

His Worship the Mayor
Councillors
City of Marion

Notice of General Council Meeting

Council Chamber, Council Administration Centre
245 Sturt Road, Sturt

Tuesday, 12 October 2021 at 6.30 pm

The CEO hereby gives Notice pursuant to the provisions under Section 83 of the *Local Government Act 1999* that a General Council Meeting will be held.

A copy of the Agenda for this meeting is attached in accordance with Section 83 of the Act.

Meetings of the Council are open to the public. Due to COVID-19, interested members of the community are welcome to attend by electronic means. Access to the meeting is via the link published on the City of Marion website (<https://www.marion.sa.gov.au/about-council/council-meetings/council-meeting-livestream>) on the day of the meeting.



Tony Harrison
Chief Executive Officer

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1 Open Meeting**2 Kurna Acknowledgement**

We acknowledge the Kurna people, the traditional custodians of this land and pay our respects to their elders past and present.

3 Disclosure

All persons in attendance are advised that the audio of this General Council meeting will be recorded and will be made available on the City of Marion website.

4 Elected Member Declaration of Interest (if any)**5 Confirmation of Minutes****5.1 Confirmation of Minutes of the General Council Meeting held on 14 September 2021 and Special General Council Meeting held on 28 September 2021**

Report Reference	GC211012R5.1
Originating Officer	Governance Administration Officer – Anne Mitchell
Corporate Manager	Acting Manager Office of the CEO – Sherie Walczak
General Manager	Chief Executive Officer – Tony Harrison

RECOMMENDATION

That the minutes of the General Council Meeting held on 14 September 2021 and Special General Council Meeting held on 28 September 2021 be taken as read and confirmed.

ATTACHMENTS

1. GC210914 - Final Minutes [5.1.1 - 14 pages]
2. SGC210928 - Final Minutes [5.1.2 - 7 pages]



**Minutes of the General Council Meeting
held on Tuesday, 14 September 2021 at 6.30 pm
Council Chamber, Council Administration Centre
245 Sturt Road, Sturt**



**PRESENT**

His Worship the Mayor Kris Hanna

Councillor Ian Crossland

Councillor Maggie Duncan

Councillor Raelene Telfer

Councillor Bruce Hull

Councillor Kendra Clancy

Councillor Sasha Mason (electronically)

Councillor Tim Gard

Councillor Matthew Shilling

Councillor Luke Hutchinson

Councillor Nathan Prior

Councillor Jason Veliskou (electronically)

Councillor Joseph Masika

In Attendance

Chief Executive Officer - Tony Harrison

General Manager City Services - Tony Lines

General Manager Corporate Services - Sorana Dinmore

General Manager City Development - Ilia Houridis

Manager Office of the CEO - Kate McKenzie

Unit Manager Governance and Council Support - Victoria Moritz

1 Open Meeting

The Mayor opened the meeting at 6.30pm

2 Kaurna Acknowledgement

We acknowledge the Kaurna people, the traditional custodians of this land and pay our respects to their elders past and present.

3 Disclosure

All persons in attendance are advised that the audio of this General Council meeting will be recorded and will be made available on the City of Marion website.

4 Elected Member Declaration of Interest (if any)

The Chair asked if any member wished to disclose an interest in relation to any item being considered at the meeting

The following interests were disclosed:

- Councillor Shilling declared a perceived conflict of interest in the item *Southern Suburbs Residential Policy - Code Amendment GC210914R11.4*



5 Confirmation of Minutes

5.1 Confirmation of Minutes of the General Council Meeting held on 24 August 2021 Report Reference GC210914R5.1

Moved Councillor Matthew Shilling

Seconded Councillor Joseph Masika

That the minutes of the General Council Meeting held on 24 August 2021 be taken as read and confirmed.

Carried Unanimously

6 Communications - Nil

7 Adjourned Items - Nil

8 Deputations

8.1 Marion Cultural Centre Plaza Plan - Deputation from Mr Graham Watts Report Reference GC210914D8.1

Mr Watts gave a five-minute deputation regarding the proposed Marion Cultural Centre Plaza Plan.

9 Petitions - Nil

10 Committee Recommendations

10.1 Confirmation of Minutes for the Finance and Audit Committee Meeting held on 17 August 2021 Report Reference GC210914R10.1

Moved Councillor Maggie Duncan

Seconded Councillor Matthew Shilling

That Council:

1. Receives and notes the minutes of the Finance and Audit Committee meeting held on 17 August 2021.
2. Notes that separate reports will be brought to Council for consideration of any recommendations from the Finance and Audit Committee.

Carried Unanimously



11 Corporate Reports for Decision

11.1 Messines Avenue Streetscape Project Report Reference GC210914R11.1

Moved Councillor Sasha Mason

Seconded Councillor Joseph Masika

That Council:

1. Recommends proceeding to Messines Avenue Streetscape detailed design with Option 2 at an estimated cost of \$481,000. Balance of funding (\$172,000) to be obtained through any savings in the 2021/22 capital works budget.

The vote was Tied
The Mayor made a casting vote and voted in Favour
Carried

Councillor Hull called a Division

Those For: Councillors Mason, Masika, Prior, Hutchinson, Shilling and Duncan

Those Against: Councillors Veliskou, Clancy, Hull, Telfer, Gard and Crossland

The Vote was Tied
The Mayor made a casting vote and voted in Favour
Carried

11.2 Lander Road / Young Street Junction Upgrade Report Reference GC210914R11.2

Moved Councillor Matthew Shilling

Seconded Councillor Maggie Duncan

That Council:

1. Allocates up to \$205,820 funding from the Local Roads and Community Infrastructure Round 3 grant for the Lander Road and Young Street intersection upgrade.

Carried Unanimously

11.3 Solar Panels for Council Owned and Leased Facilities - Expression of Interest Outcomes Report Reference GC210914R11.3

Moved Councillor Kendra Clancy

Seconded Councillor Jason Veliskou

That Council:

1. Support YMCA SA's application for the installation of a new solar system at Marion Leisure and Fitness Centre and fund 50% of the cost of the new solar system from Council's Community Facilities Partnership Program, with a maximum Council contribution amount of up to \$48,000, 50% to be funded by YMCA SA.



2. Note that the solar panel installation will be project managed by Council, including the tender process for purchase and installation.

Carried Unanimously

11.4 Southern Suburbs Residential Policy - Code Amendment
Report Reference GC210914R11.4

Councillor Shilling declared a perceived conflict of interest in the item due to his place of residence being located within the Southern Suburbs Residential Policy area and will remain in the meeting.

Councillor Veliskou declared a perceived conflict of interest in the item due to a property owned by him being located within the Southern Suburbs Residential Policy area and will remain in the meeting.

Moved Councillor Ian Crossland

Seconded Councillor Maggie Duncan

That Council:

1. Endorses the 'Southern Suburbs Residential Policy - Code Amendment' - Proposal to Initiate' and forwards the document (Attachment 1) to the Minister for Planning for consideration.

Carried Unanimously

Councillor Shilling voted in Favour

Councillor Veliskou voted Favour

11.5 Urban Corridor – Marion Road Code Amendment
Report Reference GC210914R11.5

Moved Councillor Raelene Telfer

Seconded Councillor Luke Hutchinson

That Council:

1. Endorses the 'Urban Corridor Marion Road - Code Amendment' - Proposal to Initiate' and forwards the document (Attachment 1) to the Minister for Planning amended to included consideration of the Marion Road corridor as far south as Sturt Road.

Carried Unanimously

11.6 SRWRA Audit Committee Member - City of Marion Representative
Report Reference GC210914R11.6

Moved Councillor Matthew Shilling

Seconded Councillor Tim Gard

That Council:

1. Appoint Mr. Greg Connor to the Southern Region Waste Resource Authority Audit Committee as the City of Marion representative for the period of two years from the next SRWRA Annual General Meeting on 20th September 2021.

