

MINUTES of SPECIAL COUNCIL MEETING

**Held Monday 14 September 2015 at 7.00pm
Council Chambers
181 Unley Road Unley**

PRESENT:

His Worship the Mayor L Clyne (Presiding Member)

Councillors	M Rabbitt	R Sangster
	P Hughes	A Lapidge
	J Koumi	M Hudson
		L Smolucha
	D Palmer	J Boisvert
	R Salaman	M Hewitson

OFFICER'S PRESENT:

Chief Executive Officer, Mr P Tsokas
General Manager Community, Ms M Berghuis
General Manager Assets & Environment, Mr J Devine
General Manager Corporate Services, Mr S Faulkner
General Manager Economic Development & Planning, Mr D Litchfield
Manager Governance, Ms R Wilson
Executive Assistant to CEO & Mayor, Ms C Gowland

ACKNOWLEDGEMENT

The Presiding Member opened the meeting with the Kaurna Acknowledgement.

PRAYER AND SERVICE ACKNOWLEDGEMENT

Members stood in silence in memory of those who had made the Supreme sacrifice in the service of their country, at sea, on land and in the air.

WELCOME

The Presiding Member welcomed Members, Staff, Media and the Gallery to the Special meeting of Council.

APOLOGIES

Councillor B Schnell – Deputy Mayor

CONFLICT OF INTEREST

Nil

CONFIRMATION OF MINUTES

MOVED Councillor Palmer

SECONDED Councillor Boisvert

That:

1. The minutes of the Council Meeting held on Monday 24 August 2015, as printed and circulated, be taken as read and signed as a correct record, with the following amendment:

“Item 221**

LGA Annual General Meeting – Call for Nominations

A Division was called and the previous decision set aside.

Those voting in the affirmative:

Councillors, Smolucha, Hudson, Hughes, Lapidge, Sangster and Rabbitt.

Those voting in the negative:

Councillors Schnell, Palmer, Boisvert, Salaman, Hewitson, Koumi and Mayor Clyne.

*The MOTION was declared **LOST**”*

CARRIED UNANIMOUSLY

DEPUTATIONS

Mr Tom Pearce – spokesperson Brown Hill SOCKET

Extension of Time

Mr Pearce requested an extension of time for his presentation for a further 2 minutes. This was agreed with a two thirds majority.

Mr David Schultz – resident - copy of presentation attached

Mr Neil Lowrie – resident - copy of presentation attached

Professor Wayne Meyer

Chairperson of Brown Hill Creek Association

Talking about the benefits of Option D for all stakeholders and the environment

Mr Jeffrey Newchurch

Chairperson of the Kurna Nation Cultural Heritage Association

Talking about the impacts of Part B works on Kurna Culture and Heritage – copy of presentation attached

Professor Andrew McGavigan

Talking about the issues relating to proposed Option D – copy of presentation attached

Mr Ron Bellchambers

Extension of Time

Mr Bellchambers requested an extension of time for his presentation for a further 2 minutes. This was agreed with a two thirds majority.

Councillor Hudson left the meeting at 8.18pm returning at 8.20pm after the presentations.

ITEM 246

**BROWN HILL KESWICK CREEK STORMWATER MANAGEMENT PLAN PART B
RECOMMENDED OPTION**

MOVED Councillor Hughes
SECONDED Councillor Koumi

Extension of Time

Councillor Hughes requested an extension of time, for a further 2 minutes. This was agreed with a two thirds majority.

