There is only one public toilet on KW Rd, additional toilets would need to be provided if an event were held. Cost based on 7 portaloos (at \$200 per toilet) including delivery & collection.	\$1,400.00
		<b>TOTAL ESTIMATED ESSENTIAL PER EVENT COSTS</b>	<b>\$6,680.00</b>
Potential once off cost calendar of proposed closures			
	Business / resident notification letter and envelope production	Printing only. Cost based on 2017 Unley Gourmet Gala notification area.	\$1,200.00
	Business / resident notification letter distribution	Distribution only. Cost based on 2017 Unley Gourmet Gala notification area.	\$1,640.00
	Bus stop signage to advise of re-routing	Corflute signage would need to be placed at bus stops advising of re-routing. Cost based on 2017 Unley Gourmet Gala costs for same notification.	\$300.00
	Notification in The Messenger and The Advertiser	Mandatory advert in Messenger and Advertiser for road closure notification.	\$1,400.00
		<b>TOTAL ESTIMATED ESSENTIAL ONE OFF COSTS</b>	<b>\$4,540.00</b>

## DECISION REPORT

**REPORT TITLE:** ELECTION CANDIDATE INFORMATION  
**ITEM NUMBER:** 804  
**DATE OF MEETING:** 27 MARCH 2017  
**AUTHOR:** SUE BAYLY  
**JOB TITLE:** GOVERNANCE OFFICER

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### 1. **EXECUTIVE SUMMARY**

The Local Government Association (LGA) is seeking feedback on a proposal for the Electoral Commission SA to mail out information about candidates who have been elected unopposed to Councils.

### 2. **RECOMMENDATION**

That:

1. The report be received.
  - 2.
-

## **1. RELEVANT CORE STRATEGIES/POLICIES**

Goal 5.3; Good governance and legislative framework

## **2. DISCUSSION**

Following a motion passed by the LGA Board, feedback is being sought from Councils on a proposal to amend the *Local Government (Elections) Act 1999* to require the Electoral Commission SA (ECSA) to mail out information to voters about candidates who were elected unopposed to Councils. The details are contained in LGA Circular 12.1 (dated 16 March 2017). Attachment 1 to Item 803/17.

*Attachment 1*

The circular sets out four options:

1. Mandate for the ECSA to mail out information about candidates elected unopposed.
2. Publication on the LGA candidates' website.
3. Councils can determine on an individual basis to mail out information on candidates elected unopposed.
4. Councils could obtain the candidates profiles from ECSA.

The circular examines these options in more detail.

The LGA is aiming to determine a sector wide position on the issue. The closing date for feedback to the LGA is 28 April 2017.

Whichever option listed above may or may not proceed, candidates will be actively canvassing "their" constituency before voting closes and so regardless of how many candidates stand in a ward or as Mayor, the public will receive information directly from them.

## **3. ANALYSIS OF OPTIONS**

### Option 1 – That the report be received

The methods which Unley Council used to disseminate candidate information at the 2014 Council elections are discussed below. Publication dates were based on the legislated timeframe in the *Local Government (Elections) Act 1999*, and lead-up times for printing the Eastern Courier and Unley Life magazine.

## **4. RECOMMENDED OPTION**

Option 1 is the recommended option.

## **5. POLICY IMPLICATIONS**

### **5.1 *Financial/budget***

There would be costs associated with any of the above options. At the 2014 Council election, the average number of voters on the electoral role in a ward was 4498.

If the mayoral candidate was elected unopposed then the mail out would need to reach the whole council area (ie. voters roll) of approximately 27,000 voters.

These figures could be used as a baseline for calculations but it is not possible to predict the postage costs which may apply in November 2018 when the next general election is due for local government.

ECSA uses a formula to calculate the fee it charges councils for the service provided to run the Council elections. At the last election, this cost was approximately \$4-00 per elector for a council of Unley's size. There are also significant Council administrative costs and staff resources involved in the election process.

Council has various options available for publishing candidate profiles which may be more cost effective than a general mail out. For example, at the 2014 Council election information about the candidates was displayed on the Council's website, in the Unley Life magazine (Spring and Summer editions), and at the Civic Centre. The Unley Life magazine is delivered to every household in the council area.

### **5.2 *Legislative/Risk Management***

Options 1, 2, and 4 require legislative change to the *Local Government (Elections) Act 1999*.

### **5.5 *Stakeholder Engagement***

Community engagement with the council elections is always a communication challenge. The feedback sought here relates to dissemination of information to the public in the post-election period (or at least after nominations have closed).

Anecdotal evidence from previous elections and other council consultation exercises suggests that (hard copy) mail outs have a large wastage factor and the information may not be accessed by the consumer/elector.

## **6. REPORT CONSULTATION**

Communications officers.

**7.     ATTACHMENTS**

Attachment 1: LGA circular 12.1 (dated 16 March 2017)

**8.     REPORT AUTHORISERS**

<b><u>Name</u></b>	<b><u>Title</u></b>
Peter Tsokas	Chief Executive Officer
Rebecca Wilson	Group Manager Governance and Risk



## Circulars

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### Candidates elected unopposed - feedback sought - Circular 12.1

To

Chief Executive Officer  
Governance Officers  
Returning Officer

Date

16 March 2017

Contact

Gwyn Rimmington  
Email: [gwyn.rimmington@lga.sa.gov.au](mailto:gwyn.rimmington@lga.sa.gov.au)

Response Required

Yes

Respond By

28 April 2017

Summary

**The LGA is seeking feedback on a proposal to amend the Local Government (Elections) Act to require the Electoral Commissioner to provide information by mail about candidates who have been elected unopposed.**

Following a motion passed by the LGA Board, the LGA is seeking feedback from councils on the proposal set out below.

#### Proposal

**1. Mandate ECSA to mail out information about candidates elected unopposed** - The proposal is to amend the Local Government (Elections) Act to require the Electoral Commission (ECSA) to mail out information about candidates for local government elections who have already been elected unopposed.

The justification for this amendment is that local government heavily promotes the election process and seeks to achieve higher levels of participation from the community, but those community members who do not receive ballot papers for candidates who are elected unopposed are not aware of who the candidates are.

The LGA sought the views of ECSA and was informed that if profile data for candidates elected unopposed is to be sent out by mail in the same manner as for contesting candidates (ie with the ballot packs sent to each voter) there would be additional printing, enveloping and mailing costs which would have to be borne by councils. These costs cannot be estimated because they depend on the number of nominations for each position. In the 2014 elections there were 73 members elected unopposed. Requiring ECSA to perform this function will require an amendment to the Elections Act.

#### Other Options

There are also other options for achieving a higher community profile for candidates who are elected unopposed. These include:

**2. Publication on the Candidates Website** - The LGA could obtain the profile data for candidates elected unopposed from ECSA, and publish it on the Candidates Website along with all other candidates' data. There would be no cost to councils under this option. This option requires a small legislative change as candidate profiles for candidates elected unopposed are not currently published.

**3. Councils can determine on an individual basis to mail out information on candidates elected unopposed** - Councils that want to mail out or publish information about candidates elected unopposed can do so now under the current legislation. Councils currently have a responsibility under s21 of the Elections Act to display all valid nominations received in the principal office of the council. Councils could also choose to mail out this information. This option does not require legislative change.

**4. Councils could obtain the candidates' profiles from ECSA** - Individual councils could obtain the profiles for candidates who have been elected unopposed and mail out this information to the council electorate. This would mean that the costs would fall only on councils that want to take this action. This option would require a small legislative change as candidate profiles for candidates elected unopposed are not currently published.

The LGA is seeking feedback on the main proposal (number 1 above) to require the Electoral Commissioner to mail out information about candidates elected unopposed, and also on options 2, 3 and 4 to assist in determining a sector wide position on this issue.

Feedback should be sent to Gwyn Rimmington, Senior Policy Officer, on [gwyn.rimmington@lga.sa.gov.au](mailto:gwyn.rimmington@lga.sa.gov.au), or 08 8224 2045



## DRAFT DECISION REPORT

**REPORT TITLE:** PROMOTING GREATER AWARENESS OF COUNCIL SERVICES  
**ITEM NUMBER:** 805  
**DATE OF MEETING:** 27 MARCH 2017  
**AUTHOR:** CAROL GOWLAND  
**JOB TITLE:** EA TO THE CEO AND MAYOR

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### 1. **EXECUTIVE SUMMARY**

Council has received correspondence from Mayor Lorraine Rosenberg, President of the Local Government Association (LGA) (Attachment 1 to Item 805/17), advising of the LGA Board's decision to run a public awareness campaign this year, as part of a three phase strategy to positively position the local government sector in the lead up to the next state election in March 2018.

*Attachment 1*

While the LGA will spearhead this campaign the support of councils at a local level is crucial to its success.

The President of the LGA has requested that the council receive the following report, with a resolution seeking the formal support of Council.

The LGA Board was unanimous in its decision to reject rate capping in any form. Rate capping has decimated services and infrastructure for councils and communities interstate.

The LGA seeks Council's support to muster all available resources to ensure this policy does not harm South Australian communities.

### 2. **RECOMMENDATION**

That:

1. The report be received.
2. Council notes the unanimous decision from South Australian councils at the 2016 LGA Ordinary General Meeting to reject rate capping.
3. Council continues to oppose rate capping in any form.
4. Council agrees to support and participate in the LGA's public awareness campaign, including placing material in quarterly rates notices.

5. Council notes the LGA will continue to work with all Members of Parliament and political parties to ensure rate capping is not imposed on South Australian communities.
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## **1. RELEVANT CORE STRATEGIES/POLICIES**

- 1.1 5.5 A financially sustainable approach to business and planning activity.

## **2. DISCUSSION**

The Local Government Association of South Australia (LGA) is implementing a public awareness campaign this year, as part of a three-phase strategy to positively position the local government sector in the lead up to the next state election in March 2018.

Endorsed by the LGA Board, this campaign is part of ongoing efforts to inform, activate and encourage our communities to support the extent and value of services provided by councils. It highlights the importance of the local government sector in enhancing the communities we live in and delivering the services they expect.

This is consistent with the unanimous decision from councils to reject rate capping at the LGA Ordinary General Meeting in April 2016 (see Attachment 1 to Item 805/17).

*Attachment 1*

Despite substantial efforts by the LGA to work collaboratively with the Liberal Party on alternative initiatives to drive efficiencies and reduce cost of living pressure on communities, the Party has attempted to introduce rate capping into legislation currently before the Parliament of South Australia (Parliament) and to take this policy to the state election.

The introduction of a rate capping policy is the biggest threat our sector faces. Where rate capping has been enforced interstate it has significantly reduced council infrastructure and services, with many councils being forced to cut a range of activities that are valued by the local community, such as libraries, parks and community support services.

The reality is that rate capping limits a council's ability to provide local services, creates infrastructure backlogs, restricts budgetary authority and undermines local democracy. These adverse outcomes are becoming evident in Victoria, and have already occurred in NSW where rate capping has been in place for many years.

The LGA is seeking support from councils to ensure that this policy does not harm South Australian communities.

It is evident that local government is being taken for granted by some members of Parliament. In response, the LGA's campaign aims to let communities know what is at stake if they lose their democratic right to decide what services they want councils to provide in their communities.

### **3. ANALYSIS OF OPTIONS**

Option 1 – Council notes the unanimous decision from South Australian councils at the 2016 LGA Ordinary General Meeting to reject rate capping. Council continues to oppose rate capping in any form. Council agrees to support and participate in the LGA's public awareness campaign, including placing material in quarterly rates notices. Council notes the LGA will continue to work with all Members of Parliament and political parties to ensure rate capping is not imposed on South Australian communities.

Option 2 - Council does not support the LGA's position.

### **4. RECOMMENDED OPTION**

Option 1 is the recommended option.

### **5. POLICY IMPLICATIONS**

#### **5.1 *Financial/budget***

- Should rate capping occur, this would have a negative impact on the ability of Council to deliver on the outcomes identified in the Community Plan.

#### **5.2 *Legislative/Risk Management***

- As above

#### **5.3 *Staffing/Work Plans***

- No.

#### **5.4 *Environmental/Social/Economic***

- As above

#### **5.5 *Stakeholder Engagement***

Nil

### **6. REPORT CONSULTATION**

Nil

**7.     ATTACHMENTS**

1. Correspondence from the Office of the President of the LGA

**8.     REPORT AUTHORISERS**

<b><u>Name</u></b>	<b><u>Title</u></b>
Lachlan Clyne	Mayor
Peter Tsokas	Chief Executive Officer



**Office of the President**

In reply please quote our reference: ECM 647455 LT/DB

3 March 2017

Mayor Lachlan Clyne  
City of Unley  
PO Box 1  
UNLEY SA 5061

Dear Mayor Clyne

**Public Awareness Campaign**

I'm writing regarding the LGA Board's decision to run a public awareness campaign this year, as part of a three-phase strategy to positively position the local government sector in the lead up to the next state election in March 2018.

This campaign is part of the LGA's ongoing efforts to inform, activate and encourage our communities to support the extent and value of services provided by councils, and highlight the importance of the local government sector in enhancing the communities we live in and delivering the services they expect.

Putting it simply, local government is being taken for granted by some members of the State Parliament. We need to let our communities know what is at stake if they lose their democratic right to decide what services they want us to provide in their communities.

This is consistent with the unanimous decision from councils to reject rate capping at our Ordinary General Meeting last April.

Regrettably the Liberal Party has flagged their intent to introduce rate capping amendments into the Boundary Adjustment Bill currently before Parliament. This is despite substantial efforts by the LGA to work with the Liberals on other initiatives to drive efficiencies and reduce cost of living pressure on communities other than rate capping. Should the policy be successful, councils will be forced to cut services such as libraries, dog parks and helping South Australians in need, as has been the case where rate capping is enforced interstate.