Carried Unanimously



11.7 Funding Support for District Council of Loxton Waikerie litigation
Report Reference GC210914R11.7

Moved Councillor Bruce Hull

Seconded Councillor Matthew Shilling

That this item be left lying on the table until the Chief Executive Officer has additional information to enable an informed decision to be made.

Carried

11.8 Policy Review - Prudential Management Policy
Report Reference GC210914R11.8

Moved Councillor Luke Hutchinson

Seconded Councillor Raelene Telfer

That Council:

1. Endorse the Prudential Management Policy as attached to this report, subject to any amendments made by Council at the Council meeting on 14 September 2021.

Carried Unanimously

11.9 Policy Review - Policies for Rescission
Report Reference GC210914R11.9

Moved Councillor Raelene Telfer

Seconded Councillor Ian Crossland

That Council:

1. Rescind the Playground Policy, noting that it will be made into a procedure and incorporated into the Open Space Plan.
2. Rescind the Marion Library Service Customer Conditions of Use Policy, noting that it will be made into a procedure.
3. Rescind the Roads Opening and Closing Policy, noting that it is not a formal policy and is governed by the *Roads (Opening and Closing) Act 1991*.
4. Rescind the How We Work Together Policy, noting that it is no longer valid due to the *Statutes Amendment (Local Government Review) Act 2021*.

Carried Unanimously



11.10 Local Government Reform - September 2021 Proclamation and Repeal of S78A (Legal Advice)

Report Reference GC210914R11.10

Moved Councillor Matthew Shilling

Seconded Councillor Luke Hutchinson

That Council:

1. Notes the updates provided on the implementation of Local Government Reform and the First Round of proclamations.
2. Rescinds the Policy *Access to Legal Advice for Council Members*
3. Updates the *Council Members' Allowances and Benefits Policy* to include the provision of access to legal advice for defined purposes.

Carried Unanimously

12 Corporate Reports for Information/Noting

12.1 Traffic and Parking implications of the Morphettville Racecourse DPA

Report Reference GC210914R12.1

Moved Councillor Jason Veliskou

Seconded Councillor Kendra Clancy

That Council:

1. Notes the report.
2. Will endeavor to reduce loss of amenity to existing residents in negotiations with the developers
3. Will seek financial assistance from the developers in respect of any desirable traffic infrastructure improvements

Carried Unanimously

13 Workshop / Presentation Items - Nil

14 Motions With Notice

14.1 Lander Road Speed Limit

Report Reference GC210914M14.1

Moved Councillor Matthew Shilling

Seconded Councillor Maggie Duncan

That Council:

1. Investigate and consult with the community about reducing the speed limit along Lander Road (between Main South Road and Patpa Drive roundabout) from 60km to 50km.
2. A report be brought back to the General Council Meeting in January 2022.

Carried Unanimously

**15 Motions Without Notice****16 Questions With Notice - Nil****17 Questions Without Notice****18 Confidential Items****PROCEDURAL MOTION****Moved Councillor Matthew Shilling****Seconded Councillor Maggie Duncan**

That the following confidential cover reports to move into confidence be considered en bloc:

- Cover Report - Cove Sports and Community Club Feasibility Study and Business Case
- Cover Report - Sports Lighting Project LRCIP Funded
- Cover Report - Code of Conduct

Carried Unanimously**ORDER OF AGENDA ITEMS**

The Mayor sought and was granted leave of the meeting to consider the item *Westminster Reserve and Keaton Avenue Reserve - Revocation of Community Land Classification* next on the agenda.

18.2 Westminster Reserve and Keaton Avenue Reserve - Revocation of Community Land Classification	
Report Reference	GC210914F18.2

Councillor Telfer declared a material conflict of interest as she resides in close proximity to the reserve and left the meeting.

7.54pm Councillor Telfer left the meeting

Moved Councillor Kendra Clancy**Seconded Councillor Matthew Shilling**

That Council:

1. That council revoke the confidentiality orders pertaining to the reports, minutes, and appendices relating to Westminster Reserve that have been considered in confidence by Council (Report Reference: GC190514F01, GC190611F01, GC200623F02, GC200922F03 and GC210511F04).

Carried Unanimously



Moved Councillor Ian Crossland

Seconded Councillor Joseph Masika

That Council:

Option 1 – Proceed with the revocation and disposal

1. Acknowledges the Ministerial approval to revoke the community land classification dated 4 August 2021 for Westminster Reserve and Kenton Avenue Reserve, Lot 107 FP11413 being the whole of the land in Certificate of Title Volume 3776 Folio 21 on the condition that Council passes a resolution to reinstate the Community Land Classification for Kenton Avenue Reserve at the earliest opportunity.
2. Revokes the community land classification in respect of Westminster Reserve and Kenton Avenue Reserve to enable Westminster Reserve to be sold to Westminster School, and that a Notice of the revocation of community land revocation is placed in the Government Gazette.
3. Resolves that Kenton Avenue Reserve will be reinstated as community land immediately upon the two reserves being separated by a land division.
4. Notes that the Registrar General is to be notified of the revocation of the classification of community land in accordance with Section 195 of the Local Government Act 1999.
5. Authorises the disposal of Westminster Reserve in accordance with the Council resolution made on 22 September 2020 (GC200922F03) on the basis that all costs associated with the revocation of the community land classification, sale and transfer of land are paid by the Purchaser.
6. Authorises the net revenue from the sale be transferred to the Open Space Reserve Fund for the development of open space facilities as approved by Council.
7. Pursuant to Section 37(b) of the Local Government Act 1999, authorises the Chief Executive Officer to negotiate, enter into and sign all contracts and documentation necessary to effect the land division, sale and settlement of the Land.

Carried

Moved Councillor Joseph Masika

Seconded Councillor Matthew Shilling

8. That:
 - That pursuant to Section 90(2) and (3)(h)) of the *Local Government Act 1999*, the Council orders that the legal advice - attachment 18.2.3 to the report *Westminster Reserve and Keaton Avenue Reserve Revocation* be received in confidence by the following persons present, Chief Executive Officer, General Manager City Development, General Manager Corporate Services, General Manager City Services, Chief Financial Officer, Manager Office of the Chief Executive, Manager City Property, Unit Manager Sport and Recreational Community Facilities, Communications Advisor, Unit Manager Governance and Council Support upon the basis that the Council is satisfied that the requirement for the meeting to receive this information in confidence has been outweighed by the need to keep consideration of the matter confidential given the information relates to Legal Advice that would be contrary to the public interest.
 - In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that Attachment 18.2.3 to this report *Westminster Reserve and Keaton Avenue Reserve Revocation* having been received in confidence under Section 90(2) and (3)(h) of the Act, except when required to effect or comply with Council's resolution(s) regarding this



matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2021.

Carried Unanimously

8.06pm Councillor Telfer re-entered the meeting

18.1 Cover Report - Cove Sports and Community Club Feasibility Study and Business Case
 Report Reference GC210914F18.1

Moved Matthew Shilling

Seconded Maggie Duncan

That pursuant to Section 90(2) and (3)(b) (i) and (ii) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons Chief Executive Officer, General Manager City Development, General Manager Corporate Services, General Manager City Services, Manager Office of the Chief Executive, Manager City Activation, Project Manager Strategic Projects, Unit Manager Sport and Recreational Community Facilities, Communications Advisor, Unit Manager Governance and Council Support, and Governance Officer, be excluded from the meeting as the Council receives and considers information relating to Cove Sports and Community Club Feasibility Study and Business Case, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to commercial information.

Carried Unanimously

8.07pm the meeting went into confidence

MEETING SUSPENSION

Moved Councillor Ian Crossland

Seconded Councillor Matthew Shilling

That formal meeting procedures be suspended to discuss the item

Carried Unanimously

8.08pm formal meeting procedures suspended

9.04pm formal meeting procedures resumed

Moved Councillor Matthew Shilling

Seconded Councillor Maggie Duncan

That Council:

1. Notes the Feasibility Study and Business Case for the Cove Sports and Community Club redevelopment.
2. Endorses for the Cove Sports and Community Club BMX Track to be permanently closed and decommissioned with \$ [REDACTED] from the Asset Sustainability Reserve Fund allocated



for the removal of the BMX track and associated infrastructure following the relocation of Cove BMX Club in January 2022.