That:

1. The report be received.
2. Having regard to the Notice issued by the Stormwater Management Authority dated 19 May 2015 which requires the Cities of Adelaide, Burnside, Unley, Mitcham, and West Torrens to prepare a revised Stormwater Management Plan (SMP) in respect of the Brown Hill Keswick Creek Catchment by 30 September 2015; the Part B report; and community consultation and feedback, that Council hereby determines that Option D - Creek Capacity Upgrade is the recommended solution for Part B Works under the Stormwater Management Plan (SMP 2012) given:
 - (a) There is broad community support for Option D from respondents to the community consultation process undertaken on behalf of the Project during May and June 2015;
 - (b) Option D has the lowest capital cost, the lowest annual maintenance cost and the lowest present value whole of life cost when compared against the other available options;
 - (c) Option D provides the required level (100year ARI) of flood protection;
 - (d) For shorter duration storms, Option D provides a higher than 100 year ARI level of flood protection;
 - (e) Option D satisfies the project councils' endorsed position to give preference to a 'no dam' solution;
 - (f) Option D does not require bypass culverts in suburban streets;
 - (g) Option D preserves sites of cultural and heritage significance; and
 - (h) Option D is within the budgeted cost for Part B Works estimated in the 2012 SMP.
3. The Chief Executive Officer is delegated authority to do all things necessary to prepare a revised Stormwater Management Plan in respect of the Brown

Hill and Keswick Creek Catchment for submission to the Stormwater Management Authority for approval.

4. In respect of funding for implementation of the finalised and gazetted Stormwater Management Plan, Council reaffirms the cost sharing proposal between the three spheres of government as described in the Stormwater Management Plan 2012.
5. The project councils continue to investigate a Regional Subsidiary as the vehicle for project delivery and ongoing care and management of the Brown Hill Keswick Creek flood mitigation scheme.
6. In the event that the cost sharing proposal involving the other levels of Government as referred to in (4) above is not materialised, the catchment Councils reserve their rights to review the scope of work, delivery timelines and funding model under the Stormwater Management Plan 2012 to enable some flood mitigation works to be undertaken which are affordable for Local Government and which mitigate and reduce impacts of flooding on selected properties within the Brown Hill Keswick Creek catchment.
7. In the event that all five (5) catchment Councils are not able to agree on Option D, the Chief Executive Officer is authorised to write to the Stormwater Management Authority and advise the Presiding Member that Council, as part of the Project, has done all it possibly can to find a community wide acceptable solution to the Part B Works and despite those best endeavours, does not believe further work by the project Councils will result in a common solution for the Part B Works being agreed and therefore, requests the Stormwater Management Authority to utilise its powers pursuant to clause 15 and 16 of Schedule 1A of the Local Government Act 1999 to finalise and approve the Stormwater Management Plan for the Brown Hill Keswick Creek Catchment.

Councillor Lapidge MOVED as an AMENDMENT, SECONDED by Councillor Hewitson

Extension of Debating Time

Councillor Lapidge requested an extension of time, for a further 2 minutes. This was agreed with a two thirds majority.

Extension of Debating Time

Councillor Boisvert requested an extension of time, for a further 2 minutes. This was agreed with a two thirds majority.

Extension of Debating Time

Councillor Sangster requested an extension of time, for a further 1 minute. This was agreed with a two thirds majority.

That:

1. The report be received.
2. Having regard to the Notice issued by the Stormwater Management Authority dated 19 May 2015 which requires the Cities of Adelaide, Burnside, Unley, Mitcham, and West Torrens to prepare a revised Stormwater Management Plan (SMP) in respect of the Brown Hill Keswick Creek Catchment by 30 September 2015; the Part B report; and community consultation and feedback, that Council hereby determines that Option D - Creek Capacity Upgrade is the recommended solution for Part B Works under the Stormwater Management Plan (SMP 2012) given:
 - (a) There is broad community support for Option D from respondents to the community consultation process undertaken on behalf of the Project during May and June 2015;
 - (b) Option D has the lowest capital cost, the lowest annual maintenance cost and the lowest present value whole of life cost when compared against the other available options;
 - (c) Option D provides the required level (100year ARI) of flood protection;
 - (d) For shorter duration storms, Option D provides a higher than 100 year ARI level of flood protection;
 - (e) Option D satisfies the project councils' endorsed position to give preference to a 'no dam' solution;
 - (f) Option D does not require bypass culverts in suburban streets;
 - (g) Option D preserves sites of cultural and heritage significance; and
 - (h) Option D is within the budgeted cost for Part B Works estimated in the 2012 SMP.
3. Council also seeks to ensure before any Part B works are commenced that:
 - a) Active consultation regarding structural treatment options and vegetation treatment for each property owner be undertaken with the final choice to be negotiated with the owner.
 - b) The option regarding an easement or maintenance agreement be offered to affected property owners. If an easement is agreed to with an owner, then the Project is to ensure that fair compensation is negotiated with the owner.
 - c) In areas requiring widening, this is voluntary rather than enforced.