7

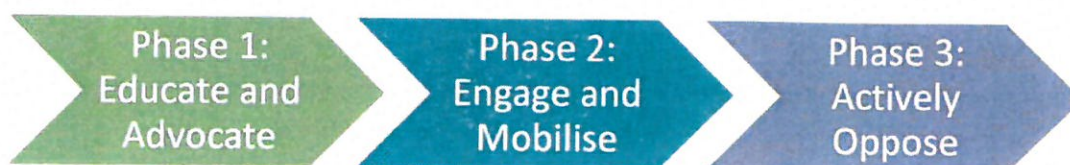
LGA Local Government

Date	06 MAR 2017	Class.
For the ACTION	C. Goulford	



## Strategy

The awareness campaign messages will evolve over the coming months to support the following three phase campaign:



## Research

To inform the campaign's development, the LGA commissioned research company Hudson Howells to undertake quantitative market research.

A survey of thousands of South Australian residents (metro and regional), and council staff, elected members and union representatives, has recently been completed.

**The research confirms that with the right messaging and campaigning, South Australians are willing to vote against rate capping.**

We have engaged an advertising agency to develop a multi-media campaign based on the insights gathered from the research.

The approach taken by the Western Australian Local Government Association (the only state to successfully resist the introduction of rate capping where it has been proposed) has also informed the campaign.

The campaign will also include traditional media, community engagement, and advocacy at both a state and local level including targeted and marginal seat campaigning. We will report on the details of the campaign with councils after the March LGA Board meeting.

## Council support

While the LGA will spearhead this campaign, the support of councils at a local level is crucial to its success.

**Included with this letter is a draft council report, with a resolution seeking the formal support of your council.**

I would be appreciative if you would table this report before your council at the earliest possible opportunity.

Over the campaign period, the LGA will provide councils with a range of materials to co-brand or adapt for use at a local level.

This will include artwork for rate notice inserts, email footers, social media and web banners, posters, outdoor banners, and advertisements for council produced magazines and newsletters. This collateral and messaging will all be based on the results of the Hudson Howell market research.

The next round of material will be provided in March for distribution in the June rate notices, which are distributed by most councils in mid-April.

### **Next steps**

The LGA will continue to update all elected members on the awareness campaign via my fortnightly e-newsletter and the LGA intends to ring every council member in South Australia about rate capping.

We will continue to work closely with council CEOs and communication teams and rate administrators directly as we roll out the campaign.

In summary, the next steps in the process are:

Action	Responsibility	Timing
Finalise awareness campaign creative and share with sector	LGA	March
Provide materials for June rate notices	LGA	Mid-late March
Table report to council	Councils	March
Advise LGA of council resolution	Councils	April
Implement campaign	LGA & Councils	May

### **The LGA commits to not spending one single cent of subscription fees on Phase 3 of this campaign.**

Phase 3 will be funded through LGA investment returns.

Note that political parties are publicly funded by tax payers to run federal election campaigns, for example the Liberal Party received more than \$23 million of tax payers' money for the last Federal election, and this is only a first instalment.

Political parties will be able to access public funding for State Elections from next year. More information on the public funding of political campaigns can be found here:

<http://aec.gov.au/media/media-releases/2016/07-27e.htm>.

### **Make no mistake, rate capping is the biggest threat our sector faces.**

It has decimated services and infrastructure for councils and communities interstate.

The LGA - with your support - will muster all available resources to ensure this policy does not harm South Australian communities.



I look forward to working with you and your council on this campaign to promote the role of local government, and secure the future of local decision making.

You can find more information on the destructive impact of rate capping here:

[www.lga.sa.gov.au/RateCapping](http://www.lga.sa.gov.au/RateCapping)

As always, please feel free to contact me if you have any questions.

Yours sincerely



Mayor Lorraine Rosenberg  
**President**

Telephone: (08) 8224 2022

Email: [lgapresident@lga.sa.gov.au](mailto:lgapresident@lga.sa.gov.au)

Attach: ECM 647328 – Draft council report – promoting greater awareness of council services

## Promoting greater awareness of council services

### That the Council:

1. Notes the unanimous decision from South Australian councils at the 2016 LGA Ordinary General Meeting to reject rate capping;
2. **[Continues to]** oppose**[s]** rate capping in any form;
3. Agrees to support and participate in the LGA's public awareness campaign including placing material in quarterly rates notices; and
4. Notes the LGA will continue to work with all Members of Parliament and political parties to ensure rate capping is not imposed on South Australian communities.

### Discussion

The Local Government Association of South Australia (LGA) is implementing a public awareness campaign this year, as part of a three-phase strategy to positively position the local government sector in the lead up to the next state election in March 2018.

Endorsed by the LGA Board, this campaign is part of ongoing efforts to inform, activate and encourage our communities to support the extent and value of services provided by councils. It highlights the importance of the local government sector in enhancing the communities we live in and delivering the services they expect.

This is consistent with the unanimous decision from councils to reject rate capping at the LGA Ordinary General Meeting in April 2016 (see **Appendix A**)

Despite substantial efforts by the LGA to work collaboratively with the Liberal Party on alternative initiatives to drive efficiencies and reduce cost of living pressure on communities, the Party has attempted to introduce rate capping into legislation currently before the Parliament of South Australia (Parliament) and to take this policy to the state election.

The introduction of a rate capping policy is the biggest threat our sector faces. Where rate capping has been enforced interstate it has significantly reduced council infrastructure and services, with many councils being forced to cut a range activities that are valued by local the community, such as libraries, parks and community support services.

The reality is that rate capping limits a council's ability to provide local services, creates infrastructure backlogs, restricts budgetary authority and undermines local democracy. These adverse outcomes are becoming evident in Victoria, and have already occurred in NSW where rate-capping has been in place many years.

The LGA is seeking support from councils to ensure that this policy does not harm South Australian communities.

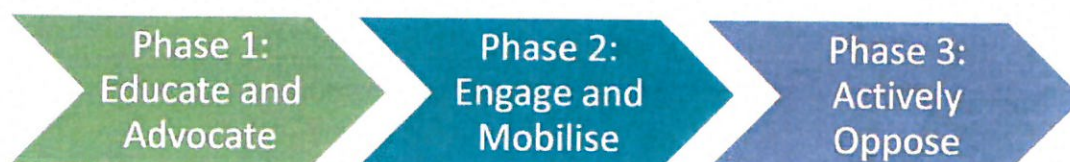
It is evident that local government is being taken for granted by some members of Parliament. In response, the LGA's campaign aims to let communities know what is at stake



if they lose their democratic right to decide what services they want councils to provide in their communities.

## Strategy

The LGA's public awareness campaign messages will evolve over the coming months to support the following three phases:



## Research

To inform the campaign's development, the LGA commissioned research company Hudson Howells to undertake quantitative market research. A survey of thousands of South Australian residents (metro and regional), council staff, elected members and union representatives has recently been completed. The research confirms that, with the right messaging and campaigning, South Australians are willing to vote against rate capping.

The approach taken by the Western Australian Local Government Association (the only state to successfully resist the introduction of rate capping where it has been proposed) has also informed the campaign.

The LGA has engaged an advertising agency to develop a multi-media campaign based on the insights gathered from the research. The campaign will also include traditional media, community engagement, and advocacy at both a state and local level including targeted and marginal seat campaigning.

## Council support

While the LGA will spearhead the campaign, they are seeking the support of all member councils. Formal support from councils and collaboration throughout the campaign are crucial to its success.

Over the campaign period the LGA will provide councils with a range of materials to co-brand or adapt for use at a local level. This will include artwork for rate notice inserts, email footers, social media and web banners, posters, outdoor banners, and advertisements for council produced magazines and newsletters. This collateral and messaging will all be informed by the Hudson Howell market research.

Following Council's consideration of this report, the first round of material will be distributed in the next quarterly rates notice. Further campaign materials will be provided by the LGA as they are developed.



## Risk of rate capping in South Australia

The Liberal Party (SA Branch) has a policy to *'impose a cap on council rate rises, to stop rates being dramatically increased by local government and putting undue pressure on homeowners'*.

'Rate capping' is an externally imposed upper limit, expressed as a percentage increase from the previous year, on the rates revenue able to be generated by a council. In this form, it has been in place since 1977 in New South Wales and was introduced (by the Labor Government) in Victoria in 2016-17.

On 26 March 2016 the then Shadow Minister for Local Government, Steven Griffiths MP, introduced the *Local Government (Rate Increases) Amendment Bill 2016* (the Rates Increases Bill). This was voted down in Parliament on 9 June 2016.

Subsequently, on 15 February 2017, the Liberal Party has indicated to Parliament that they will seek an amendment to the *Local Government (Boundary Adjustment) Amendment Bill 2016* to introduce rate capping.

The Liberal Party has committed to taking this policy to the state election in March 2018. They propose that rate capping functions would be undertaken by the Essential Services Commission of SA (ESCOSA), with councils being required to apply for variations above the determined percentage increase with the support of their communities.

This policy should not be confused with a cap a council might itself apply to amounts payable by an individual ratepayer in any year under section 153(3) of the *Local Government Act 1999*. Approximately 50 per cent of councils within South Australia restrict increases on individual properties to no more than a nominated percentage every year. However, these council decisions do not constrain total rate revenue generated.

## Independent commentary on setting council rates

In line with legislative obligations, councils continually strive to improve the efficiency and effectiveness of their services and consult with their community on the setting strategic priorities, annual business plans, and rates. Debate around the setting of rates should be welcomed as it focuses attention on how the funds raised through council rates are reinvested for the benefit of the local community.

Several recent independent reports and academic studies have provided commentary on council rates and the implications of rate capping policies in NSW and Victoria. For example, through the McKell Institute, the University of Technology Sydney released a report *Giving Local Governments the Reboot, Improving the Financial Sustainability of Local Governments*, which recommended *rate capping should be abandoned as a matter of priority as the policy erodes the link between revenue and expenditure and diminishes financial efficiency and sustainability*. Further examples of third party commentary on the effects of rate capping in NSW and Victoria are provided in **Appendix B**.



**Appendix A**

The LGA Ordinary General Meeting on 14 April 2016 unanimously resolved to:

1. *reaffirm the view that decisions concerning council rates are better informed, and the impacts better understood, when made by the respective councils in consultation with their communities;*
2. *reject the State Opposition's policy on rate capping; and*
3. *endorse the LGA President and CEO to continue to work with all Members of Parliament to ensure rate capping is not imposed on South Australian councils.*

**Appendix B****NSW Treasury Corporation**

NSW Treasury Corporation report, *Financial Sustainability of the NSW Local Government Sector, 2013*, proposed a concise definition of financial sustainability for councils as:

*A local government will be financially sustainable over the long term when it is able to generate sufficient funds to provide the levels of service and infrastructure agreed with its community.*

**Professionals Australia**

A Professionals Australia report, *Rate Capping: Exacerbating the infrastructure problem*, argued against a cap on local government rates in Victoria on the basis that it *will not positively contribute to better local government and will likely exacerbate the already growing backlog of infrastructure projects in local government*. Professionals Australia also noted that *previous attempts to cap rates in Victoria and in other states have led to inadequate maintenance of existing infrastructure and serious backlogs in infrastructure delivery*.

**Independent Local Government Review Panel (NSW)**

In 2012, an Independent Local Government Review Panel appointed by the then NSW Local Government Minister, the Hon Don Page MP (National Party), to look at the NSW rate capping system concluded that the system led to various unintended consequences, including:

- unrealistic community expectations that rates should be contained indefinitely;
- excessive cuts in expenditure on infrastructure leading to mounting asset renewal and maintenance backlogs;
- despite the ability to apply to IPART for a special rates variation over and above the rate cap, there is a reluctance amongst Councils to do so as it is seen as politically risky and the process is too costly and complex – requiring a disproportionate effort for an uncertain gain; and,
- underutilisation of borrowing finances due in part to the uncertainty whether any increases in rates, needed to repay loans, would be approved by IPART (Comrie, 2015).

The Panel concluded that 'whilst there is certainly a case for improving efficiency and keeping rate increases to affordable levels, the rate [capping] system in its present form impacts adversely on sound financial management.' (Independent Local Government Review Panel, 2013. Page 42).

## **INFORMATION REPORT**

<b>REPORT TITLE:</b>	COUNCIL ACTION RECORDS
<b>ITEM NUMBER:</b>	806
<b>DATE OF MEETING:</b>	27 MARCH 2017
<b>AUTHOR:</b>	CAROL GOWLAND
<b>JOB TITLE:</b>	EXECUTIVE ASSISTANT TO CEO & MAYOR

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### **EXECUTIVE SUMMARY**

To provide an update to Members on information and actions arising from resolutions of Council.

### **RECOMMENDATION**

MOVED:  
SECONDED:

That:

1. The report be noted.
-

**COUNCIL ACTION REPORTS - ACTIONS TO March 2017**

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
DSP	3	<b>Draft General Development Plan - 2.</b> Do not endorse the draft General DPA in its current form. 3. An opportunity be provided for the scope, nature and timetable of the DPA to be revised to address the issues of concern of the Committee. 4. A further report be provided to the Committee in June 2015.	General Manager	Progress delayed due to priorities with other Council DPA's and responding to Minister's DPA's. Activity Centres Ministerial DPA approved in April 2016 whereby scope and nature of policy in General DPA required major review, in addition to DSPC revisions. Currently revised draft DPA with DPTI seeking feedback before reporting to Council.
	467	<b>Resilient East Climate Change Adaptation Plan - 2.</b> Council gives in principle endorsement of the Resilient East Regional Climate Change Adaptation Plan (Attachment 1). 3. Council endorses Adelaide City Council's continued involvement in the Resilient East Regional Climate Change Adaptation project partnership. 4. Council notes that the Resilient East Project Steering Group will continue to oversee the project and develop recommendations for the ongoing governance and implementation framework for project partners, including councils and State Government. 5. A subsequent report be presented to Council outlining the priority projects, partners, and funding expectations included in the Resilient East Regional Climate Change Adaptation Plan.	General Manager City Development	Waiting on a report from Resilient East before preparing a further report to Council.
	522	<b>Parkside on Street Parking - 2.</b> Subject to approval from DPTI of the concept, community engagement on (pay for use) parking bay indentation along Greenhill Road be supported. 3. Further investigation into the introduction of Smart Parking technology occur, and if the proposal looks to have promise, a report be provided to a future meeting regarding a trial in the Parkside area. 4. A report outlining the outcome of the above community engagement be presented to Council as soon as the results are available.	General Manager City Development	Community engagement and design works are scheduled for commencement in late 2016 with a view to provide a further report to Council in mid-2017 on this matter.