3. Endorses the concept design of the Cove Sport and Community Club redevelopment.
4. Notes the proposed two stage approach to undertake the redevelopment:
 - a. Stage One (estimated cost of \$[REDACTED] GST exclusive):
 - i. demolition of BMX track,
 - ii. expansion of the existing (natural turf) playing field
 - iii. expansion of the Northern car park (Lonsdale Road end) to meet current site requirements
 - iv. redevelopment of the netball facility including two extra courts.
 - b. Stage Two (estimated cost of \$[REDACTED] GST exclusive);
 - i. new oval clubhouse,
 - ii. realignment of the upper oval,
 - iii. ancillary works including play spaces, fitness stations, wayfinding, landscaping and entrance signage.
 - iv. possible side carpark
5. Endorses Administration to prepare a s48 Prudential Report and detailed design and fees for Stage 1, of up to \$[REDACTED] GST exclusive to be funded from savings identified through the first budget review.
6. Endorses Administration to seek external funding opportunities for Stage 1.
7. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report *Cove Sports and Community Club Feasibility Study and Business Case* (excluding attachments) and the minutes to the report be released subject to the financial figures being redacted. Any attachments to this report having been considered in confidence under Section 90(2) and (3)(b) (i) and (ii) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2021.

Carried Unanimously

9.06pm the meeting came out of confidence

18.3 Cover Report - Sports Lighting Project LRCIP Funded

Report Reference GC210914F18.3

Moved Councillor Matthew Shilling

Seconded Maggie Duncan

That pursuant to Section 90(2) and (3)(b), (i) and (ii) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Chief Executive Officer, General Manager City Development, General Manager Corporate Services, General Manager City Services, Chief Financial Officer, Manager Office of the Chief Executive, Manager City Property, Unit Manager Sport and Recreational Community Facilities, Communications Advisor, Unit Manager Governance and Council Support, and Governance Officer, be excluded from the meeting as the Council receives and considers information relating to Sports Lighting Project LRCIP Funded, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to options and costs of the sports lighting project.

Carried Unanimously

GC210914 - General Council Meeting - 14 September 2021



9.06pm the meeting went into confidence

Moved Councillor Raelene Telfer

Seconded Councillor Luke Hutchinson

That Council:

1. Notes the existing project funding allocation of \$869,400 consisting of \$774,616 from round 2 of the Local Roads and Community Infrastructure Program (LRCIP), and \$94,784 allocated in Councils 2021-22 budget.

2. Endorses Option 1 - Proceed with all four sites:

The four sports sites lighting upgrades being completed (Glandore Oval, Marion Oval, Marion RSL Bowling Club, Marion Tennis Club) with \$257,250 additional funding allocated from the Local Roads and Community Infrastructure Program (LRCIP) Round 3 to provide a total budget allocation of \$1,126,650.

3. In accordance with Section 91(7) and (9) of the *Local Government Act 1999* the Council orders that Attachment 18.3.1 to the report, *Sports Lighting Project LRCIP Funded*, having been considered in confidence under Section 90(2) and (3) (b), (i) and (ii) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2021.

9.09pm Councillor Clancy left the meeting

9.12pm Councillor Clancy re-entered the meeting

Carried Unanimously

9.15pm the meeting came out of confidence

18.4 Cover Report - Code of Conduct

Report Reference GC210914F18.4

Moved Councillor Matthew Shilling

Seconded Maggie Duncan

That pursuant to Section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Chief Executive Officer, Manager Office of the Chief Executive, Unit Manager Governance and Council Support and Governance Officer, be excluded from the meeting as the Council receives and considers information relating to Code of Conduct, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential, given the information relates to the conduct of Elected Members.

Carried Unanimously

9.15m the meeting went into confidence



MEETING EXTENSION

Moved Councillor Luke Hutchinson

Seconded Councillor Maggie Duncan

That the meeting be extended until the completion of the item

Carried

9.20pm meeting extended

PERSONAL EXPLANATION

Councillor Bruce Hull sought and was granted leave of the meeting to provide a personal explanation. Councillor Bruce Hull made the following comments:

- Like Councillor Crossland raised, he is unsure why this complaint has been brought and is not clear on the grounds of the complaint or alleged breach
- He referred to a document sent to the Chief Executive and all Council Members that indicated he had not contacted the media, but rather they had contacted him.
- He didn't wish to say anything further beyond what was in the document

CONFLICT OF INTEREST

Councillor Bruce Hull declared an actual conflict of interest in the item as he was the subject of the Code of Conduct complaint and will leave the meeting for the item.

9.22 pm Councillor Hull left the meeting and did not return

Moved Councillor Luke Hutchinson

Seconded Councillor Joseph Masika

That Council :

1. Notes that Administration informed council of the prosecution of the former employee contrary to recent public statements and that administration are not obliged to inform elected members of the prosecution outcome (pursuant to the **Local Government Act 1999**) of the terminated employee (which was publicly available knowledge)
2. Resolves that Councillor Hull in his behaviour and commentary to the media has breached the Code of Conduct, under Part 2:
 - *Section 2.2, Act in a way that generates community trust and confidence in the Council*
3. Censures Councillor Hull in relation to this incident and requests a written public apology from Councillor Hull

Carried

The Mayor called a division

Those For: Councillors Mason, Veliskou, Masika, Clancy, Prior, Telfer, Hutchinson and Duncan

Those Against: Councillors Shilling, Gard and Crossland

Carried



10:02pm the meeting came out of confidence

19 Other Business

20 Meeting Closure

The meeting was declared closed at 10:02pm

CONFIRMED THIS 12th DAY OF OCTOBER 2021

CHAIRPERSON



**Minutes of the Special General Council Meeting
held on Tuesday, 28 September 2021 at 6.30 pm
Council Chamber, Council Administration Centre
245 Sturt Road, Sturt**





PRESENT

His Worship the Mayor Kris Hanna
 Councillor Ian Crossland
 Councillor Maggie Duncan
 Councillor Raelene Telfer
 Councillor Bruce Hull
 Councillor Kendra Clancy
 Councillor Sasha Mason

Councillor Tim Gard
 Councillor Matthew Shilling
 Councillor Luke Hutchinson
 Councillor Nathan Prior
 Councillor Jason Veliskou
 Councillor Joseph Masika (electronically)

In Attendance

Chief Executive Officer - Tony Harrison
 General Manager City Development - Ilia Houridis
 Manager Office of the CEO - Kate McKenzie
 Governance Officer - Angela Porter

1 Open Meeting

The Mayor opened the meeting at 6.30pm.

2 Kaurna Acknowledgement

We acknowledge the Kaurna people, the traditional custodians of this land and pay our respects to their elders past and present.

3 Disclosure

All persons in attendance are advised that the audio of this General Council meeting will be recorded and will be made available on the City of Marion website.

4 Elected Member Declaration of Interest (if any)

The Chair asked if any member wished to disclose an interest in relation to any item being considered at the meeting.

Nil interests were disclosed.

5 Corporate Reports for Decision

5.1 Glenthorne National Park City Wide Attraction

Report Reference SGC210928R5.1

Moved – Councillor Matthew Shilling

Seconded – Councillor Ian Crossland

That Council:

1. Endorses the final design prior for the Department of Environment and Water to call tenders for construction.



2. Approves release the \$1.0M second and final installment of the grant in line with the Grant Funding Agreement, on receipt of a tax invoice from the Department of Environment and Water.
3. Note that Administration will monitor the project in line with the Grant Funding Agreement.
4. Write to the Minister for Environment and Water, to inform the Minister of Council's resolution.