- d) Initiatives for water harvesting and improving water quality are incorporated in any Part A & B works so as to maximise the value of water as initially requested in line with motions passed by Council and put to the SMA in August 2012.
 - e) Any trees of importance are not removed or impacted if possible.
4. Detailed designs be prepared for options in Orphanage Park and Forestville Reserve that take into consideration the heritage and biodiversity corridor in these reserves.
 5. The Chief Executive Officer is delegated authority to do all things necessary to prepare a revised Stormwater Management Plan in respect of the Brown Hill and Keswick Creek Catchment for submission to the Stormwater Management Authority for approval.
 6. In respect of funding for implementation of the finalised and gazetted Stormwater Management Plan, Council reaffirms the cost sharing proposal between the three spheres of government as described in the Stormwater Management Plan 2012.
 7. The project councils continue to investigate a Regional Subsidiary as the vehicle for project delivery and ongoing care and management of the Brown Hill Keswick Creek flood mitigation scheme.
 8. In the event that the cost sharing proposal involving the other levels of Government as referred to in (6) above is not materialised, the catchment Councils reserve their rights to review the scope of work, delivery timelines and funding model under the Stormwater Management Plan 2012 to enable some flood mitigation works to be undertaken which are affordable for Local Government and which mitigate and reduce impacts of flooding on selected properties within the Brown Hill Keswick Creek catchment.
 9. In the event that all five (5) catchment Councils are not able to agree on Option D, the Chief Executive Officer is authorised to write to the Stormwater Management Authority and advise the Presiding Member that Council, as part of the Project, has done all it possibly can to find a community wide acceptable solution to the Part B Works and despite those best endeavours, does not believe further work by the project Councils will result in a common solution for the Part B Works being agreed and therefore, requests the Stormwater Management Authority to utilise its powers pursuant to clause 15 and 16 of Schedule 1A of the Local Government Act 1999 to finalise and approve the Stormwater Management Plan for the Brown Hill Keswick Creek Catchment.

The AMENDMENT was put and **CARRIED**

The AMENDMENT becomes the **MOTION** and was put and **LOST**

DIVISION

A Division was called and the previous decision set aside

Those voting in the affirmative:

Councillors Smolucha, Palmer, Koumi, Hughes and Lapidge.

Those voting in the negative:

Councillors Boisvert, Salaman, Hewitson, Hudson, Sangster and Rabbitt.

The **MOTION** was declared **LOST**

Councillor Boisvert left the meeting at 9.08pm returning at 9.08pm during debate on the above Item.

Councillor Smolucha left the meeting at 9.39pm returning at 9.43pm during debate on the above Item.

Councillor Hudson left the meeting at 9.40pm returning at 9.42pm during debate on the above Item.

Councillor Boisvert MOVED a MOTION, SECONDED Councillor Salaman

That:

1. The report be received
2. Council, having regard to the Notice issued by the Stormwater Management Authority dated 19 May 2015 which requires the Cities of Adelaide, Burnside, Unley, Mitcham, and West Torrens to prepare a revised Stormwater Management Plan (SMP) in respect of the Brown Hill Keswick Creek Catchment by 30 September 2015; the Part B report; and community consultation and feedback, hereby determines that **Option B2** - Ellison's Gully dam, creek clearing and creek rehabilitation is the recommended solution for Part B Works under the Stormwater Management Plan (SMP 2012) given:
 - 2.1 The most recent consultation gave little direction from Mitcham and Unley creek owners to inform Council's decision;
 - 2.2 Option B2 is likely to have the lowest capital cost, the lowest annual maintenance cost and the lowest present value whole of life cost when compared against the other available options when the true cost of obtaining easements in Option D are calculated;
 - 2.3 Option B2 provides the highest level (100 year ARI) of flood protection;