# COUNCIL ACTION REPORTS - ACTIONS TO March 2017

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	564	<p><b>Motion of Notice from Councillor Salaman re Rescission Motion.</b> 2. Council determines not to sell the land at the rear of 75 King William Road.</p> <p>3. A fence be erected on the actual boundary at Council's cost.</p> <p>4. Council advise the owners of 2, 4, 4a, 6 and 8 Cleland Avenue of Council's decision.</p> <p><b>Cleland Avenue</b></p> <p>2. Council determines not to sell the land at the rear of 75 King William Road at this point in time.</p> <p>3. Residents be offered continuing use of the land at a peppercorn rental (of \$10.00 per annum, per property) for a period of 5 years, or less if required by Council.</p> <p>4. A legally binding agreement between the residents and the Council, which includes acknowledgement of Council's ownership, the liability issues, be prepared and signed by Council and the owners of 2, 4, 4a and 8 Cleland Avenue.</p> <p>5. The cost of the legal agreement be borne by the owners of 2, 4, 4a and 8 Cleland Avenue.</p> <p>6. The existence of the encroachments and Lease be noted on the Property Files of Nos 2, 4, 4a &amp; 8 and (Section 7 Statements).</p> <p>7. Council advise the owners of 2, 4, 4a, 6 and 8 Cleland Avenue of Council's decision.</p> <p>8 Council authorise administration to undertake any necessary action to protect Council's interest in the land abutting No. 6 Cleland Avenue.</p>	General Manager City Development	<p>Agreements finalised for 3 of four properties with the owner of no.6 now contemplating the license option (previously not interested). Currently following up with no. 6.</p> <p>No. 6 is not interested in occupying the piece of Council land behind his property – I have inspected with the Team Leader Arboriculture this piece of land and no works at present are required by Council, 4th Ground Lease is with CEO &amp; Mayor to sign &amp; Seal.</p>
	549	<p><b>Unley Central Precinct Development Plan Amendment - Release for Public Consultation - 2.</b> The draft Unley Central Precinct Development Plan Amendment be endorsed as suitable for release for public consultation.</p> <p>3. The agency and public consultation of the draft Unley Central Precinct Development Plan Amendment be conducted in accord with statutory requirements, the endorsed Community Engagement Plan and outlined in this report.</p>	GM City Development	Minutes of City Strategy & Development Policy in March Council Agenda. COMPLETED



**COUNCIL ACTION REPORTS - ACTIONS TO March 2017**

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	584	<b>Millswood Sporting Complex Detailed Design</b>		This matter has been 'laid on the table'.
	630	<b>NOTICE OF MOTION FROM COUNCILLOR KOUMI RE ROAD CLOSURE OF KING WILLIAM ROAD ON SUNDAYS</b> - That: The Administration prepare a report on the cost and requirements of closing King William Road as a thoroughfare to vehicles between Mitchell and Bloomsbury Streets, or similar, on Sundays during the warmer months of the year for the purpose of on street outdoor dining, trade and entertainment.  This report be prepared in time for consideration in the 2017/18 budget.	GM City Development	Report in this Agenda. COMPLETED
	631	<b>MOTION ON NOTICE FROM COUNCILLOR PALMER RE LANE COVE STYLE DELIBERATIVE POLLING</b> - That: 1 The Administration prepare a report advising Council on how the Lane Cove style Deliberative Polling could assist Council in achieving the Goals of our Community Plan. 2 The report be presented to Council no later than the March Council meeting of 2017.	GM City Development	A report will be presented to Council in April 2017.
	702	<b>BUYING LOCAL</b> - Administration conduct a survey with local businesses and residents via an online survey tool, before pursuing any type of Buy Local Campaign (ie preference to buying products and services within the City of Unley). The research will be conducted to measure the need, level of interest and commitment for such a campaign in the City of Unley. The findings of the survey be brought back to Council for the February 2017 Council meeting.	Economic Development	Report in this Agenda. COMPLETED

**COUNCIL ACTION REPORTS - ACTIONS TO March 2017**

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	713	<b>NOTICE OF MOTION - COUNCILLOR PALMER RE GOODWOOD OVAL</b> - 1. Administration commences development of concept plans for improvements to the Goodwood Oval and the grandstand facility. 2. The concept plans review include accommodating female participation for both cricket and football, for players and umpiring alike. 3. The resulting concept drawing be developed in consultation with the Goodwood Cricket Club and the Goodwood Saints Football Club. 4. Administration identifies funding sources as part of the second quarter budget review. 5. The concept plans be presented to Council at the March 2017 Council meeting prior to any community engagement.	GM City Development	Report in this Agenda. COMPLETED
	714	<b>NOTICE OF MOTION - COUNCILLOR SMOLUCHA RE SHARED ZONE NAIRNE TERRACE GOODWOOD</b> - 1. Council staff evaluate the feasibility and estimated cost of creating a shared zone on Nairne Terrace, Forestville. 2. A report be prepared and presented for Council to consider the project as part of the 2017/18 budget discussions.	GM City Development	Administration has engaged Tonkin to undertake the design work on some options for Nairne Tce Forestville.  As part of this process, a physical survey of the area has been completed of the possible design options for Tonkin to go away and create 2 concept drawings. Cost estimates will come out of the design options we go with.

**COUNCIL ACTION REPORTS - ACTIONS TO March 2017**

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	744	<b>Notice of Motion Councillor Rabbitt re Vacant Land at 251 Goodwood Road</b> - 1. Administration investigates ownership of the vacant land at 251 Goodwood Road, Kings Park (believed to be owned by the Department of Planning Transport and Infrastructure). 2. On the basis of 1. above being confirmed, Administration requests the transfer of ownership of this land to the City of Unley 'gratis', on the basis that council will maintain the land in a tidy state. 3. Administration prepares a concept plan and costing for a low maintenance, dry garden area that would provide an additional 'green space', enhance the western approach to the Millswood Train Station and hopefully discourage the regular dumping of rubbish at the site. 4. Administration identifies funding sources as part of the 2017/18 budget process.	GM City Development	Land owner has been confirmed as DPTI. Initial discussions have occurred with representation of DPTI to explore the possibility of transfer of ownership and/or for Council to improve the land.
	745	<b>Notice of Motion Cr Boisvert re Victoria Street and Goodwood Road</b> - Council request administration to monitor the turning movements out of Victoria Street on to Goodwood Road, following completion of the current upgrade works and report back to Council on any proposed changes required to remedy any additional queuing experienced by traffic wanting to exit Victoria Street in peak periods. These recommendations may involve the banning of right turns out of Victoria Street into Goodwood Road during the peak periods.	GM City Development	Goodwood Road Streetscape Project is currently under construction. Following its completion, monitoring will be undertaken as adopted by Council with a view to report to Council in late 2017.
	758	<b>Petition re Pay for Use Parking Trial and Parking Management</b> - The principal petitioner be notified of Council's proposed actions..	GM City Development	Principal peitioner has been notified of the Motion passed by Council. COMPLETED.
	758	<b>Petition Reducing Traffic and Speeding in Mills Street Clarence Park</b> - The principal petitioner be notified of Council's proposed actions.	GM City Development	Principal peitioner has been notified of the Motion passed by Council. COMPLETED.
	759	<b>Petition re Narrowing of Victoria Street at the Intersection of Goodwood Road</b> - The Principal petitioner be notified of Council's proposed actions	GM City Development	Principal peitioner has been notified of the Motion passed by Council. COMPLETED.

# COUNCIL ACTION REPORTS - ACTIONS TO March 2017

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	768	<b>Goodwood / Wayville Parking Trial</b> - 1. The report be received. 2. The Pay for Use parking zone at Bartley Crescent be endorsed to continue. 3. The 4 hour parking zones in Goodwood and Wayville areas be endorsed to continue. 4. Council Administration continue to pursue other opportunities across the City to introduce paid parking. 5. Council further consult with the residents of Almond Street and Essex Street South with regard to their requirements for restricted parking in their streets and implement agreed changes 6. All unnecessary sign posts be removed.	GM City Development	The trial is completed. Council Administration will begin community engagement with Almond and Essex Streets residents in April 2017 as per Council endorsement.
	764	<b>Notice of Motion Cr Schnell re Goodwood Road / Victoria Street Junction</b> - 1. Administration defer planned works at the Victoria Street/ Goodwood Road junction until residents in the area adjacent to Victoria Street are consulted on the planned treatments, and Council receive a report on the matter. 2. A temporary traffic management treatment, resembling the planned works, be installed at the junction, so that residents get an understanding of the new junction layout. 3. Traffic operations at the junction be monitored during the temporary treatment trial. 4. Residents in the catchment area of Victoria Street be consulted on the proposed treatment of Victoria Street/ Goodwood Road junction. 5. A report on the results of the consultation, and any traffic operational learnings during the trial, be presented to Council at its April 2017 meeting. 6. Negotiate any variations caused by this delay with the constructing contractor.	GM City Development	Traffic operations at the junction are currently being monitored. Community consultation is underway. A further report to April Council meeting.

**COUNCIL ACTION REPORTS - ACTIONS TO March 2017**

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	763	<b>Notice of Motion Cr Palmer re Review of DAP Procedures when Processing Applications of Removal of Regulated and/or Significant Trees - 1.</b> Administration review their processes and procedures when assessing development applications involving the removal of regulated or significant trees, to ensure that only reports received from qualified arborists are accepted as required under Section 117 (1) of the Planning Regulations. <b>2.</b> Administration build a library of persons recognised as having the appropriate qualifications. <b>3.</b> As part of the review of our procedures and processes we reinforce in communications to applicants that the regulations require us to recognise only those personal who have the necessary qualifications. <b>4.</b> If any anomalies are found, Council be provided with a report by the April Council meeting.	GM City Services	Email has been sent to the team and will also discuss during section meeting. Will liaise with Council arborist to start a list. All template letters have been amended accordingly. COMPLETED

**COUNCIL ACTION REPORTS - ACTIONS TO March 2017**

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	762	<p><b>Notice of Motion Cr Rabbitt re Brown Hill Keswick Creek</b> - That:</p> <p>Further to the Motion passed at the Special Council Meeting held on Tuesday 29 September 2015 (Item 277) and in the absence of any substantive action in implementation, Council request:</p> <ul style="list-style-type: none"> <li>• The immediate support of the Brown Hill Keswick Creek Steering Committee, with financial assistance from the Stormwater Management Authority (SMA), to investigate the instance of obstacles along the creek bed and lower channel, working with residents to clear them as a priority.</li> <li>• The Adelaide &amp; Mount Lofty Ranges Natural Resources Management Board remind creek-owners of their responsibility to maintain their section of the creek in good condition and keep it clear of obstructions.</li> <li>• The SMA's formal response to the Councils' submission of the Stormwater Management Plan (SMP) for approval nearly 12 months ago (March 2016).</li> <li>• Clarification from Minister Hunter as to the cost sharing arrangements for this project as the five catchment Councils have not agreed to pay half the cost of this project.</li> </ul>	GM City Development	To be discussed at the next BHKC Steering committee meeting. Letter to be written once matter discussed.
	765	<p><b>Notice of Motion Cr Schnell re Leah Street Forestville</b> - That Council staff:</p> <ol style="list-style-type: none"> <li>1. Monitor the perceived higher volume of traffic, especially heavy vehicles using Leah Street, Forestville.</li> <li>2. Determine what can be done to reduce the volume of heavy traffic on Leah Street.</li> <li>3. Engage with construction company Outside Ideas (on Leader Street, Forestville) and request that their heavy vehicles avoid Leah Street where practical.</li> <li>4. Determine and submit an appropriate request to DPTI to assist in reducing the volume of traffic on Leah Street, especially heavy vehicles and to stop detouring traffic down Leah Street during road closures on South Road.</li> <li>5. Provide a report to Council in April 2017.</li> </ol>	GM City Development	

**COUNCIL ACTION REPORTS - ACTIONS TO March 2017**

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	769	<b>Rugby and Porter Streets Bike Route Upgrades</b> - 2. Infrastructure changes as outlined in Attachment 1 be approved for implementation with the amendment that at the Young Street/Porter Street intersection the stop bars are moved into the intersection as far as possible to improve safety. 3. The Mayor and CEO be given authority to enter into a co-funding agreement with DPTI to enable the project works to be undertaken. 4. Consideration be given to undertaking Stage 2 works as part of the 2017/18 budget consideration.	GM City Development	DPTI funding agreement has been undertaken. Detailed design in process with construction to commence following the detailed designs.
	770	<b>Sturt Football Club Additional Parking Controls for Matches at Unley Oval</b> - 2. Council supports the SFC's request for additional parking (and parking permits), by approving temporary parking along Rugby Street (angled parking adjacent to the Village Green) for game days only. 3. Sturt Football Club be advised of the Council decision.	GM City Development	Council Administration has met with Sturt Football Club to progress the changes as per Council endorsement. The changes are to commence with 2017 Football Season.

**COUNCIL ACTION REPORTS - ACTIONS TO March 2017**

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	766	<p><b>Notice of Motion Cr Salaman re Development Issues</b></p> <p>That: 1. The Administration formally advise the Minister in writing of the Council's and public's concerns, as outlined below, over the progressive State Government initiatives to reduce public representation and Council participation in development assessment and decisions of applications not fully confirming with the approved local Development Plan and request changes be made to the forthcoming Development Regulations to address the concerns:</p> <ul style="list-style-type: none"> <li>• Severely reducing who is notified of planning applications and who may make valid representations on developments potentially affecting their properties.</li> <li>• Emancipation of the "Significant Tree" legislation to a point where little protection remains, and generally neighbours are not notified.</li> <li>• The desire to remove Elected Members from Development Assessment Panels, and replace them with "experts".</li> <li>• Bypassing councils with larger applications which can be made to the Development Assessment Commission. Only minimal input from the council is allowed</li> <li>• The proposal for regional assessment boards to replace local DAPs and its potential to further isolate "local" input into the decision making process."</li> </ul>	GM City Services	In progress, letter to be sent by the Minister by the end of March 2017
	771	<p><b>Management of Encroachments onto Council Property</b> - All 'existing' encroachments identified during the 2015/16 audit be dealt with by providing a five (5) year Permit at no cost to the property owner</p>	GM City Development	Identify and engage contractor. Create and issue permits.