Carried Unanimously

5.2 Glandore Oval - Rose Garden

Report Reference SGC210928R5.2

Moved – Councillor Sasha Mason

Seconded – Councillor Joseph Masika

That Council:

1. Endorses Option B as the preferred design for the rose garden and open space area and authorises the project to commence.

Procedural Motion

Moved – Councillor Bruce Hull

Seconded – Councillor Ian Crossland

That the item *Glandore Oval – Rose Garden* be adjourned until the next General Council meeting to be held on 12 October 2021.

Lost

7.33pm Councillor Gard left the meeting

7.34pm Councillor Gard re-entered the meeting

The original motion was **Carried**

5.3 Code of Conduct

Report Reference SGC210928R5.3

7.35pm Councillor Clancy left the meeting

7.36pm Councillor Clancy re-entered the meeting

Procedural Motion

Moved – Councillor Ian Crossland

Seconded – Councillor Jason Veliskou

That this item be deferred until after a foreshadowed rescission motion has been considered at the General Council meeting to be held on 12 October 2021.

SGC210928 - Special General Council Meeting - 28 September 2021



Conflict of Interest

Councillor Bruce Hull declared an actual conflict of interest in the item *Code of Conduct* as he was the subject of the Code of Conduct complaint and will leave the meeting for the item.

7.38pm Councillor Hull left the meeting

Carried

7.39pm Councillor Hull re-entered the meeting

5.4 SWBMX and Cove Soccer Facilities – Community Land Management Plan

Report Reference SGC210928R5.4

Moved – Councillor Ian Crossland

Seconded – Councillor Matthew Shilling

That Council:

1. In accordance with the provisions of Section 193 (4) (a) of the Local Government Act Resolves to exclude from classification as Community Land the Portions of Allotment 6 in Deposited Plan 25441 comprised in Crown Records Volume 6238 Folio 732, Volume 6238 Folio 733, Volume 6238 Folio 738 situated at Majors Road, being land to be Leased from the Minister of Environment and Water in Glenthorne National Park for a BMX and a Soccer facility.
2. Places a notice in the South Australian Government Gazette, and the Advertiser Newspaper to give effect to Item 1 above.
3. Following the publication of the notice in the South Australian Government Gazette, authorises the Mayor and Chief Executive Officer to attest to the affixation of the Common Seal of the City of Marion to the Lease agreements between Council and the Minister for Environment and Water for the BMX and Soccer facilities situated at Glenthorne National Park being the Portions of Crown Records Volume 6238 Folio 732, Volume 6238 Folio 733, Volume 6238 Folio 738 situated at Majors Road.

Carried Unanimously

5.5 Appointment of Deputy Mayor

Report Reference SGC210928R5.5

Conflict of Interest

Councillor Luke Hutchinson declared a material conflict of interest in the item *Appointment of Deputy Mayor* as he is nominated for the position and will leave the meeting for the item.

7.50pm Councillor Hutchinson left the meeting



Moved – Councillor Matthew Shilling

Seconded – Councillor Maggie Duncan

That Council:

1. Appoints Councillor Hutchinson as the Deputy Mayor from 20 November 2021 until 11 November 2022.

Carried

7.51pm Councillor Hutchinson re-entered the meeting

Order of Agenda Items

The Mayor sought and was granted leave of meeting to consider the item *Appointment of Date, Time and Place of Council Meetings for 2022* next on the agenda.

5.7 Appointment of Date, Time and Place of Council Meetings for 2022

Report Reference SGC210928R5.7

Moved – Councillor Luke Hutchinson

Seconded – Councillor Maggie Duncan

That Council:

1. Adopts the following meeting cycle to facilitate open, responsive and accountable government as well as the timely conduct of Council's business:
 - General Council Meeting to be held Tuesday 25 January 2022
 - General Council Meetings to be held on the 2nd and 4th Tuesday of the month in February, March, May, June and August and November
 - General Council Meetings to be held on the 4th Tuesday of the month in July and October
 - General Council Meetings to be held on the 2nd Tuesday of the month in April, September and December.
2. Adopts that the Planning and Development Committee meets on the first Tuesday of the month in March, May, July, September and November.
3. Adopts that the Asset and Sustainability Committee meets on the first Tuesday of the month in February, April, June, August and October.
4. Adopts the schedule of meeting dates for 2022 as provided at Appendix 1 to the report.



5. Notes the proposed dates for Elected Member Forum (informal gatherings) provided in Appendix 1 to the report.
6. Publishes the Schedule of Meetings for 2022 on the City of Marion Website

Carried Unanimously

5.6 Elected Member Representatives for various positions 2021-2022

Report Reference SGC210928R5.6

Councillor Crossland declared a material conflict of interest in the item *Elected Member Representatives for various positions 2021-2022* as he is nominated for the position of Presiding Member of the Asset and Sustainability Committee and will leave the meeting for the item.

Councillor Clancy declared a material conflict of interest in the item *Elected Member Representatives for various positions 2021-2022* as she is nominated for the position of Presiding Member of the Planning and Development Committee and will leave the meeting for the item.

7.59pm Councillor Ian Crossland left the meeting

7.59pm Councillor Kendra Clancy left the meeting

Moved – Councillor Sasha Mason

Seconded – Councillor Raelene Telfer

That Council:

1. Appoints Councillor Sasha Mason, Councillor Raelene Telfer, Councillor Joseph Masika, Councillor Jason Veliskou, Councillor Luke Hutchinson to the Planning and Development Committee for a term commencing on 1 December 2021 and concluding on 11 November 2022.
2. Appoints Councillor Kendra Clancy as the Presiding Member of the Planning and Development Committee for a term commencing on 1 December 2021 and concluding on 11 November 2022.
3. Appoints Councillor Nathan Prior, Councillor Bruce Hull, Councillor Tim Gard to the Asset and Sustainability Committee for a term commencing on 1 December 2021 and concluding on 11 November 2022.
4. Appoints Councillor Ian Crossland as the Presiding Member of the Asset and Sustainability Committee for a term 1 December 2021 and concluding on 11 November 2022.
5. Appoints Councillor Maggie Duncan to the Finance and Audit Committee for a term commencing on 1 December 2021 and concluding on 11 November 2022.
6. Appoints Councillor Matthew Shilling and Councillor Maggie Duncan to the Review and Selection Committee for a term commencing on 1 December 2021 and concluding on 11 November 2022.

Carried Unanimously

7.59pm Councillor Clancy re-entered the meeting

7.59pm Councillor Crossland re-entered the meeting

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6 Motions With Notice

6.1 Retrieval of Matter Lying on the Table Funding support for District Council of Loxton Waikerie Litigation

Report Reference SGC210928R6.1

Moved – Councillor Kendra Clancy

Seconded – Councillor Maggie Duncan

That the matter lying on the table regarding funding support for District Council of Loxton Waikerie litigation be brought to the Special General Council Meeting on 28 September 2021 for resolution.

Carried

Moved – Councillor Kendra Clancy

Seconded – Councillor Tim Gard

That Council:

1. Declines the request, without prejudice, to support \$1,188.28 to the LGA for the District Council of Loxton Waikerie litigation and authorises that a letter be sent by the Chief Executive Officer advising them of the decision.

Carried Unanimously

7 Motions Without Notice

8 Questions Without Notice

9 Other Business

10 Meeting Closure

Council shall conclude on or before 9.30pm unless there is a specific motion adopted at the meeting to continue beyond that time.

The meeting was declared closed at 8.11 pm.

CONFIRMED THIS 12TH DAY OF OCTOBER 2021

CHAIRPERSON

SGC210928 - Special General Council Meeting - 28 September 2021

6 Communications - Nil**7 Adjourned Items****7.1 Code of Conduct**

Report Reference	GC211012R7.1
Originating Officer	Manager Office of the Chief Executive – Kate McKenzie
Corporate Manager	N/A
General Manager	Chief Executive Officer - Tony Harrison

REPORT OBJECTIVE

The item '*Code of Conduct*', GC210928R5.3 (attachment 1) was deferred at the 28 September 2021 Special General Council meeting until after a foreshadowed rescission motion has been considered at the General Council meeting to be held on 12 October 2021.