- 2.4 Option B2 provides the best environmental protection solution in that the creek bed and riparian zones will be least affected, allowing for the continuation of a wildlife corridor along the creek;
 - 2.5 Option B2 does not require bypass culverts in suburban streets;
 - 2.6 Option B2 preserves sites of cultural and heritage significance;
 - 2.7 Option B2 provides the greatest opportunity to detain and harvest water, during any rain event, and thus protect the aquifer and marine environment.
- 3. In the event that all five catchment Councils are unable to reach agreement, the Chief Executive Officer is authorised to write to the Stormwater Management Authority and advise the Presiding Member that Council would be prepared to work with the decision of the Stormwater Management Authority.
 - 4. The Chief Executive Officer is authorised to write to the Stormwater Management Authority and advise the Presiding Member that Council would like further investigation into detailed design and costing associated with both the B2 and D Options to allow a better understanding of the impact of the proposed work on creek owners' properties.
 - 5. The Chief Executive Officer is delegated authority to do all things necessary to prepare a revised Stormwater Management Plan in respect of the Brown Hill and Keswick Creek Catchment for submission to the Stormwater Management Authority for approval.
 - 6. The project Councils continue to investigate a Regional Subsidiary as the vehicle for project delivery and ongoing care and management of the Brown Hill Keswick Creek flood mitigation scheme.
 - 7. In respect of funding for implementation of the finalised and gazetted Stormwater Management Plan, Council reaffirms the cost sharing proposal between the three spheres of government as described in the SMP 2012.
 - 8. In the event that the cost sharing proposal involving the other levels of government as referred to in paragraph 7 above is not materialised the catchment councils reserve their rights to review the scope of work, delivery timelines and funding model under the SMP 2012. This should prioritise the essential clearing work in the creek at the earliest possible time so as to reduce impacts of flooding on selected properties within the Brown Hill Keswick Creek catchment.
 - 9. The project continues to look for additional water saving options as the works progress to detailed design.

The MOTION was put and **LOST**

DIVISION

A Division was called and the previous decision set aside:

Those voting in the affirmative:

Councillors Boisvert, Salaman, Hudson, Sangster and Rabbitt

Those voting in the negative:

Councillors Smolucha, Palmer, Hewitson, Koumi, Hughes and Lapidge.

The MOTION was declared **LOST**

Councillors Hudson, Salaman and Hewitson left the meeting at 10.14pm returning at 10.14pm.

Councillor Koumi left the meeting at 10.14pm returning at 10.17pm

Councillor Palmer left the meeting at 10.15pm returning at 10.17pm

Councillor Smolucha left the meeting at 10.16pm returning at 10.17pm

EXTENSION OF MEETING

The Mayor advised Members that he thought the meeting would benefit from an extension of the normal finishing time of 11.00pm until 11.30pm.

This was agreed with a two thirds majority.

Councillor Hewitson MOVED a MOTION, SECONDED Councillor Hughes

That:

1. The report be received
2. Council recognises that an option to control flooding is needed and will support an option chosen by the other four Councils for flood control.
3. Council recognises that all options presented are primarily focussed on flood control and seeks to ensure that the total solution values water harvesting and protection of our marine fishery in line with motions passed by council and put to the Brown Hill Creek Board. Item 514 – 27 August 2012. Unley Council is disappointed that the potential value of this water has not been a part of the calculations as asked for in our correspondence of April 2012 to the Brown Hill Creek proposal.