**COUNCIL ACTION REPORTS - ACTIONS TO March 2017**

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	772	<b>Proposed Road Opening Western Corner of Blyth and Nelly Streets Parkside</b> - 2. Council accept the gift of the small piece of land on the western corner of Blyth and Nelly Street, Parkside, and undertake the process under the Roads Opening and Closing Act 1991, to transfer this piece of land to public road, at Council's expense. 3. Subject to the response to the Community Consultation process, the Chief Executive Officer and Mayor be approved to sign and Seal where necessary, any documents to complete the roads opening process.	GM City Development	Undertake full Road Opening process - this may take up to 12 months to complete.
	773	<b>Proposed Road Closure of Pieces of Rugby Street (Haslop Reserve) and Cremorne Street Malvern</b> - 1. The report be received. 2. In accordance with the process under the Roads Opening and Closing Act 1991 that sections of the public roads known as Rugby Street (currently known as Haslop Reserve) and Cremorne Street, Malvern be closed as a public road and a Certificate of Title be issued in the ownership of Council. 3. Subject to the response to the Community Consultation process to close portions of Rugby Street and Cremorne Street, Malvern (currently known as Haslop Reserve), the CEO and Mayor be approved to sign and Seal where necessary, any documents to complete the roads closing process. 4. The sections of the public road proposed to be closed be excluded from the classification of community land. 5. Notice of this resolution, be published in the Government Gazette in accordance with S193 (6) (a) of the Local Government Act. 6. Administration discuss with the Department of Education and Child Development their interest in purchasing this portion land or contributing towards the cost of the land transfer.	GM City Development	Undertake full Road Opening process - this may take up to 12 months to complete. During this process, discuss disposal or lease of land with Department of Education.

**COUNCIL ACTION REPORTS - ACTIONS TO March 2017**

Meeting	Item	Subject and Council Resolution	Resp.	Status/Progress
	776	<p><b>Delegations - Local Nuisance and Litter Control Regulations</b> - 2. Delegations made under Local Government Act 1999</p> <p>2.1 In exercise of the power contained in Section 44 of the Local Government Act 1999, the powers and functions under the Local Nuisance and Litter Control Regulations 2017 and specified in the proposed Instrument of Delegation contained in Attachment 1 to Item 776/17 are hereby delegated this 27th day of February 2017 to the person occupying the office of Chief Executive Officer subject to the conditions and or limitations specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.</p> <p>2.2 Such powers and functions may be further delegated by the person occupying the office of Chief Executive Officer in accordance with Sections 44 and 101 of the Local Government Act 1999 as the Chief Executive Officer sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.</p>	Group Manager Governance & Risk	Delegation Instrument signed by CEO. Copy on Council's website. COMPLETED

























completed

## **ITEM 807**

### **QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN**

#### **QUESTIONS ON NOTICE FROM COUNCILLOR BOISVERT RE POTENTIAL SALE OF AIR RIGHTS AT THE CIVIC CENTRE**

The following Questions on Notice have been received from Councillor Boisvert and the answers are provided:

#### **Questions**

1. *Can you please provide a detailed and itemised account of all costs borne by Council associated with the potential sale of air rights at the Civic Centre from July 2016 to February 2017?*

#### **Answer**

Operational expenditure that has been incurred:

- \$2,413 paid to an Architectural firm towards a \$9 600 consultancy into a high level needs analysis for new office accommodation requirements. No further payments will be made under this contract.
- \$3,500 paid to a Licensed Valuer for a Valuation of the potential offering of land along Oxford Terrace for the Civic complex redevelopment.
- \$1,160 paid to a consultancy firm in relation to the Environmental Site Assessment work undertaken as part of a potential \$25000 consultancy. No further payments will be made under this contract.
- \$550 paid to a Strategic Property Consultant under a \$35 000 contract to prepare and manage an Expression of Interest campaign to identify a development partner for the possible redevelopment. No further payments will be made under this contract.
- \$126.15 paid to DPTI Land Services for Certificates of Title for the potential redevelopment site. Council did not possess Certificates of Title for these properties, so this expenditure helps bring Council's records up to date.
- \$4,595 paid for airfares and approximately \$1,000 for associated costs related to the Elected Member tour to Lane Cove to view and hear first-hand how that Council has utilised its land holdings to facilitate development in the Lane Cove Council area. (Councillors Boisvert, Palmer, Koumi, Hughes, Hewitson, Rabbitt, Lapidge, Salaman and Smolucha attended with two General Managers, Berghuis and Litchfield.)
- \$149 spent to purchase a Bosch Laser distance measuring device to enable the height of existing buildings to be measured. This will be of use for other purposes by staff.

Following Council's resolution to prepare an Expression of Interest process for the Civic Complex redevelopment, the position of Director Strategic Projects was created to focus on this initiative.

This position was created via an internal organisation restructure utilising existing staff.

The future requirement of this position will be reviewed over the coming months.

2. *Are there ongoing costs that will need to be paid in the future for this venture?*

Answer

There are no other ongoing costs that will need to be paid in relation to this activity.



## **ITEM 808**

### **QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN**

#### **QUESTIONS ON NOTICE FROM COUNCILLOR SCHNELL RE FIRE IN HIGH RISE BUILDINGS**

The following Questions on Notice have been received from Councillor Schnell and the answers will be provided at the next meeting of Council in April 2017.

#### **Preamble**

Over recent years there have been numerous fires in high-rise buildings. These fires have been scattered world-wide, from Dubai to Melbourne. The cause has been due to use of flammable cladding imported from China. The cladding is used internally and externally during construction. Some buildings are entirely clad in the material.

In Australia, the preferred cladding is a product called Alucobond; aluminium on the outside with a mineral fibre core inside. This product is fire resistant. However, a cheap defective import from China is a product called Alucobest; aluminium on the outside with a polyethylene (plastic fibre) inside. The product is highly flammable.

The products are indiscernible to the naked eye.

In a CSIRO commissioned study, it was found that Alucobest caught fire in less than a minute.

The big cost difference between the products has been a cause for builders selecting the flammable product. Further, a lack of adequate labelling has been cited. Some products are labelled and some are not. Some products claim to adhere to Australian standards and some don't bother.

After the spectacular fire in Melbourne, a fire prevention expert warned that high-rise apartment owners were potentially living in time bombs. He said "We have a flood of building materials being brought into this country, some claiming to meet Australian standards and we know they don't, some not even bothering to make a claim of meeting Australian standards. It endangers the public and increases the chances that someone's going to be seriously injured."

#### **Questions**

1. *Since the spate of fires, has there been any improvement to Australian regulatory controls, product testing and labelling?*
2. *Who in SA is responsible for authorising the import and use of the defective and flammable products eg. Alucobest?*
3. *In light of the fires, has regulatory authorities banned products like Alucobest?*

4. *What controls and inspections are there for cladding products used on buildings in Unley? Further, are builders allowed to use unlabelled products that may result in a fire risk?*
5. *Given the Council vision for high-rise buildings across Unley and the risk of the use of flammable cladding, will there be any change to building inspections with emphasis on the cladding?*

## QUESTIONS WITHOUT NOTICE

<b>TITLE:</b>	QUESTIONS WITHOUT NOTICE
<b>ITEM NUMBER:</b>	809
<b>DATE OF MEETING:</b>	27 MARCH 2017
<b>ATTACHMENTS:</b>	N/A

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*Mayor to ask the Members if there are any questions without notice.*

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## **CORRESPONDENCE**

**TITLE:** CORRESPONDENCE  
**ITEM NUMBER:** 810  
**DATE OF MEETING:** 27 MARCH 2017  
**ATTACHMENTS:** 1. CORRESPONDENCE

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The correspondence from

- Minister for Volunteers
- The Hon John Rau
- Australian Local Government Association
- Hon Steph Key MP
- Volunteering SA & NT
- Heart Foundation

be noted.

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**Government  
of South Australia**

Minister for Communities and  
Social Inclusion  
Minister for Social Housing  
Minister for the Status of Women  
Minister for Ageing  
Minister for Multicultural Affairs  
Minister for Youth  
Minister for Volunteers

Level 12 South  
1 King William Street  
Adelaide SA 5000  
GPO Box 2832  
Adelaide SA 5001  
DX 115  
Tel 08 8463 6560  
Fax 08 8463 4480  
dcsi.ministerbettison@sa.gov.au

17TDCSI/399

Mr Lachlan Clyne  
Mayor  
City of Unley  
PO Box 1  
UNLEY SA 5061

Dear Mayor

I am pleased to announce that the 2017 *Premier's Certificate of Recognition for outstanding volunteer service* program opened for nominations on Monday 13 February 2017 and will close 5pm, Friday 7 April 2017.

The certificate provides a great opportunity for volunteer-involving organisations and community groups to nominate one or more volunteers who have made an outstanding commitment and contribution to the community and/or their organisation.

Guidelines and online nomination form are available from the Office for Volunteers website at [www.ofv.sa.gov.au/volunteer-recognition/volunteer-certificate-recognition-program](http://www.ofv.sa.gov.au/volunteer-recognition/volunteer-certificate-recognition-program)

Organisations and community groups will be notified by the Office for Volunteers of the outcome of their nomination(s) in May 2017.

I trust you will ensure that as many volunteer-involving organisations as possible are made aware of the award.

Yours sincerely

**Hon Zoe Bettison MP**  
**MINISTER FOR VOLUNTEERS**

21/2/2017

Subject - <i>Notification Community Award</i>	
Property/Street	
Application No.	
Doc. No.	17 MAR 2017 Class.
For Info/Action <i>C. Goulard</i>	

**SOUTH  
AUSTRALIA**



#11244818

**Government  
of South Australia**

Deputy Premier  
Attorney-General  
Minister for Justice Reform  
Minister for Planning  
Minister for Industrial Relations  
Minister for Child Protection  
Reform  
Minister for the Public Sector  
Minister for Consumer and  
Business Services  
Minister for the City of  
Adelaide

45 Pirie Street  
ADELAIDE SA 5000  
GPO Box 464  
Adelaide SA 5001  
Tel 08 8207 1723  
Fax 08 8207 1736

22 February 2017

Mayor Lachlan Clyne  
City of Unley  
181 Unley Road  
UNLEY SA 5061

Dear Mayor  Clyne

**Development Plan Amendments for Inner and Middle Metropolitan Corridors Design and Sites**

I am writing to advise that I have initiated investigations pursuant to sections 24 and 26 of the *Development Act 1993*, for the drafting of two Development Plan Amendments (DPAs) to review urban corridor design policies and zoning.

This initiation follows a review of the outcomes of the Inner Metropolitan Growth DPA that introduced Urban Corridor Zones in 2013, the work undertaken in the subsequent Inner and Middle Metropolitan Corridor Infill DPA that I initiated in 2015 and consideration of the transition to the new Planning System and in particular the Planning and Design Code. I have decided to cease the Inner and Middle Metropolitan Corridor Infill DPA and now progress with two new Ministerial DPAs.

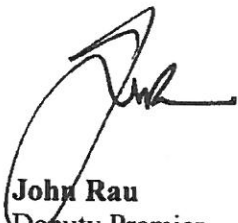
The Inner and Middle Metropolitan Corridor (Design) DPA will focus on the review of planning policy with an emphasis on improving the design and integration of development within the existing Urban Corridor Zones. This DPA will affect the Unley (City) Development Plan.

The Inner and Middle Metropolitan Corridor (Sites) DPA will examine the potential to rezone a number of selected strategic sites and adjoining corridors for inclusion within the Urban Corridor Zones that may be suitable in the short term for mixed use medium density redevelopment where interface issues are minimal. This DPA affects your Council as, 301-305 Unley Road Malvern, 28-30 Kind William Road, Wayville, 12-16 Glen Osmond Road, Parkside, 10 Anzac Highway Keswick and 22-28 Anzac Highway, Everard Park have all been identified for consideration.

In the near future the Department for Planning, Transport and Infrastructure will be discussing with your Council on a process for transition into the Planning and Design Code including the undertaking of strategic planning to identify areas for infill. I would like to thank you for your Council's contribution to the Inner and Middle Metropolitan Corridor Infill DPA investigations. The information that has been gathered in that process will assist in preparation of these new DPA.

If you have any questions regarding these new DPAs please contact Rod Worthington, Project Officer of the Department of Planning, Transport and Infrastructure who has been appointed to manage the DPA, on direct telephone number 7109 7007 or by email at [Rod.Worthington@sa.gov.au](mailto:Rod.Worthington@sa.gov.au).

Yours sincerely



**John Rau**  
Deputy Premier  
Minister for Planning

3-71.7 (P)

Subject - DPA INNER & MIDDLE METROPOLITAN	
Property/Street COLLIER	
Application No.	
Doc. No.	28 FEB 2011 Class. ACUL
For Information C GOWLAND	



AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION

7 March 2017

City of Unley  
PO Box 1  
UNLEY SA 5061

To the Mayor, Councillors and CEO (please distribute accordingly)

I am writing to you to seek your assistance.

In January, ALGA provided its submission to the Commonwealth Government to assist in the development of the 2017-18 Federal Budget. I am now enclosing a copy of that submission to inform you of the key strategic priorities in which ALGA is urging the Commonwealth to invest - priorities which reflect the aspirations of your council and your state or territory local government association.

The submission is titled *Investment in Tomorrow's Communities* and the recommendations contained within are designed to support our councils and communities to grow and develop into the future.

ALGA's number one priority is to ensure that the Government keeps its commitment to restore indexation to Financial Assistance Grants (FAGs) in the 2017-18 Federal Budget. This is an issue that impacts on every council in the nation.