In accordance with the *Local Government (Procedures at Meetings) Regulations*, the debate on an adjourned item will resume and continue at the point it was adjourned.

The current motion is as follows:

Procedural Motion

Moved – Councillor Ian Crossland

Seconded – Councillor Jason Veliskou

That this item be deferred until after a foreshadowed rescission motion has been considered at the General Council meeting to be held on 12 October 2021.

In accordance with the *Local Government (Procedures at Meetings) Regulations*, the debate on an adjourned item will resume and continue at the point it was adjourned. The motion for this item is yet to be Moved or Seconded. The current recommendation is printed below.

RECOMMENDATION**That Council:**

1. **Notes that Councillor Hull has not enacted the Council resolution of 14 September 2021 and had indicated that he is not apologising.**
2. **Requests that Councillor Hull enact the Council resolution by 5pm Friday, 15 October 2021.**
3. **If Councillor Hull does not enact the resolution during this period, the matter is referred to the Ombudsman in accordance with the requirements of the Code of Conduct and section 263 of the Local Government Act 1999.**

ATTACHMENTS

1. SGC210928R5.3 - Code of Conduct - Report and Attachments [7.1.1 - 11 pages]



5.3 Code of Conduct

Report Reference	SGC210928R5.3
Originating Officer	Manager Office of the Chief Executive – Kate McKenzie
Corporate Manager	N/A
General Manager	Chief Executive Officer - Tony Harrison

REPORT OBJECTIVE

For Council to consider the next steps for the Code of Conduct matter relating to Councillor Hull.

EXECUTIVE SUMMARY

On the 14th of September 2021, Council considered a report on a Code of Conduct matter relating to the behaviour of Councillor Hull. The Code related to statements provided to the media by Councillor Hull on the termination of a former employee and the lack of information provided to Council Members in a timely manner of the situation. After consideration of the matter, the Council resolved:

That Council:

1. Notes that Administration informed council of the prosecution of the former employee contrary to recent public statements and that administration are not obliged to inform elected members of the prosecution outcome (pursuant to the Local Government Act 1999) of the terminated employee (which was publicly available knowledge).
2. Resolves that Councillor Hull in his behaviour and commentary to the media has breached the Code of Conduct, under Part 2: Section 2.2, Act in a way that generates community trust and confidence in the Council.
3. Censures Councillor Hull in relation to this incident and requests a written public apology from Councillor Hull.

Councillor Hull was informed of the outcome of the matter via email on Wednesday, 15th September 2021 (see **Attachment 1**).

Following this, Councillor Hull informed the Council via email on the 15th of September 2021 that he would not be implementing the Council resolution (see **Attachment 2**). A further statement to the media (see **Attachment 3**) was also printed on Saturday, 18th September 2021

In accordance with the Council Member Code of Conduct (see **Attachment 4**), part 3 relates to misconduct and in particular part 3.17 and 3.18 as identified below:

Repeated or sustained breaches of Part 2

- 3.17 At the discretion of the Council to which the member is elected, repeated, or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.
- 3.18 A failure to comply with a finding of inappropriate behaviour (by the Council, independent investigator, or Ombudsman) under Part 2 is also grounds for a complaint under this Part.

The Code states that any person may report an alleged breach of this Part to the Council, the Ombudsman, the Electoral Commissioner (for alleged breaches of Code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to a Council or to the Office for Public Integrity may be

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referred to the Ombudsman for investigation under Section 263 of the Local Government Act 1999, by the Council's Chief Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

RECOMMENDATION

That Council:

1. **Notes that Councillor Hull has not enacted the Council resolution of 14 September 2021 and had indicated that he is not apologising.**
2. **Requests that Councillor Hull enact the Council resolution by 5pm Friday, 15 October 2021.**
3. **If Councillor Hull does not enact the resolution during this period, the matter is referred to the Ombudsman in accordance with the requirements of the Code of Conduct and section 263 of the Local Government Act 1999.**

ATTACHMENTS

1. Attachment 1 - Notification to Councillor Hull 15 September 2021 [**5.3.1** - 2 pages]
2. Attachment 2 - Councillor Hull email 15 September 2021 [**5.3.2** - 1 page]
3. Attachment 3 - Media article 18 September 2021 [**5.3.3** - 1 page]
4. Attachment 4 - Code of Conduct for Council Members [**5.3.4** - 5 pages]

Kate McKenzie

From: Kris Hanna
Sent: Wednesday, 15 September 2021 10:36 AM
To: Bruce Hull
Cc: Kate McKenzie
Subject: Code of Conduct

Good morning Bruce

Please find attached a copy of the draft minutes for the Code of Conduct.

Under the requirements of the procedure, I am required to inform you of the outcome.

Yours faithfully

Kris

PERSONAL EXPLANATION

Councillor Bruce Hull sought and was granted leave of the meeting to provide a personal explanation. Councillor Bruce Hull made the following comments:

- Like Councillor Crossland raised, he is unsure why this complaint has been brought and is not clear on the grounds of the complaint or alleged breach
- He referred to a document sent to the Chief Executive and all Council Members that indicated he had not contacted the media, but rather they had contacted him.
- He didn't wish to say anything further beyond what was in the document

CONFLICT OF INTEREST

Councillor Bruce Hull declared an actual conflict of interest in the item as he was the subject of the Code of Conduct complaint and will leave the meeting for the item.

9.22 pm Councillor Hull left the meeting and did not return

Moved Councillor Luke Hutchinson

Seconded Councillor Joseph Masika

That Council :

1. Notes that Administration informed council of the prosecution of the former employee contrary to recent public statements and that administration are not obliged to inform elected members of the prosecution outcome (pursuant to the ***Local Government Act 1999***) of the terminated employee (which was publicly available knowledge)
2. Resolves that Councillor Hull in his behaviour and commentary to the media has breached the Code of Conduct, under Part 2:
 - *Section 2.2, Act in a way that generates community trust and confidence in the Council*
3. Censures Councillor Hull in relation to this incident and requests a written public apology from Councillor Hull

Carried

The Mayor called a division

Those For: Councillors Mason, Veliskou, Masika, Clancy, Prior, Telfer, Hutchinson and Duncan

Those Against: Councillors Shilling, Gard and Crossland

Carried

Kris Hanna
Mayor | City of Marion
T: 08 8375 6611 | PO Box 21 Oaklands Park SA 5046

Attachment – Councillor Hull email

Kate McKenzie

From: Bruce Hull
Sent: Wednesday, 15 September 2021 4:08 PM
To: Kris Hanna; Kate McKenzie; Tony Harrison
Cc: Council Members
Subject: Censure and apology

Good afternoon Kris,

Thank you for the advice in regards to the Code of Conduct matter last night . I wish to inform you that I will not be apologising for simply asking a question of the administration in relation to the outcome of an ICAC investigation, a matter of significant public interest. As you know I gave you as Mayor and the administration reasonable opportunity to formally brief the Council about the outcome of the O'Hanlon investigation and other matters relating to this former Unit Manager, prior to me taking the step to lodge my Question on Notice.

Could you please advise the Council that I will not be apologising and that I do not accept the basis of this censure. It is my view that in regards to this matter, I have done nothing wrong.

Kind regards

Bruce

Attachment – Media article – 18 September 2021

30 NEWS

SATURDAY SEPTEMBER 18 2021 ADVERTISER.COM.AU

Are you sorry? Hull, no



IT appears it doesn't pay to ask the hard questions if you are a Marion city councillor. Just ask long-term elected member **Bruce Hull**.

He has been ordered to apologise for publicly asking what happened to a former senior manager arrested for forging letters from sporting clubs to support a liquor licence for a community facility.