A (flood control) + B (Water Harvesting) + C (water quality released)

4. Council also seeks to ensure before any Part B works are commenced that:
 - a) Active consultation regarding structural treatment options and vegetation treatment for each property be undertaken with the final choice to be negotiated with the owner.
 - b) The option regarding an easement or maintenance agreement be offered to affected property owners. If an easement is agreed to with an owner, then the Project is to ensure that fair compensation is negotiated with the owner.
 - c) In areas requiring widening, this is voluntary rather than enforced.
 - d) Initiatives for water harvesting and improving water quality are incorporated in any Part A & B works so as to maximise the value of water.
 - e) Any trees of importance are not removed or impacted if possible.
5. Detailed designs be prepared for options in Orphanage Park and Forestville Reserve that take into consideration the heritage and biodiversity corridor in these reserves.
6. Council thanks the project team for working with Unley to achieve water harvesting outcomes on Glen Osmond Creek noting the increase from 20ML per annum to 60 ML per annum that has been achieved by a retention dam in Ridge Park designed by the project team for both flood control and water harvesting.
7. Council, having regard to the Notice issued by the Stormwater Management Authority dated 19 May 2015 which requires the Cities of Adelaide, Burnside, Unley, Mitcham, and West Torrens to prepare a revised Stormwater Management Plan (SMP) in respect of the Brown Hill Keswick Creek Catchment by 30 September 2015; the Part B report; and community consultation and feedback, hereby determines that:
 - a) Council reiterates its support for the Part A works as recommended in the 2012 Stormwater Management Plan (SMP), as this represents approximately 80% of the project solution and the sections to be completed first, and also supports the rehabilitation/ revegetation of the creek along its full length.
 - b) Council also reaffirms its support of the cost sharing proposal between the three spheres of government and that the Steering Committee submit a funding application to the SMA to advance the implementation of the project, specifically continuation of the part A works and rehabilitation/ re-vegetation works.

FORMAL MOTION

MOVED Councillor Boisvert, SECONDED Councillor Sangster, that:

The Motion be put.

Carried

The MOTION was put and **LOST**

DIVISION

A Division was called and the previous decision set aside.

Those voting in the affirmative:

Councillor Hewitson, Koumi and Hughes.

Those voting in the negative:

Councillors Smolucha, Palmer, Boisvert, Salaman, Hudson, Lapidge, Sangster and Rabbitt.

The MOTION was declared **LOST**

SUSPENSION OF MEETING PROCEDURES

The Mayor advised the meeting that he thought the meeting would benefit from a short term suspension of meeting procedures, for up to 10 minutes, to discuss what further information Members would like.

Meeting procedures were suspended at 11.03pm.

Meeting procedures were resumed at 11.10pm.

Councillor Hudson left the Chambers at 11.05pm.

ITEM 247

QUESTIONS ON NOTICE FROM COUNCILLOR HEWITSON RE BROWN HILL KESWICK CREEK

The following Questions on Notice have been received from Councillor Hewitson and the answers will be provided at the Council meeting on 28 September 2015.

COMMENT FROM COUNCILLOR HEWITSON

My questions relate to the amount of water retained on an average year of rainfall. Option D is designed to allow the maximum amount of water to flow out to sea in the quickest time in a 1 in a 100 year rain event.

Questions

1. What percentage and quantity of water will be harvested with option D in an average year?

Answer

2. What amount of water was harvested in the Ridge Park scheme water recycling scheme

- A. Before the retention dam?
- B. After the dam?

Answer

3. What work has been done to design a flood solution for BHC which maximisers the recycling of water in an average year?

Answer

4. If yes, what was the value of the water retained?

Answer

5. Should the Dam options B2 and B1 be redesigned like Ridge Park dam to both harvest water and prevent flooding:
 - a) how many Megalitres of extra water could be available to harvest along Brown Hill Creek between the hills and the sea compared to option D in an average year?
 - b) What would be the reduction of flow to the sea would occur in an average year?

CLOSURE

The Presiding Member closed the meeting at 11.10pm.

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PRESIDING MEMBER

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