By the Government's own estimates, the 2014-15 freeze on indexation to FAGs will see councils miss out on around \$925 million in funding over the four years to 30 June 2018. This is funding that councils such as your own could have used to maintain local community infrastructure and fund crucial community services.

Although the 2016-17 Federal Budget indicated that the Government intends to restore indexation in the coming financial year, there are no guarantees and neither the local government sector, nor your council, should take this outcome for granted.

While I and the ALGA team are lobbying at the Federal level on your behalf, I urge you to give our campaign a local flavour and meet with your local Federal Parliamentary representative(s) to explain the impact the freeze has had on your community, and how much more you will be able to do if the freeze is ended in this year's Federal Budget.

You can also help our national advocacy efforts by contacting your Federal Parliamentary representatives through our online campaign website: [www.endthefreeze.com](http://www.endthefreeze.com)

Subject:	ALGA	
Priority/Strat:		
Application No.		
Doc. No.	14 MAR 2017	Class.
For Info/Action	C. Bowland	



Your assistance at the local level is vital to ensuring every local Federal representative is able to speak on your behalf in their respective party rooms and budget discussions about the importance of this funding stream, its deterioration in recent years, and the fundamental need to restore indexation.

Your advocacy will complement and reinforce the lobbying ALGA is doing on your behalf with the Prime Minister, senior ministers, the Leader of the Opposition, shadow ministers, party leaders and officials. Your efforts will also ensure that Federal MPs and Senators know your council's experiences during the freeze first hand, and understand why restoring FAGs indexation will not only support your community, but the role of your community in the national economy.

In addition to this core issue there are a number of other strategic partnerships that ALGA is promoting on behalf of your community in its budget submission that will not only support local communities but could boost national GDP by \$5.5 billion and create more than 45,000 new jobs.

One of these proposals is ALGA's call for the Government to establish a Local Freight Productivity Investment Plan, to be funded at \$200 million per annum over the next five years. The plan is designed to ensure that first/last mile and freight connectivity issues are addressed to improve national productivity. This plan will directly unlock local and regional productivity improvements through investment that enhances access for freight vehicles and boosts connectivity between local roads and preferred state and national freight routes.


I encourage you to read the budget submission, where ALGA is calling on the Government to partner with the sector to:

- ensure the ongoing financial stability of Local Government;
- support local transport networks to aid economic growth;
- mitigate the risks of a changing climate and the impacts from natural disasters; and
- increase the liveability of our communities through improved local infrastructure.

Your support and advocacy at the local level for any of all the proposals put forward by ALGA will provide substantial leverage and help give the next Federal Budget the local focus that our communities need and deserve.

I encourage you to arrange a meeting with your local Federal representative(s) at your earliest opportunity, and preferably before the end of March which is the critical month for budget deliberations.

Yours Sincerely,



Mayor David O'Loughlin  
ALGA President



March 2017

Mr Peter Tsokas  
Chief Executive Officer  
City of Unley Council  
PO BOX 1  
UNLEY SA 5061

Dear Mr Tsokas,

I am pleased to announce that the 2017 Premier's Certificate of Recognition for outstanding volunteer service will open for nominations on the Monday 13 February 2017.

The Certificate provides a great opportunity for South Australian based volunteer-involving organisations and community groups to nominate one or more volunteers who have made an outstanding commitment and contribution to the community and/or their organisation.

The Premier's Certificate of Recognition for Outstanding Volunteer Service is an opportunity to recognise and celebrate the outstanding efforts of volunteers and to promote the importance of volunteering to the community.

Guidelines and online application forms are obtainable from the Office for Volunteers website [www.ofv.sa.gov.au/volunteer-recognition/volunteer-certificate-recognition-program](http://www.ofv.sa.gov.au/volunteer-recognition/volunteer-certificate-recognition-program).

I encourage you to apply for the program before closing on Friday 7 April 2017 at 5.00pm

For more information on the program, please call the Office for Volunteers on 1300 014 712, or contact the Ashford Electorate Office on (08) 8371 5600.

Yours sincerely,

**Hon Steph Key MP**  
Member for Ashford

Subject - Community Award ⑤	
Priority/Stream	
Application No.	
Doc. No.	20 MAR 2017 Class. <i>Handwritten initials</i>
For info/Action <i>C. Goenland</i>	

**Steph Key MP**

MEMBER FOR ASHFORD

407 Marion Rd Plympton SA 5038

Ph: 08 8371 5600

Fax: 08 8371 5211

Email: [ashford@parliament.sa.gov.au](mailto:ashford@parliament.sa.gov.au)



## volunteering sa&nt

Leading volunteering in South Australia  
and the Northern Territory

Subject: <u>Volunteers</u> <u>SA (7)</u>	
Priority/Street:	
Application No.	
Doc. No.	<u>14 MAR 2017</u> Class.
For (signature)	
<u>C. Goulard</u>	

8 March 2017

Mayor Lachlan Clyne  
City of Unley  
PO Box 1  
UNLEY SA 5061

Lachlan

Dear Mayor Clyne

I wish to share with you the success of the Volunteering Strategy for South Australia (VSSA) that is now in its third year. The Local Government of South Australia, along with Volunteering SA&NT, the Government of South Australia and Business SA, are active partners in this world first, cross-sector strategy that is improving the experience of volunteers, enhancing the outcomes for volunteer-involving organisations, and helping maintain a volunteer participation rate of 70% or better.

Volunteering SA&NT is a not-for-profit organisation and the peak body for volunteering, leading the sector in South Australia and the Northern Territory. For the last 35 years, we have worked with individuals, organisations, businesses and communities to advance, grow, promote and celebrate volunteering.

Through key partnerships, we provide a range of services, support and resources for over 2,000 volunteer organisations and 600,000 volunteers which contributes to positive volunteering experiences and the strengthening of communities.

More information about the VSSA can be found here: [www.savolunteeringstrategy.org.au](http://www.savolunteeringstrategy.org.au). If you would your Council involved in the Strategy, please don't hesitate to contact our CEO or the Local Government Association of SA.

In addition, our 2015-2016 Annual Report highlights some of our key achievements and success stories. The Report can be found on the front page of our website [www.volunteeringsa-nt.org.au](http://www.volunteeringsa-nt.org.au)

We greatly appreciate the work that you and your council achieve in your community to support the volunteering sector. We look forward to continuing to strengthen our relationship and working together to grow volunteering and civic participation in South Australia.

If there is anything we can do to help your council or your constituents, please feel free to contact our CEO, Evelyn O'Loughlin on 08 8221 7177.

Yours sincerely

TIM JACKSON  
Chairperson

[www.volunteeringsa-nt.org.au](http://www.volunteeringsa-nt.org.au)

ABN 82 279 275 584

Head Office: Level 5, 182 Victoria Square Adelaide SA 5000 T: 08 8221 7177 F: 08 8221 7188 E: [reception@volunteeringsa-nt.org.au](mailto:reception@volunteeringsa-nt.org.au)  
Darwin Office: Charles Darwin Centre, Level 16, 19 Smith Street, NT 0800 T: 08 8963 5624 F: 08 8963 5622 E: [darwin@volunteeringsa-nt.org.au](mailto:darwin@volunteeringsa-nt.org.au)



15 March 2017

Mayor Lachlan Clyne  
City of Unley  
PO Box 1  
UNLEY SA 5061

National Heart Foundation  
of Australia (South Australian  
Division) Inc  
ABN 70 140 886 652

155-159 Hutt Street  
Adelaide SA 5000

PO Box 7174 Hutt Street  
Adelaide SA 5000

Telephone (08) 8224 2888  
Facsimile (08) 8223 1416

For heart health information  
1300 36 27 87  
[www.heartfoundation.org.au](http://www.heartfoundation.org.au)

Dear Mayor Clyne,

Entries for the Heart Foundation Local Government Awards open **Monday 27 March**. These national awards recognise Councils for their contribution to improving heart health and aim to encourage their ongoing commitment to creating healthy communities.

The benefits of being an award recipient include:

- Exciting winner prize package - cash awards, commemorative frames and profiling of your Council's efforts through promotional material, presentation events and local media.
- Recognition as being a leader of change in your sector.
- Demonstration of your Council's commitment to improving the health of the communities you represent.
- Ability to use this recognition in grant funding applications.

Winners will be awarded at both the state and national levels with a total prize pool of \$57,000 on offer for local governments that are creating a healthy community through a range of initiatives.

Any Council implementing policies, infrastructure and programs to improve the health of their community are invited and encouraged to submit an entry for these awards and receive recognition of the work you do.

**Entries close 5.00pm Friday 26 May 2017.**

For the Application Information Pack and teleconference schedules visit [www.heartfoundation.org.au/lga](http://www.heartfoundation.org.au/lga) - the pack will be available to view and download from Monday 27 March 2017.

To register your interest in applying for the awards, contact your Local Government Awards Coordinator Ms Tuesday Udell, Senior Policy Advisor, on [tuesday.udell@heartfoundation.org.au](mailto:tuesday.udell@heartfoundation.org.au).

Please also find enclosed your invitation to our forum and workshop with Dr Rodney Tolley, UK sustainable transport expert. The event will seek to provide a forum to discuss how we can best collect and use data on walking in our neighbourhoods to help to direct services and infrastructure.

Yours sincerely,

**Rachel McKay**  
Director of Health, South Australia



## Are we there yet?

Taking steps towards a South Australian walking agenda: the case for walking data



A free forum and workshop with

**Dr Rodney Tolley**

4 April 2017, 9.00am-12.45pm  
Charles Sturt Council Chambers

You are invited to hear global, national and local perspectives on walking data and evaluation.

Topics for discussion:

- How do we evaluate walkable neighbourhoods?
- What walking data do we collect in SA and what else do we need?
- What are our agreed data priorities to progress the walking agenda?

Presentations from Dr Rodney Tolley (UK), built environment and health experts, state walking and cycling advocates and researchers.

View the program or register at [heartfoundation.org.au/events/are-we-there-yet/](http://heartfoundation.org.au/events/are-we-there-yet/)

Please share with your networks. Places are limited.

Partly supported by



Heart Foundation  
**2017 Local Government AWARDS**

25 YEARS



## Recognising healthy communities

**Entries open 27 March**

If your Council is working to create a healthy community, we encourage you to apply for the 2017 Heart Foundation Local Government Awards.

Exciting prize packages include cash awards, commemorative frames and profiling of your council's efforts through promotional material, presentation events and local media.

Entries open Monday 27 March – Friday 26 May 2017.

For more information and to download the Application Information Pack visit [www.heartfoundation.org.au/lga](http://www.heartfoundation.org.au/lga) or call 1300 36 27 87.



PRO-182.0217

## **MAYOR'S REPORT**

**TITLE:** MAYOR'S REPORT FOR MONTH OF MARCH 2017  
**ITEM NUMBER:** 811  
**DATE OF MEETING:** 27 MARCH 2017  
**ATTACHMENTS:** 1. FUNCTIONS ATTENDED

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## **RECOMMENDATION**

MOVED:  
SECONDED:

That:

1. The report be received.
-

**MAYOR'S FUNCTIONS ATTENDED – 22 FEBRUARY 2017 TO  
22 MARCH 2017**

MONTH	DATE	FUNCTION
<b>February</b>		
	22	<ul style="list-style-type: none"> <li>Concordia Year 12 Students – Concordia</li> </ul>
		<ul style="list-style-type: none"> <li>Official opening of the Lodge Redevelopment – Eldercare Wayville</li> </ul>
	23	<ul style="list-style-type: none"> <li>Birthday Celebrations Ladies Probus Club Fullarton</li> </ul>
	24	<ul style="list-style-type: none"> <li>Unley / Mitcham Legacy War Widows – Unley Civic Centre</li> </ul>
	26	<ul style="list-style-type: none"> <li>Meraki Festival VIP Brunch</li> </ul>
	27	<ul style="list-style-type: none"> <li>Sign off BHKC – Ridge Park</li> </ul>
<b>March</b>		
	5	<ul style="list-style-type: none"> <li>Foreign Shorthair Cat Club – Presentation of Prizes – Fullarton Park</li> </ul>
	8	<ul style="list-style-type: none"> <li>Meet and Greet board members Goodwood Community Services and Clarence Park Community Centre</li> </ul>
	10	<ul style="list-style-type: none"> <li>International Women's Day Breakfast</li> </ul>
	19	<ul style="list-style-type: none"> <li>Dogapalooza</li> </ul>
	21	<ul style="list-style-type: none"> <li>Governor's Multicultural Awards Government House</li> </ul>
	22	<ul style="list-style-type: none"> <li>Walford Girls Visit to Council</li> </ul>
In addition to the above I also met with Elected Members, staff, residents and various representatives from outside bodies.		

## **DEPUTY MAYOR'S REPORT**

**TITLE:** DEPUTY MAYOR'S REPORT FOR MONTH OF MARCH 2017  
**ITEM NUMBER:** 812  
**DATE OF MEETING:** 27 MARCH 2017  
**ATTACHMENTS:** 1. DEPUTY MAYOR'S REPORT

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### **RECOMMENDATION**

MOVED:  
SECONDED:

That:

1. The report be received.
-



## REPORT OF DEPUTY MAYOR

COUNCILLOR DON PALMER

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### (a) **Items of particular interest, concern or urgency**

#### March 18 Election of the next State Parliament

Following on from my report last month in putting a council view across on GlobeLink I met with the endorsed Candidate for the seat of Badcoe, Jayne Stinson. We met for coffee at Carnevale Coffee on East Avenue, Clarence Park as noted below.

I took the opportunity to appraise her of several issues that are important to the rate payers of Clarence Park and Goodwood. This including the improvement plans of Goodwood Oval and Millswood Reserve, and the ongoing saga of the southern rat runners using East Avenue, Leah Street and the various side streets as major thoroughfares to commute to the City.

Jayne was also made aware of the problems associated with children crossing South Road from Glandore to attend Black Forest Primary School and how this is to be managed when South Road becomes nonstop through Black Forest. Associated also with this I appraised her of issues concerning how South Road will be designed from Emerson Crossing through to the Gallipoli Underpass and how traffic diversions are to be determined when the South Rd work reaches our area.