According to Mayor **Kris Hanna**, Cr Hull had brought the council into disrepute by questioning why elected members had not been told **James O'Hanlon** had pleaded guilty to falsifying documents and received a good behaviour bond.

Mr Hanna told a council meeting last month that Cr Hull had contacted an Advertiser journalist about the matter and deserved to have a code of conduct complaint lodged against him. Elected members voted 8-3 behind closed doors on Tuesday to censure Cr Hull and order him to apologise.

This was despite the journalist sending a letter to them, explaining Mr Hanna had got it wrong and he was the one who had contacted Cr Hull, not the other way around.

Cr Hull is understandably a bit miffed, arguing he had done nothing improper by asking for an update on Mr O'Hanlon, who has since moved on to another job at SA Health. As far as Cr Hull is concerned, he was only doing what councillors are meant to do and that is to ask questions on behalf of their communities. He has no immediate plans to say sorry.

DOOR KNOCKING

FORMER Director of Public Prosecutions **Stephen Pallaras** QC confirmed this week he was running for state politics.

Turns out Mr Pallaras, pictured, knocked on a few doors before deciding to stand as an independent, including the Labor Party and SA Best.

Mr Pallaras has been talking about entering the political arena for a while, trying to lift his profile with regular letters to the editor and chats with talk-back radio presenters.

He didn't bother approaching the Liberal Party, having used his missives to regularly criticise its performance.

Mr Pallaras was appointed by Labor as the state's chief prosecutor in 2005 by former premier Mike Rann, who hailed him as an "Elliott Ness who loves to lock up the bad guys".

He ended up being unceremoniously dumped by Labor



following regular public dust-ups. Contacted this week, Mr Pallaras said he remained mystified about "how I went from being Elliott Ness to Al Capone in 24 hours".

Perhaps he should have a chat to someone from Labor. They will set him straight.

HEAD HUNTER

THE long-serving media manager for the Local Government Association, **Darren Hunter**, is following the organisation's former chief executive, **Matt Pinnegar**, to Canberra.

Mr Pinnegar approached Mr Hunter, who has looked after the LGA's communications for the past five years, soon after he became chief executive of the Australian Local Government Association two months ago.

Another departure from the LGA is Mr Pinnegar's former deputy, **Lisa Teburea**, pictured, who acted in the CEO role until **Clinton Jury** was appointed.

In other communications moves, **Craig Clarke** has left Marion Council after a long stint running its media unit, while former high-profile police media spokeswoman **Shelley Boothey** recently became the communi-



cations director for the Human Services Department.

CLEANING UP

FORMER Adelaide lawyer-turned-waste company founder-turned-tech entrepreneur **Jordan Walsh**, pictured, has ticked off another big milestone, raising \$10m from some of Australia's highest-profile investors to back his events company, Delegate Connect.

Mr Walsh, now based in Melbourne, turned his back on the legal profession when his cleaning company, Adelaide Green Clean, started to take off. The company was named the 2016 Telstra South Australian Business of the Year, with Mr Walsh later selling it and putting his efforts into Delegate Connect.

This week he announced that venture capital firm Airtree Ventures led an investment round putting money into his company, with Atlassian co-founder **Scott Farquhar** also tipping in some funds.

The founders of some of Australia's top start-ups, including **Alex Zaccaria**, of LinkTree, and **Andrew Barnes**, of Gol, also invested.



Marion Mayor Kris Hanna has taken a councillor to task for asking about a council manager arrested for forgery.

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THE SOUTH AUSTRALIAN GOVERNMENT GAZETTE

CODE OF CONDUCT FOR COUNCIL MEMBERS*Local Government Act 1999: Section 63 (1)*

NOTICE under Clause 3.10 of the Code of Conduct for Council Members published by the Minister for Planning for the purposes of Section 63 (1) of the Local Government Act 1999.

For the purposes of Clause 3.10 of the Code of Conduct for Council Members adopted for the purposes of Section 63 (1) of the Local Government Act 1999 and published in the *Gazette* on the day on which this Notice is made, the value of \$100 is specified.

Dated 18 August 2013.

JOHN RAU, Deputy Premier, Minister for Planning

Code of Conduct for Council Members

*Published by the Minister for Planning for the purposes of Section 63 (1) of the
Local Government Act 1999.*

This Code of Conduct is to be observed by all Council members.

Council members must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of Council members to ensure that they are familiar with, and comply with, the standards in the Code at all times.

PART 1—PRINCIPLES**1. Higher principles—Overarching Statement**

This part does not constitute separate enforceable standards of conduct.

Council members in South Australia have a commitment to serve the best interests of the people within the community they represent and to discharge their duties conscientiously, to the best of their ability, and for public, not private, benefit at all times.

Council members will work together constructively as a Council and will uphold the values of honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local Government.

As representatives of open, responsive and accountable government, Council members are committed to considering all relevant information and opinions, giving each due weight, in line with the Council's community consultation obligations.

In the performance of their role, Council members will take account of the diverse current and future needs of the local community in decision-making, provide leadership and promote the interests of the Council.

Council members will make every endeavour to ensure that they have current knowledge of both statutory requirements and best practice relevant to their position. All Councils are expected to provide training and education opportunities that will assist members to meet their responsibilities under the Local Government Act 1999.

Council members will comply with all legislative requirements of their role and abide by this Code of Conduct.

PART 2—BEHAVIOURAL CODE**2. Behavioural Code**

In line with 'Part 1—Higher Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

This Part is for the management of the conduct of Council members that does not meet the reasonable community expectations of the conduct of Council members. It deals with conduct that does not, and is not likely to, constitute a breach of Part 3—Misconduct or criminal matters such as those contained in the Appendix to this document.

Robust debate within Councils that is conducted in a respectful manner is not a breach of this Part.

It is intended that each Council will adopt a process for the handling of alleged breaches of this Part. This process will be reviewed within 12 months of a general Local Government election.

Council members must:

General behaviour

- 2.1 Show commitment and discharge duties conscientiously.
- 2.2 Act in a way that generates community trust and confidence in the Council.

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- 2.3 Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.
- 2.4 Show respect for others if making comments publicly.
- 2.5 Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.

Responsibilities as a member of Council

- 2.6 Comply with all Council policies, codes and resolutions.
- 2.7 Deal with information received in their capacity as Council members in a responsible manner.
- 2.8 Endeavour to provide accurate information to the Council and to the public at all times.

Relationship with fellow Council Members

- 2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.
- 2.10 Not bully or harass other Council members.

Relationship with Council staff

- 2.11 Not bully or harass Council staff.
- 2.12 Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.
- 2.13 Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.
- 2.14 Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.

Requirement to report breach of Part 3

- 2.15 A Council member who is of the opinion that a breach of Part 3 of this Code (Misconduct)— has occurred, or is currently occurring, must report the breach to the Principal Member of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
- 2.16 A failure to report an alleged or suspected breach of Part 3 of this Code is in itself a breach under this Part (Behavioural Code).

Complaints

- 2.17 Any person may make a complaint about a Council member under the Behavioural Code.
- 2.18 Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.
- 2.19 A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.
- 2.20 A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.
- 2.21 A failure of a Council member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.
- 2.22 A failure of a Council member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.
- 2.23 Repeated or sustained breaches of this Part by the same Council member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 2.24 A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.

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Findings

- 2.25 If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council member is found, the Council may, by resolution:
- 2.25.1 Take no action;
 - 2.25.2 Pass a censure motion in respect of the Council member;
 - 2.25.3 Request a public apology, whether written or verbal;
 - 2.25.4 Request the Council member to attend training on the specific topic found to have been breached;
 - 2.25.5 Resolve to remove or suspend the Council member from a position within the Council (not including the member's elected position on Council);
 - 2.25.6 Request the member to repay monies to the Council.

PART 3—MISCONDUCT

3. Misconduct

Failure by a Council member to comply with this Part constitutes misconduct. The provisions within this Part may refer to statutory matters under the Local Government Act 1999. Any breach of these provisions will be investigated under that legislation.

Any person may report an alleged breach of this Part to the Council, the Ombudsman, the Electoral Commissioner (for alleged breaches of Code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to a Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation under Section 263 of the Local Government Act 1999, by the Council's Chief Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

A report from the Ombudsman that finds a Council member has breached this Part (Misconduct) of the Code of Conduct must be provided to a public meeting of the Council. The Council must pass resolutions, that give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

Member duties

Council members must:

- 3.1 Act honestly at all times in the performance and discharge of their official functions and duties;
- 3.2 Perform and discharge their official functions and duties with reasonable care and diligence at all times;
- 3.3 Not release or divulge information that the Council has ordered be kept confidential, or that the Council member should reasonably know is information that is confidential, including information that is considered by Council in confidence;
- 3.4 Not exercise or perform, or purport to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;
- 3.5 Not attempt to improperly direct a member of Council staff to act in their capacity as a Local Government employee for an unauthorised purpose;
- 3.6 Ensure that relationships with external parties cannot amount to interference by improper influence, affecting judgement, decisions and/or actions.

Gifts and benefits

- 3.7 Council members must not:
 - 3.7.1 Seek gifts or benefits of any kind;
 - 3.7.2 Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
 - 3.7.8 Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.
- 3.8 Notwithstanding Code 3.7, Council members may accept campaign donations as provided for in the Local Government (Elections) Act 1999.
- 3.9 Notwithstanding Code 3.7.3, Council members may accept hospitality provided in the context of performing their duties, including:

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3.9.1

Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:

3.9.1.2

Council work related events such as training, education sessions workshops and conferences;

3.9.1.3

Council functions or events;

3.9.1.4

Social functions organised by groups such as Council committees and community organisations.

3.9.2

Invitations to, and attendance at, local social, cultural or sporting events.

3.10

Where Council members receive a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time, details of each gift or benefit must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

Register of Interests

3.11

Council members must lodge with the Council a complete and accurate primary return of their interests, and subsequent ordinary returns, as required by legislation.

Campaign donation returns

3.12

Council members must ensure that following each election an accurate campaign donation return is provided to the Chief Executive Officer of the Council as required by legislation.

Conflict of interest

3.13

Council members must be committed to making decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the Local Government Act 1999.

Misuse of Council resources

3.14

Council members using Council resources must do so effectively and prudently.

3.15

Council members must not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate.

3.16

Council members must not use public funds or resources in a manner that is irregular or unauthorised.

Repeated or sustained breaches of Part 2

3.17

At the discretion of the Council to which the member is elected, repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.

3.18

A failure to comply with a finding of inappropriate behaviour (by the Council, independent investigator or Ombudsman) under Part 2 is also grounds for a complaint under this Part.

APPENDIX—CRIMINAL MATTERS

The matters within this Appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council members.

Alleged breaches of matters outlined in this Appendix should be reported to the Office for Public Integrity in the first instance.

Breaches of the Local Government Act 1999

Member duties

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (3)).

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (4)).

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Provision of false information

A member of a Council who submits a return under Chapter 5 Part 4 (Register of interest) and Schedule 3 of the Local Government Act 1999, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 69).

Restrictions on publication of information from Register of Interests

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice (Section 71).

Breaches of other Acts

Acting in his or her capacity as a public officer, a Council member shall not engage in conduct, whether within or outside the state, that constitutes corruption in public administration as defined by Section 5 of the Independent Commissioner Against Corruption Act 2012, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:

- bribery or corruption of public officers;
- threats or reprisals against public officers;
- abuse of public office;
- demanding or requiring benefit on basis of public office;
- offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the Criminal Law Consolidation Act 1935, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- aiding, abetting, counselling or procuring the commission of the offence;
- inducing, whether by threats or promises or otherwise, the commission of the offence;
- being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
- conspiring with others to effect the commission of the offence.

8 Deputations

8.1 Section 270 Review – De Laine Avenue - Deputation from Andrew Stasinowsky

Report Reference	GC211012D8.1
Originating Officer	Executive Assistant to the Mayor – Tom Matthews
Corporate Manager	Acting Manager Office of the Chief Executive – Sherie Walczak
General Manager	Chief Executive Officer – Tony Harrison

SPEAKER

Mr Andrew Stasinowsky

ORGANISATION

Resident

COMMENTS

Mr Stasinowsky has requested to make a deputation to Council regarding agenda item GC211012R11.2 - Section 270 Review – De Laine Avenue.

9 Petitions

9.1 Vehicle Parking and Access - Mitchell Street, Glengowrie

Report Reference	GC211012P9.1
Originating Officer	Manager Operations – Russell Troup
Corporate Manager	N/A
General Manager	General Manager City Services - Tony Lines

PETITION FROM

Kerry Saul

NUMBER OF SIGNATORIES

Forty-four (44) signatories

DATE PETITION RECEIVED

7 October 2022

CORRESPONDENCE

The petition of Kerry Saul draws the attention of the Council to the lack of practical on-street vehicle parking affecting traffic flow, road, safety and residents access in and out of their respective driveways.

We the Residents of Mitchell Street (West) submit this document detailing the comments received from residents in support of our Petition.

The petitioners therefore request that the Council construct the maximum number and most practical vehicle parking inserts/setbacks with “rolled”/”soft” gutters on either or both sides of Mitchell Street (West) including appropriate landscaping. Remove, reposition and replace affected trees of poor health with Manchurian pear trees.

Please read the following responses received from Mitchell St (West) residents. These comments and issues are from residents in Mitchell St (West) and one from Filmer St regarding the very serious parking and vehicle access problems that we have been experiencing for many years along Mitchell St (West).

These concerns relate to significant safety, traffic flow, parking, and vehicle access problems that we have been experiencing for many years along Mitchell St (West).

- 4 residents regularly have difficulties both driving safely into and getting out of their driveways. They have been dealing with the Marion Council on this issue for quite a length of time now. There is a history of minor collisions, which involved insurance claims, between parked cars and cars reversing from driveways.
- 2 other residents dealt with Jason Veliskou (our local councillor) and Mathew Alien (chief engineer at the council) as far back as 2015-2016 trying to solve the parking and access issues then. Resulting from these concerns raised, the Marion Council installed the 'don't park opposite other cars' signs along the street. These issues are far worse now than they were then. The issue has not been resolved.

- parking space in the cul-de-sac at the western end has been a major issue for a number of years. Residents have been forced into parking in inappropriate areas, meaning that they have been partially blocking access to driveways and making access around the cul-de-sac and along the street very challenging. As a result, there is no room for more vehicles if further subdivisions are allowed by the council.
- large trucks and delivery vehicles, including the Marion Council rubbish trucks often have problems gaining access to Mitchell St (West) due to the narrowness of the street and number of cars parked in the street.
- another resident said that their teenager has just got their P-plates and they want to buy a car for them/ but they are trying to work out where to park it. There is literally no space available.
- 3 other residents expressed the concern that there are several households along Mitchell St who have teenage children ready to drive and who will want cars soon, thus adding further complications to the already insufficient parking space in the street.
- word about this issue has passed onto residents on Filmer St who live close to Mitchell St (West). They are having similar parking and access issues on Filmer St because of the overflow of cars from Mitchell St (West) parking on Filmer St. The reason for this is the insufficient parking space in Mitchell St (West).
- 7 residents have asked to mention the very serious issue of the lack of access for emergency vehicles. There are 5 residents who are in their 80s and 90s as well as another resident who has serious ongoing medical issues and requires ambulance attendance from time to time, all of whom live at the cul-de-sac end of Mitchell St (West). This is not to mention fire engines, SES etc... At regular times during the day and night, access for even medium sized vehicles is not possible.
- 1 resident complained that they regularly cannot drive along Mitchell St (West) in their medium sized work vehicle because the cars are parked so closely together and take up too much of the road.
- another resident complained that in frustration they had to 'sit on their car horn one night coming home' to alert residents in the nearby houses that they couldn't get through and needed cars moved.
- a resident also said that they have had problems with tradespeople parking their vehicles incorrectly in the street during the day not allowing vehicle access along the street. When this resident had politely asked some of the workers if they could move their vehicles, they had received some aggressive responses along with abuse from some. These are not just tradespeople building new
- properties, but those called in to do regular maintenance work: electrical, plumbing etc....
- a young woman resident said that she often must park her vehicle quite a way from her property in Mitchell St (West) due to the limited parking space. She leaves for work between 4.40 and 5.15 in the morning and feels unsafe and uncomfortable having to walk quite a distance alone in the dark to get to her car. She wanted to emphasise the safety concerns related to this situation.
- another resident complained that he must back his medium sized work vehicle out along Mitchell St (West) to be able to get to work in the morning. There is no other possibility due to the lack of access and number of cars parked in such a narrow-confined street.