### (b) **Functions Attended** (up to the time of writing this report)

These functions/events are in excess of those I would normally attend.

22 <sup>nd</sup> February	As Deputy Mayor met with Todd Clappis (Government engagement consultant - Premiers Department) re the Government's Share Program.
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As a result of this meeting Todd will be addressing our next Business Breakfast.

24 <sup>th</sup> February	BBQ with Crs Hughes, Sangster & Schnell and their partners.
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27 <sup>th</sup> February	Met with the Mayor and a supplier seeking assistance in how to improve tendering to Council.
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3 <sup>rd</sup> March	Discussed Council's Property Management Policy with Alan Johns and members of the Strategic Property Committee.
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4<sup>th</sup> March Met with Senior Minister of St Augustine's Anglican Church, Mee Ping Lau.

8<sup>th</sup> March Deputised for Mayor at MLGG meeting.

The Metropolitan Local Government Group are working on their own strategic plan. Council should receive a report on this shortly.

8<sup>th</sup> March Met with board members of both Goodwood and Clarence Park Community Centres at a civic function in the Civic Centre.

8<sup>th</sup> March Caught up with members of the GORG committee after the completion of their meeting.

9<sup>th</sup> March Met with residents of Mills Street, Clarence Park and Cr Boisvert, GM Devine and Manager Gandhi re the Mills Street Petition and Delegation

10<sup>th</sup> March Met with Resident Anne Wharton re Significant Tree policy.

10<sup>th</sup> March Visited, with members of the Strategic Property Committee (Cr Koumi & Cr Hughes), Cr Rabbitt and Alan Johns, Council's Mt Osmond Depot.

This is a large site, possibly double the size of our King William Road Depot. It is worth exploring this site's strategic value to Council. I expect all members will get a chance to visit the site when next we have a bus tour.

10<sup>th</sup> March BBQ with Crs Salaman, Rabbitt and their partners.

14<sup>th</sup> March Discussed Budget template with Mr Tsokas, Ms Tinning and Crs Boisvert, Schnell & Smolucha

15<sup>th</sup> March Attended the Bible society's 200<sup>th</sup> anniversary luncheon at Parliament House.

15<sup>th</sup> March Caught end of Unley Sponsored Fringe Event at Clarence Park Community Centre.

20<sup>th</sup> March As noted above discussed local issues with the endorsed Labor candidate for the State Seat of Badcoe

20<sup>th</sup> March Met with Aled Jones and a group from SSO re the Unley Central DPA.

I also had a number of one on one conversations with a number of members and the Mayor and saw a number of ratepayers with concerns to assist.

## **REPORTS OF MEMBERS**

<b>TITLE:</b>	REPORTS OF MEMBERS
<b>ITEM NUMBER:</b>	813
<b>DATE OF MEETING:</b>	27 MARCH 2017
<b>ATTACHMENTS:</b>	MEMBERS' REPORTS

---

Council to note the attached reports from Members

1. Councillor Rabbitt
  2. Councillor Schnell
  3. Councillor Hewitson
-

## REPORTS OF MEMBERS

**TITLE:** REPORT FROM COUNCILLOR RABBITT

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As with other Elected Members, much of the last month has been occupied with matters relating to the Unley Central Precinct DPA.

Also, the State Government's announcement re funding of the Brown Hill Keswick Creek Stormwater Project initiated renewed interest in this project, with a number of residents wanting more information re timing, work to be undertaken, etc. Of course, there is still much preliminary work to be done, but we now look forward to progressing this long drawn out project.

Residents near the Millswood Railway Station are pleased to see that DPTI has cleared their stormwater drain along Vardon Terrace and cut down three 'long dead' trees. This work is being done in conjunction with the construction of a new fence through to Cross Road, replacing the old wire strand fence.

### Functions Attended

#### 24 February

##### *Hyde Park Croquet Club at Unley Park Sports Club*

I attended an evening where non croquet players were invited to come along and learn about the game and test their skills.

Given that players had formed into teams by the time I arrived, I didn't play, but I did enjoy watching others and talking to some of the regular players.

#### 26 February

##### *Meraki Festival*

This was a new event in our calendar and one that attracted quite a different demographic of people interested in their health and wellbeing.

#### 27 March

##### *Flooding from Brown Hill Creek and proposed repair work*

I attended a meeting with residents, Council Staff and representatives of the Adelaide & Mount Lofty Ranges Natural Resources Management Board re a particular situation in Millswood. The parties will continue to work together to resolve some of the issues that will not conflict with the overall Stormwater Project.

### 1 & 15 March

#### *Down Glittering Memory Lane - Fringe Performance*

I couldn't miss the opportunity to see how Doris Day and Marilyn Monroe were managing their lives at Eldercare. Thanks to Council's promotion of Active Ageing, they were doing very well, as were plenty of other residents.

In fact, they have been 'activated' so well that they were able to join a younger group at the Clarence Park Community Centre 2 weeks later.

I understand that performances at other Care facilities were also very well received.

### 8 March

#### *Meet and Greet – Board Members of Goodwood Community Services and Clarence Park Community Centre*

This was a good opportunity to meet and chat with Board Members who had not previously met and hear how they are progressing with their various programmes.

### 9 March

#### *Memorial requested at Orphanage Park*

Together with the Mayor and Council Staff, I met residents who would like to work with Council to have a couple of benches erected in an area of the park as a memorial to one of their fellow dog lovers.

The discussion did go beyond the benches to other facilities that they would like provided at the park, but the concept needs more work and there are of course, budgetary considerations to be addressed.

### 19 March

#### *Dogapalooza at Orphanage Park – Fringe Event*

This is another Fringe Event held within the City of Unley that has proved to be very successful, bringing people from outside our city to enjoy what we have to offer.

The day was warm, but there was good entertainment provided and a variety of food and drinks available.

## REPORTS OF MEMBERS

**TITLE:** REPORT FROM COUNCILLOR SCHNELL

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Monthly Report, February - March 2017

The list below mostly excludes events and activities that I would normally attend as an Elected Member eg. Council/Committee meetings, Workshops, Briefing sessions, discussions with staff and community events.

At all events attended, any expense incurred was funded by myself.

I have changed my format in the monthly report.

Rather than just listing my attendance at events and functions (which can be a bit of a boring read) I provide my reflections and opinion on various matters. Importantly, I celebrate good news events.

Further, I provide some opinion and suggestions for future Council direction.

Item 1:

Opening of The Lodge @ ElderCare, King William Road, Unley.

Attended the opening of The Lodge @ ElderCare, King William Road, Unley.

Enjoyed lunch with a fellow Councillor and other guests.

It was an enjoyable function; a very enjoyable lunch.

After the launch, I had a 50 minutes tour of the facility by the CEO.

I was impressed by the renovations and new additions.

For almost a year (and maybe longer) hoardings were in place on Young Street @ the intersection with King William Road. What has been built is absolutely marvellous, blending with the building as a whole.

I was impressed.

After the launch and during the tour I met with Kurna man Garth Dodd, Executive Officer, Council of Aboriginal Elders of SA.

Garth had performed a Kurna Welcome to Country during the official opening. A touching welcome.

Item 2:

Kurna discussions.

After the opening and the tour, I spent an hour talking with Garth Dodd on a range of topics, from bush tucker to indigenous language to Australia Day being celebrated on 26 January. It was an open and frank (a very frank) conversation.

I committed to opening dialogue between Unley and Kurna.

Item 3:

Attended the inaugural Deputy Mayor's BBQ.

A good night; with pleasant company and lively chatter and gossip. Lots of gossip.

There was no Council business discussed.

It is not often that we Councillors (and the Mayor) get together to socialise.

We are mostly 13 strangers that come together to debate and vote at meetings; and then retire to our separate and private lives.

Item 4:

I met with a group of residents to discuss traffic issues in their street; Leah Street, Forestville.

The residents had invited local Labor MP Steph Key. Steph brought a DPTI ministerial advisor and also Jayne Stinson, the freshly endorsed Labor candidate for Badcoe (formerly the seat of Ashford).

The discussion was about how to reduce the traffic volume and reduce the number of heavy commercial vehicles that pass through Leader, Leah and East Avenue, taking a shortcut to the South.

The DPTI ministerial advisor took copious notes and will liaise with DPTI Minister Mullighan to determine what can be done to ease the plight of the locals.

Item 5:

Attended a meeting with Council staff and Garth Dodd (Kaurna man) re protocol for engaging with Kaurna people and organisations. A good meeting with quite diverse discussions. The meeting will help Council to engage with Kaurna people when planning future events that ideally warrant a Kaurna presence.

Item 6:

Attended numerous fringe events across Adelaide.

So many events. A fantastic experience. From Pinky Flat to the Garden (and Gluttony) to the German Club which I would rate as the best Fringe venue. The food and beverages there are superb.

Definitely a mad March season. It's been quite exhausting.

Item 7:

Attended a luncheon with members of the Chinese community.

Great food and good company.

Item 8:

Met with residents about the proposed changes to the intersection of Victoria Street and Goodwood Road.

Item 9:

Attended the launch of The Village Baker at Black Forest.

Actually, it was the relocation of the bakery about 45 metres north into much bigger premises. It's my local (and favourite) bakery.

I enjoyed an award winning lamb shank pie to celebrate the launch.

Opinions:

At the February 2017 meeting, Council dealt with Item 769, 'Rugby and Porter Streets Bike Route Upgrades'.

The feedback from residents (on pages 35-36 of the agenda) showed 78 people opposing the road treatment(s) and 28 people in support.

One resident came to the meeting and gave a deputation. She was opposed to the proposed treatment at the Young/Porter Street intersection. She had found out about the agenda item by chance.

The matter was dealt with and resolved by Council and I won't dwell further on that.

A decision was made.

However, there are two issues that cause me concern.

#### Concern 1:

It was stated in the agenda that residents were extensively consulted in July-August 2016. The result of that consultation is shown above; with 74% of residents opposed to the treatment(s).

My concern is why it took so long for this matter to get on a Council agenda.

It is unreasonable for a major issue to be consulted and then be debated and resolved at Council some seven months later.

It is not unreasonable, I feel, that when a matter is consulted the residents are also advised of when the matter will probably be determined by Council. That way residents would have the opportunity to make a deputation to Council or contact Councillors prior to the meeting.

Given that seven months had passed and it was a major issue with significant opposition, the residents should have been informed by letterbox that the matter was on the Council agenda.

Now, after the Council meeting, residents are upset with many not aware that Council had made a decision. Residents are ringing and emailing Councillors, indicating their opposition or support; and they are unaware that the matter has already been dealt with by Council.

Council must keep residents in the loop in the period between consultation and when the matter is considered by Council.

Residents must know when the matter will be considered by Council.

It would result in more engagement with the community.

#### Concern 2:

At the Young/Porter Street intersection the proposed roadworks involves a change of traffic priority at the t-junction. This was the most contentious of the proposed changes. It is surprising that DPTI didn't provide comment. Councillors were left with the difficult task of determining the merit and safety risk; a task for which most are not professionally skilled.

With due respect for the Council Traffic officers, I believe that there should have been an assessment by an independent traffic engineer. Perhaps the RAA should have been consulted for their opinion given their increasing advocacy for cycling. Such external opinion would have assisted Councillors in their deliberation.

After a long debate, the modified motion had an injection of commonsense by pushing the white painted stop bars as far forward as possible on Young Street. In the future where road traffic priorities are changed and there are line of sight issues, it would be beneficial to have opinion from an independent expert.



## REPORTS OF MEMBERS

TITLE: REPORT FROM COUNCILLOR HEWITSON

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March Report to Council.

Silencing of Councillors

Twice:

On UNLEY CENTRAL

On ensuring competitive tender processes.

State Government rules specific to Elected members of Local Government are not preventing corruption but are silencing elected Councillors.

### Unley Central

The residents to Unley Ward had no Ward Councillor allowed to represent them in the final stages of the Unley Central DPA. We had been advised by council's legal advisors that under new state rules I had a material conflict of interest in dealing with the Unley central DPA. The matter was too important just to accept. It seemed crazy. Yes my son and his family home lies on the border of Unley Central DPA and this I thought should be declared as a perceived conflict of interest and not a material one. No decisions on the agenda were to affect the value of their home. I confirmed this in writing with our Principal policy planner after the agenda was published.<sup>i</sup>

Because legal advice often reflects the questions asked I sought at my cost the professional help of Kain Lawyers 315 Wakefield Street Adelaide South Australia 5000. One of their Directors, Mark Henderson, had experience in Local Government Law. He confirmed in writing that under the act I did have a material conflict of interest. However he pointed out that the act gave an option that would allow me to participate with a perceived conflict of interest.<sup>ii</sup> I wrote to our staff asking for help.<sup>iii</sup> It was my belief that with an application from our Council's legal and governance team to the minister's office would have the best chance of success. I quoted the advice of Mark Henderson....

*"I wish you to make an application "to the Minister pursuant to Section 74(3). There is limited guidance on this path, but it is your best option (and one which doesn't entail any significant cost). Given the circumstances, you may be able to make a persuasive argument to the Minister to permit you to participate in the meeting given to location of the DPA area in your ward and the fact that ratepayers in the ward would be unrepresented in the debate otherwise"*

It was disappointing to be advised that I should make the application on my own.<sup>iv</sup> I am grateful that Mark Henderson made an appropriate application for me.

Despite having received confirmation from our Principal Policy Planner on Friday 10/03/2017 3:02 PM that nothing in the agenda had any changes that *affected* the home of my son and his family<sup>v</sup> I was advised promptly before the meeting on Tuesday evening that I was not being granted exemption to declare just a material conflict of interest. I had hoped to be able to declare a perceived conflict of interest,

and if any item not on the agenda had arisen that applied to the DPA adjacent to my son's family home; I would have then declared a material conflict and left the meeting. The speed of the reply was greatly appreciated and I thank the Minister's office for the prompt pre-formal advice.

*"I have been advised that the Minister has considered your request for Cr Hewitson's approval and has decided—as there is a very clear material interest at play—to not provide the approval on this occasion."*<sup>vi</sup>

### **Ensuring a competitive tender process**

In my report to Council in February I gave the explanation as to why I sent the email saying how Council was ensuring a competitive tender process. In the report were my concerns about the isolation I as an elected member had legally enforced on me, preventing the collection of evidence to defend my actions. It is vital to our ratepayers that our Council has competitive tender processes that encourage wide participation of tenderers.

My thanks to Councillors who have given strong support and encouragement and indicating that they too believed the content to be non-confidential and worth sharing with those who had raised concerns.

With advice I am making a submission to ICAC to ensure that:

1. In future investigations elected members are able to understand the "fault" being investigated and how this may have breached the code.
2. Elected members are able to collect relevant material for their defence.
3. Councillors do not feel bullied with accusations that deny a proper process of natural justice because councillors are cowered into inaction when action is required and confidence by the community at large in the process is undermined.
4. To ensure elected members are able to carry out their duties without being frightened into inaction by heavy legal handedness.

Elected members who have had a complaint made to the OPI I believe should have the opportunity to meet with the Ombudsman's staff to understand the charge and how this may contravene the code of conduct. Elected members should have access to Council resources approved by the Ombudsman for the purposes of preparing a defence to better inform the office BEFORE a decision is made.

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<sup>i</sup> **Principal Policy Planner on Friday 10/03/2017 3:02 PM that**

"The presented SCPA Report in the CS&DPC Agenda is not recommending any amendments to the original draft DPA policy changes released in September 2016 in regard to the north east section of the DCE Zone on Unley Road north of Frederick Street.

However, the outcome overall would be an affirmation of the proposed changes that were part of the original draft DPA and whatever value change they may have."

<sup>ii</sup> **From:** Mark Henderson [<mailto:mark.henderson@kainlawyers.com.au>]

**Sent:** Monday, 6 March 2017 11:24 PM

**To:** Michael Hewitson <[mhewitson@unley.sa.gov.au](mailto:mhewitson@unley.sa.gov.au)>

**Subject:** RE: CONFIDENTIAL: FW: Elected Member workshop - conflict of interest, bias and the District Centre Zone DPA (KJ 160207)

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<sup>iii</sup> **From:** Michael Hewitson

**Sent:** Tuesday, 7 March 2017 9:21 AM

**To:** Peter Tsokas; Rebecca Wilson

**Cc:** Mark Henderson ([mark.henderson@kainlawyers.com.au](mailto:mark.henderson@kainlawyers.com.au))

**Subject:** Help offered - conflict of interest, bias and the District Centre Zone DPA (KJ 160207)

<sup>iv</sup> **Email Tuesday, 7 March 2017 1:27 PM from Group Manager Governance & Risk**

"I have spoken to Mark today to touch base in relation to this request and whether it would be appropriate for Council to be making the application or whether it should be made from you with assistance from Mark. We agreed that the application should be made by yourself stating your position."

<sup>v</sup> **Principal Policy Planner on Friday 10/03/2017 3:02 PM that**

"The presented SCPA Report in the CS&DPC Agenda is not recommending any amendments to the original draft DPA policy changes released in September 2016 in regard to the north east section of the DCe Zone on Unley Road north of Frederick Street.

However, the outcome overall would be an affirmation of the proposed changes that were part of the original draft DPA and whatever value change they may have."

<sup>vi</sup> **Sent:** Tuesday, March 14, 2017 10:10 AM [Local Government Policy Unit Office of Local Government](#)  
Department of Planning, Transport and Infrastructure

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**ITEM 814**  
**UNRESOLVED ITEMS**

<b>Meeting Date</b>	<b>Item</b>	<b>Status</b>
Council 12 September 2016	Item 584  Millswood Sporting Complex Detailed Design	The Item remains laid on the table.

## **DECISION REPORT**

<b>REPORT TITLE:</b>	MILLSWOOD SPORTING COMPLEX – DETAILED DESIGN OF BOWLS & CROQUET
<b>ITEM NUMBER:</b>	584
<b>DATE OF MEETING:</b>	22 AUGUST 2016
<b>AUTHOR:</b>	JOHN WILKINSON
<b>JOB TITLE:</b>	SPORT AND RECREATION PLANNER

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### **1. EXECUTIVE SUMMARY**

Following the development of the Goodwood Oval and Millswood Sporting Complex Improvement Plan in August 2014, Council endorsed an allocation of \$50,000 in the 2015/16 budget for the detailed design of a revised layout of the bowls and croquet areas, as endorsed in the Improvement Plan.

During the development of the detailed designs, the Millswood Bowling Club withdrew its initial support for the endorsed Improvement Plan, advising that due to recent increased growth at the club, the endorsed plan no longer meets their needs. The position of the Millswood Croquet Club has not changed and they continue to support Council's original layout plan.

Following consultation with the two clubs and a review of possible layout options, a revised layout plan has been developed that complies with the standard playing area dimensions for both sports, as well as providing benefits for the community. However, Millswood Bowling Club still has concerns with this revised plan.

This report presents the revised layout plan to Council; however, through further consultation with both clubs, it has become clear that full agreement on this cannot be achieved. Consequently, it is suggested that the project now focus on building upgrades and leave the existing layout as it is.

### **2. RECOMMENDATION**

That:

1. The report be received.
2. No further action be undertaken at this time regarding changes to the layout of the sports playing areas and recreation areas at Millswood Sporting Complex.
3. Commence design work for upgrades to the existing bowls and croquet buildings (including opportunities for shared facilities) and surrounding areas, based on the current layout of playing areas.

4. Discussions commence with user groups on funding contributions towards any upgrades.
  5. The community and Clubs be advised of the Council's decision.
-

## **1. RELEVANT CORE STRATEGIES/POLICIES**

Undertaking master planning of Goodwood Oval and Millswood Sporting Complex is a specific action within Council's 4 Year Plan and directly aligns to the strategic outcomes of our Community Plan 2033, primarily to support the objectives of the *Living: Our Path to a Thriving City* theme.

The improvement of Council's sport and recreation infrastructure, including Millswood Sporting Complex, is also identified in a number of key Council strategies and plans, including (but not limited to):

- *Living Well* – The Regional Health Plan for the Cities of Unley and Mitcham
- *Living Active*, Sport and Recreation Plan 2015-2020, City of Unley
- Open Space Strategy, City of Unley
- Disability Action Plan, City of Unley
- Asset Management Plans.

## **2. DISCUSSION**

### **Background**

The goal of this project is to enable Council to strategically plan for future improvements at the Millswood Sporting Complex, as well as to seek external funding as opportunities arise. This project is focussed on the bowling and croquet facilities at the complex, and an overview of these groups is as follows:

#### *Millswood Bowling Club*

- Established in 1921
- 112 social bowlers (at capacity on Thursday nights during summer season)
- 48 pennant bowlers (Wednesday and Saturday during summer season)
- Approximately 100 people attend social nights every Friday during summer season
- Current lease for the bowling greens and building until August 2019.

#### *Millswood Croquet Club*

- Established in 1922
- 76 playing members
- Croquet activities held six days per week during summer and five days per week during winter
- Current lease for the croquet lawns and building until November 2018.

Planning for future improvements at Goodwood Oval and Millswood Sporting Complex has been guided by an Improvement Plan, endorsed by Council in August



2014, along with a Staged Implementation Plan, endorsed in April 2015. As a result of the Staged Implementation Plan, Council recommended the following:

- “3. Detailed designs to support the future facility upgrade requirements for Millswood Bowling Club and Millswood Croquet Club proceed.”*

An amount of \$50,000 was allocated in the 2015/16 budget for undertaking a detailed design, which was based on the layout plan recommended in the Improvement Plan (Attachment 1 to Item 584/16). The original layout plan is included on page 69 of the Goodwood Oval and Millswood Sporting Complex Improvement Plan.

*Attachment 1*

The existing layout of the croquet and bowls facilities is shown as an aerial image in Attachment 2 to Item 584/16.

*Attachment 2*

The original layout plan involved the inclusion of a new fourth full-size croquet lawn, responding to the growth in this sport and increasing membership of the Millswood Croquet Club, as well as the installation of a new synthetic lawn bowling green, with a reduction from 14 rinks (currently) to 10 rinks.

The original layout plan was developed in consultation with the sporting clubs located at Millswood Sporting Complex and the local community during early 2014, with both the bowling and croquet clubs providing letters of support for the proposed layout plan. The rationale for the original concept is outlined in further detail in the Improvement Plan on pages 43 to 71.

Subsequently, as the detailed design project progressed, it has become apparent that the Millswood Bowling Club no longer supports the recommendation for a reduction to their existing greens. This is primarily due to a growth in participation and patronage at the club over the past two years.

During these discussions, the Administration reiterated the position of Council and the level of research and consultation that occurred to develop the informed, evidence-based recommendation. However, the club feels that they were consulted when they were experiencing a difficult financial period (March 2014), and have since improved their financial position through increasing patronage in their social bowls and meals programs.

While they were previously supportive of the original layout plan, the bowling club now advise that they require two square greens to be able to sustain their recent growth. They also no longer support a synthetic green, but rather request two natural turf greens.

The position of Millswood Croquet Club has not changed as they are seeking a new fourth full-size lawn as identified in the original layout plan. This position is also supported by the Improvement Plan (2014) and Croquet SA, as the club is growing, and the nearest croquet club's catering for competition play are at Holdfast Bay, Marion and in the CBD (on Hutt Road).

## **Revised Layout Plan**

In order to strengthen future funding opportunities, it is important that the proposal developed is supported by all users and demonstrates maximum community benefit. Therefore, given the bowling club's changed situation, further investigation has been conducted to determine if a compromise could be achieved that would enable the retention of two bowling greens and provision of a new fourth full-size croquet lawn, as well as improvements for public access and recreation.

Following consultation with both clubs and a review of options with the aim of achieving a compromise, a revised layout plan has been developed (Attachment 3 to Item 584/16).

*Attachment 3*

## **Bowling Greens**

The revised layout plan shows the relocation of the bowling greens to the east, with one green located directly north of the existing building ('A Green') and one to the east of the building ('B Green'). The plan also identifies a fourth full-size croquet lawn located next to the existing lawns, as well as changes to public open space and vehicle and pedestrian access.

Under the revised layout plan, the size of the 'A Green' is not significantly reduced (a small reduction of 150mm to the north-south length and a reduction of 400mm to the east-west length).

The size of the 'B Green' has been reduced by 1.65 metres along the north-south length. There is no change to the east-west length, however this is based on the 'chamfering' of the north-east and south-east corners of this green, which is similar to the existing design of this green. It should be noted that the dimensions shown in the revised layout plan are the maximum permissible within the site if vehicle and pedestrian access to the Belair train line and Millswood Lawn Tennis Club are to be retained, and also to meet disability access guidelines for the bowling and croquet clubs.

Through consultation with the bowling club, both greens have been designed to be square (rather than rectangular), to enable play in both directions (north-south and east-west) with a 200mm width 'ditch' around the perimeter of both greens. At the request of the bowling club, it is proposed that the greens have a natural turf playing surface, rather than synthetic turf.

It is intended that the design of the buildings, recreation areas and vehicle and pedestrian access will be undertaken once a layout plan has been finalised. This will include considerations such as the interaction between buildings and playing areas, disability access, internal building layouts and interactions between vehicles, pedestrians and bowls participants. Consideration will also be given to landscaping to ensure the design addresses principles relating to Crime Prevention through Environmental Design.

## **Considerations of Revised Layout Plan**

The inclusion of a fourth croquet lawn will result in the unavoidable loss of a large Norfolk Island pine tree, as well as approximately five other Jacaranda trees. As part of the upgrades, new vegetation and trees would be planted, in keeping with the site and local streetscape.

The revised layout plan also proposes the relocation of the 'B Green', as well as the shared road and car parking into 1/18A Millswood Crescent, known as 'Millswood Park'. While improved access and public recreation facilities are provided in other areas, this will result in a slight reduction of overall public recreation space at Millswood Sporting Complex. Whilst a detailed study on the use of Millswood Park has not been undertaken, anecdotal evidence suggests it is highly valued by the local community.

The existing shared vehicle and pedestrian access has also been relocated to the south-eastern boundary of the complex, and up to 21 off-street car parks (an increase of 13 car parks) have been provided for. The existing road and pathway also enables public access across the Belair train line and the Administration will liaise with relevant authorities on the further detailed design of these areas.

The Administration is also aware that the resident at 18 Millswood Crescent is concerned with the proposed impact on Millswood Park. It is recommended that consultation with this resident, as well as the broader community, be undertaken as part of any further detailed design.

## **Club Feedback**

### **Millswood Bowling Club**

While the reduction in size of the greens complies with the *Bowls Australia Construction Guidelines (2011)*, feedback from Bowls SA acknowledges that the site is limited in its development potential and that efforts have been made to accommodate user groups. Bowls SA also observes that ideally, the facilities at Millswood Sporting Complex would be co-located together, however the Improvement Plan (2014) indicated that this would be a difficult proposition.

A key observation of both Bowls SA and the Millswood Bowling Club is the impact the revised layout plan would have on current and future participation, as well as the club's ability to attract and host tournaments (at the State, national or international level). A written submission from Millswood Bowling Club is included as Attachment 4 (to Item 584/16).

*Attachment 4*

The *Bowls SA State-wide Facilities Audit & Master Plan (2014)* identifies a number of facilities as 'metro regional facilities', where investment should be focused to hold regional tournaments. One such facility is the Clarence Gardens Bowling Club, which is located approximately 2km from Millswood Bowling Club. Millswood Bowling Club is identified as a 'district facility' and it could be viewed as unlikely to be a priority venue for future higher level tournaments.

The relocation of 'B Green' is also a matter of concern for the Bowling Club, who have indicated that it would impact the social interaction of participants. While this is a matter for consideration, a review of other facilities in metropolitan Adelaide indicates that this layout is not uncommon.

#### Millswood Croquet Club

As previously stated, the position of Millswood Croquet Club has not changed and they have also provided feedback on the revised layout plan (Attachment 5 to Item 584/16).

*Attachment 5*

#### Feedback from other Clubs and Adjacent Residents

To inform further decisions on the next steps of this project, feedback on the revised layout was requested from other clubs at Millswood Sporting Complex and residents living directly adjacent to the site. A summary of this consultation is provided in Attachment 6 (to Item 584/16).

*Attachment 6*

At the time this report was written, responses from the other clubs at Millswood Sporting Complex have not been received. Should this project continue, engagement with these clubs and the wider community will continue.

#### **Project Cost**

The total estimated cost provided by a Quantity Surveyor (QS) for the original layout plan developed in 2014 was \$3.177m, which does not include improvements to the Millswood Lawn Tennis Club or the South Australian Society for Model and Experimental Engineers facilities.

Whilst project staging opportunities are limited, building and lighting improvements could be undertaken at a later stage, which would further reduce the cost of changes to the playing areas, car parking and pedestrian areas.

A summary of the cost estimates provided by the Quantity Surveyor in 2014 for the original layout plan is as follows:

- Synthetic (10 rink) bowling green - \$540,000
- New (fourth) croquet lawn - \$60,000
- Bowls building upgrade - \$771,000
- Croquet building upgrade (likely to be a new building) - \$126,000
- Community plaza - \$390,000
- Car parking - \$144,000

The Croquet Club has indicated they would be in a position to contribute financially, however formal discussions and agreement on funding contributions have not yet occurred with either club. It is suggested that these discussions now commence.

It should be noted that the proposed upgrade to the building currently leased by the bowling club is one of the more expensive items. The upgrade does however, create opportunities for shared-use (by the croquet club and other groups).

If a shared-use approach cannot be achieved and the main building continues to primarily be used and managed by the lawn bowls club, it is suggested that limited upgrades occur to the building for the short to medium term, such as improvements to kitchen, heating and cooling, and toilet facilities. This will need to be a key consideration if detailed design is to progress on this building.

Construction of turf greens may be more expensive than a new synthetic green, as industry advice has recommended new bowling greens be constructed 'from scratch', to ensure correct levels are obtained and the quality of turf is consistent. Further information from a cost consultant will need to be obtained once further detailed design is undertaken.

### **Summary**

The revised layout meets the requirements for standard playing area dimensions for bowls and croquet. Consequently, an option that meets a range of users needs may attract external funding.

However, after considering the feedback on the revised layout plan from both clubs, it is clear that full agreement on all aspects of the plan has not been achievable, primarily due to the bowling club's desire to grow their social patronage and not impact their capacity to host tournaments in the future. Whilst the club is unlikely to host higher level tournaments, consideration should be given to the overall project cost and benefits for all stakeholders. Nevertheless, it is clear at this stage that a layout cannot be achieved that will satisfy both club's wishes.

Council may therefore choose to retain the current layout of the bowls and croquet playing areas, and focus on other improvements at the complex to benefit the user groups and the wider community, including the buildings, car parking and surrounding areas. There may be an opportunity to revisit the layout of playing fields as part of future lease negotiations. The current budget for the design project can be used to complete this design work, and there are opportunities to investigate shared facilities (such as toilets) in any future building upgrades.

### **3. ANALYSIS OF OPTIONS**

Option 1 – No further action be undertaken at this time regarding changes to the layout of the sports playing areas and recreation areas at Millswood Sporting Complex. Commence design work for upgrades to the existing bowls and croquet buildings and surrounding areas, based on the current layout of playing areas. Discussions commence with user groups on funding contributions towards any upgrades. The community and the clubs be advised of the Council's decision.

This option will result in no further work being undertaken to reconfigure the bowls and croquet playing areas, and will not enable the inclusion of a fourth new croquet

lawn at this time. It should be noted that the revised layout design could be revisited at a future time as opportunities arise.

The project will now focus on design work to improve the existing bowls and croquet buildings, which will include opportunities to increase community usage and improve surrounding areas, access around the buildings as well as car parking. The current budget allocation for the overall detailed design project will be used to focus on the design work. Following the completion of this design work, it would then be brought back to Council for consideration, before further community consultation and detailed design is undertaken.

One of the goals of undertaking this work was to have 'shovel ready' plans if a grant funding opportunity arose. As full agreement from the user groups and residents has not been achieved on the playing area layout, a focus on building upgrades and surrounding areas is a suitable compromise that will benefit both users and position Council to apply for external funding.

A disadvantage is that this option will not enable construction of a fourth croquet lawn at Millswood Sporting Complex.

Option 2 – The original layout plan endorsed in 2014 (recommendation 2 of Item 1217/14) be revoked and the revised layout for the bowling greens and croquet lawns (Attachment 1 to Item 584/26) be endorsed. Discussions commence with user groups on funding contributions towards any upgrades. The community and the clubs be advised of the Council's decision.

*Advantages of this option:*

This option complies with the playing area guidelines for both bowls and croquet and creates the opportunity for a holistic upgrade of the Millswood Sporting Complex, including:

- Two new bowling greens
- A fourth full-size croquet lawn
- Improvements to the existing bowling club building layout, including improvements to bar, kitchen, dining, storage and toilet areas
- Improved access through the site for both vehicles and pedestrians, as well as improved access for people with a disability
- Increased off-street car parking
- Improvements to public recreation areas (although the details are yet to be determined)

Detailed design will provide further information regarding costs, and will enable applications for external funding. While the Bowling club do not fully support this option, this option provides two greens that comply with standard playing area dimensions, albeit with one green being a slightly reduced area.

The concerns from the Bowling Club regarding their capacity to host future tournaments are noted, but need to be balanced with the fact that other facilities in the area may be better placed to do this.

*Disadvantages of this option:*

Millswood Bowling Club has expressed that they do not fully support this option. Given the opposition to this plan from the bowling club, Council's ability to attract external funding would be significantly reduced.

While it is minimal, the length of both greens is reduced, with the greatest reduction being 1.65 metres along the north-south length of the 'B Green'. The greens are also not adjacent to one another, which may impact social interaction between participants.

The revised layout plan also has an impact on the vacant land known as Millswood Park, resulting in significant changes to the current configuration of this park. It also results in the loss of five trees.

Option 3 – Do not endorse the revised layout option and continue with the original layout plan identified in the 2014 Improvement Plan.

The original layout plan was developed through community engagement and received support from all user groups, with the exception of the bowling club. This option does not meet the needs of the Bowling club, nor allow for their anticipated growth. Given the opposition to this plan from the bowling club, Council's ability to attract external funding would be significantly reduced.

Option 4 – No further action on this project be undertaken.

As noted in previous reports, this project is envisaged to be progressed at a future time when funding becomes available. It is noted that there may well be a degree of scepticism that funding will ever become available given the current condition of the Federal and State budgets. However, not undertaking any further action is likely to diminish the case for external funding if it becomes available.

#### **4. RECOMMENDED OPTION**

Option 1 is the recommended option.

#### **5. POLICY IMPLICATIONS**

##### **5.1 *Financial/budget***

Undertaking master planning for the Goodwood Oval and Millswood Sporting Complex Improvement Plan is a specific action within Council's 4 Year Plan. In its Long Term Financial Plan, Council has notionally allocated \$500K in 2019/20 and \$500K in 2020/21 for implementation of the Goodwood Oval and Millswood Sporting Complex Improvement Plan.

To date, approximately \$20,000 has been spent on detailed design in 2015/16, with \$45,000 spent on developing the Improvement Plan in 2013/14. While the development of the revised layout option has added an additional \$5,000 to the budget, the consultant has advised they are confident that the remainder of the detailed design project can be completed within the current budget (depending on Council's preferred direction and the scope of the project). Further community engagement in relation to building upgrades can be undertaken within existing budgets.

It is important to note that some actions may be implemented using planned capital replacement funding, such as playground replacement, and other projects may be completed with combined Club and grant funding, such as internal building improvements. Implementation of the Improvement Plans for both complexes will need to be considered against other Council priorities and as external funding opportunities become available.

As outlined in previous reports to Council regarding sport facility upgrades, there are several precedents and various financial models that have been used for major upgrades at other Council owned facilities (e.g. Unley Oval). These models can vary, but typically clubs contribute up to a third of the total cost.

It is therefore suggested that discussions commence with user groups and other external funding bodies regarding the potential improvements at Millswood Sporting Complex.

Additionally, since the Improvement Plan was endorsed in August 2014, it should be noted that Millswood Croquet Club has invested in various improvements, including new fencing along the western boundary, enabling the provision of a third full-size lawn.

## **5.2    *Legislative/Risk Management***

Any legislation and risk implications will be considered as part of the development application and construction process. Should Council invest in any building improvements at Millswood Sporting Complex, consideration should be given to planning controls relating to the site.

The site is located within the Residential Historic Conservation Zone where the primary purpose is the retention and conservation of existing contributory dwellings. This zone also recognises the existence of community facilities and there is potential for a reasonable expansion of existing community facilities. Planning considerations will be worked through during further detailed design.

Under the *Local Government Act 1999*, Council may revoke a previous endorsed recommendation (the original layout plan for Millswood Sporting Complex) and endorse an alternative recommendation.



### **5.3 Stakeholder Engagement**

Extensive stakeholder and community engagement was undertaken as part of the development of the Improvement Plan (in 2014) and both clubs have been consulted as part of the development of the revised layout plan.

Consultation with directly affected stakeholders, including other clubs at Millswood Sporting Complex and residents living adjacent to the site, was undertaken during August 2016. It is proposed that community engagement be undertaken as part of any further detailed design; however, consideration must be given to any future changes the project may experience.

## **6. REPORT CONSULTATION**

This report has been developed in consultation with the General Manager Community and General Manager Economic Development and Planning, Group Manager Governance, Manager Finance and traffic staff.

## **7. ATTACHMENTS**

1. Layout plan as shown in the Goodwood Oval and Millswood Sporting Complex Improvement Plan (August 2014).
2. Existing layout of croquet and bowls facilities.
3. Revised layout plan (September 2016).
4. Feedback from Millswood Bowling Club.
5. Feedback from Millswood Croquet Club.

## **8. REPORT AUTHORISERS**

<b><u>Name</u></b>	<b><u>Title</u></b>
Megan Berghuis	General Manager Community
David Litchfield	General Manager Economic Development & Planning
Peter Tsokas	Chief Executive Officer

## **DECISION REPORT**

**REPORT TITLE:** CONFIDENTIALITY MOTION FOR ITEM 796 AND  
798 – STRATEGIC PROPERTY GROUP  
MINUTES 22 FEBRUARY 2017 AND 15 MARCH  
2017

**ITEM NUMBER:** 815

**DATE OF MEETING:** 27 MARCH 2017

**AUTHOR:** KELLEY JAENSCH

**JOB TITLE:** EXECUTIVE ASSISTANT CITY DEVELOPMENT

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### **PURPOSE**

To recommend that Items 796 and 798 be considered in confidence at the 27 March 2017 Council meeting and that the Minutes, Report and Attachments referring to these reports remain confidential until the item is revoked by the Chief Executive Officer at a future date.

### **RECOMMENDATION**

MOVED:  
SECONDED:

That:

1. Pursuant to Section 90(2) and (3)(b) of the Local Government Act 1999 the Council orders the public be excluded, with the exception of the following:

Mr P Tsokas, Chief Executive Officer  
Mr J Devine, General Manager City Development  
Ms N Tinning, General Manager Business & Service Improvement  
Ms M Berguis, General Manager City Services  
Ms R Wilson, Group Manager Governance & Risk  
Ms C Gowland, Executive Assistant to CEO & Mayor

on the basis that it will receive and consider the minutes of the Strategic Property Group Minutes and Council is satisfied that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:

- (b) information the disclosure of which
- (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
  - (ii) would, on balance, be contrary to the public interest.

It would be in the best interest of the Council to consider this matter in confidence.

## DECISION REPORT

**REPORT TITLE:** CONFIDENTIALITY MOTION TO REMAIN IN  
CONFIDENCE ITEM 796 AND 798 – STRATEGIC  
PROPERTY GROUP MINUTES 22 FEBRUARY  
AND 15 MARCH 2017

**ITEM NUMBER:** 816

**DATE OF MEETING:** 27 MARCH 2017

**AUTHOR:** KELLEY JAENSCH

**JOB TITLE:** EXECUTIVE ASSISTANT CITY DEVELOPMENT

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### **PURPOSE**

To recommend that Items 796 and 798 remain in confidence at the 27 March 2017 Council meeting until the order is revoked by the Chief Executive Officer.

### **RECOMMENDATION**

MOVED:  
SECONDED:

That:

1. The report be received.
2. Pursuant to Section 91(7) and (3)(b) of the Local Government Act:

2.1 The

- ☒ Minutes
- ☒ Report
- ☒ Attachments

remain confidential on the basis that the information contained in this report could confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, and

- 2.2 the minutes, report and attachments will be kept confidential until the item is revoked by the Chief Executive Officer.

## **DECISION REPORT**

**REPORT TITLE:** CONFIDENTIALITY MOTION FOR ITEM 818  
DISCRETIONARY RATE REBATES

**ITEM NUMBER:** 817

**DATE OF MEETING:** 27 MARCH 2017

**AUTHOR:** CAROL GOWLAND

**JOB TITLE:** EXECUTIVE ASSISTANT TO CEO & MAYOR

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### **PURPOSE**

To recommend that Item 818 be considered in confidence at the 27 March 2017 Council meeting.

### **RECOMMENDATION**

MOVED:  
SECONDED:

That:

1. Pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999 the Council orders the public be excluded, with the exception of the following:

Mr P Tsokas, Chief Executive Officer  
Mr J Devine, General Manager City Development  
Ms N Tinning, General Manager Business & Service Improvement  
Ms M Berguis, General Manager City Services  
Ms R Wilson, Group Manager Governance & Risk  
Ms C Gowland, Executive Assistant to CEO and Mayor

on the basis that it will receive and consider the report on Discretionary Rates, and the Council is satisfied that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

It would be in the best interest of the Committee to consider this matter in confidence.