- a resident on Filmer Ave, whose driveway backs out into Mitchell St, is having to get a new driveway installed fronting Filmer St because she regularly cannot either get into or out of her driveway from Mitchell St (West).
- another resident has cracks in their driveway from very large vehicles having to use their driveway as a turning point. This resident has also found very large trucks parked in their driveway at different times while the driver delivers goods or conducts their business down the street. This is due, again, to the lack of parking space and access along Mitchell St.

ORIGINATING OFFICER COMMENTS

The petition raises several issues relating to the width and function of the road and wider corridor. Further investigation is required to understand the range and scope and complexity of the issues and implications of possible solutions. Under the circumstances, careful consideration will be required to balance and prioritise competing strategic objectives relating to transport function, operational activities, town planning, and environmental sustainability. This will require input from a range of Council departments.

Subject to Council resolution a report can be brought back to Council identifying issues and options.

RECOMMENDATION

That Council:

- 1. Notes the petition from Kerry Saul.**
- 2. Insert additional recommendations**
- 3. Advises the head petitioner/s of the resolutions of Council.**

ATTACHMENTS

1. Petition and Supporting Information [9.1.1 - 6 pages]



CITY OF MARION

PETITION

TO HIS WORSHIP THE MAYOR AND COUNCILLORS OF THE CITY OF MARION

Petition Contact Person: KERRY SAUL
 Telephone Number: 0403 671 704
 Address: 10 A MITCHELL STREET
GLENGOWRIE SA 5044
 Date Petition Initiated: 27/09/2021

The petition of (identify the individuals or group, eg residents of the City of Marion)

RESIDENTS OF MITCHELL STREET (WEST) GLENGOWRIE 5044.

draws the attention of the Council (identify the circumstances of the case)

LACK OF PRACTICAL ON-STREET VEHICLE PARKING AFFECTING
TRAFFIC FLOW, ROAD SAFETY, AND RESIDENT'S ACCESS
IN AND OUT OF THEIR RESPECTIVE DRIVENAYS.
(REFER TO ATTACHED DOCUMENT.)

The petitioners therefore request that the Council(outline the action that the Council should or should not take)

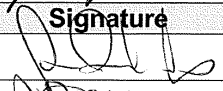
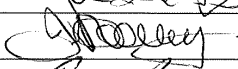
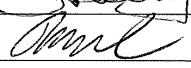
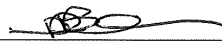
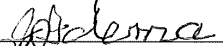
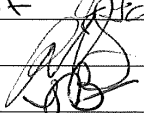


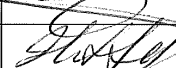
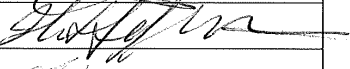

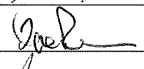

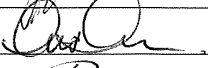
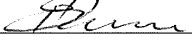
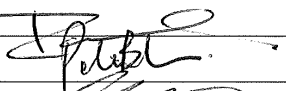
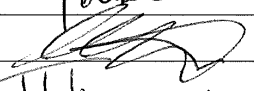
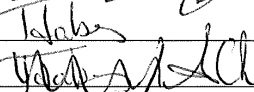
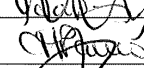
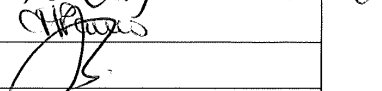
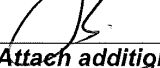
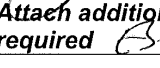

CONSTRUCT THE MAXIMUM NUMBER AND MOST PRACTICAL
VEHICLE PARKING INSERTS/SESBACKS WITH ROLLED "SOFT"
GUTTERS ON EITHER OR BOTH SIDES OF MITCHELL STREET (WEST)
INCLUDING APPROPRIATE LANDSCAPING. REMOVE, RE-REPOSITION
AND REPLACE AFFECTED TREES OF POOR HEALTH WITH MANCHURIAN
PEER TREES.

Name	Address	Signature
ROSALIND HARDY	U2. 1A MITCHELL	R Hardy
BILL MAHONEY	2 MITCHELL ST	B Mahoney
RHONDA MAHONEY	2 MITCHELL ST	R Mahoney
Des Fenuoghty	1/1A Mitchell st	D Fenuoghty
Kerry SAUL	10 A mitchell st	Kerry SAUL
Gwenne Saul	10 A Mitchell st	Gwenne Saul
Kyle Herrmann	8A Mitchell st	Kyle Herrmann

Please note this petition is a public document, by signing it, I understand that my name address and signature will be made available in the public realm. The City of Marion will record these details for the purpose of this petition only.

(Identify the details of the petition on each page)

Issues - lack of parking space affecting traffic flow, road safety and access in and out of driveways.
Request - parking inserts with rolled/soft gutters

Name	Address	Signature
GORDON RICHARDS	106 MITCHELL ST GLENHURK	
JACQUI HEANEY	106 MITCHELL ST	
JOSEF REZOK	13/1A MITCHELL ST	
Nikki Brammer	311A Mitchell St	
Rosemary C. Adams	6/1A Mitchell St.	B. Adams.
Jolic Idema	10/1A Mitchell St	
Ryan Smith	11/1A Mitchell St	
LISA BRITZU	11/1A Mitchell St	
Sarah Sezenicis	4 Mitchell Street	
GEORGE SEZENIAS	4 MITCHELL ST	
Heather Martens	5 Mitchell St	
Thomas Mitchell	5 Mitchell St.	
DAVID PEARCE	7 MITCHELL ST	
JULIE PEARCE	7 MITCHELL ST	
Melissa van Diermen	17 Mitchell St	
Timothy van Diermen	17 Mitchell St	
MATTHEW HOSINE	10 Mitchell St	M. Hosine
TREVOR RADZON	4/1A Mitchell St	
PETER BUSKE	6 MITCHELL ST	
Ashley Bartholomew	8 Mitchell St	
Toni Forbes	11 Mitchell St	
Andrew Chisholm	11 Mitchell St	
HELEN FAVES	11/2A MITCHELL ST	
JAYSON SUFFOLK	3/2 A MITCHELL ST	
Ewy Suffolk	3/2 A MITCHELL ST.	Attach additional sheets if required 

Please note this petition is a public document, by signing it, I understand that my name address and signature will be made available in the public realm. The City of Marion will record these details for the purpose of this petition only.

We the Residents of Mitchell Street (West) submit this document detailing the comments received from residents in support of our Petition.

Please read the following responses received from Mitchell St (West) residents. These comments and issues are from residents in Mitchell St (West) and one from Filmer St regarding the very serious parking and vehicle access problems that we have been experiencing for many years along Mitchell St (West).

These concerns relate to significant safety, traffic flow, parking, and vehicle access problems that we have been experiencing for many years along Mitchell St (West).

- ❖ 4 residents regularly have difficulties both driving safely into and getting out of their driveways. They have been dealing with the Marion Council on this issue for quite a length of time now. There is a history of minor collisions, which involved insurance claims, between parked cars and cars reversing from driveways.
- ❖ 2 other residents dealt with Jason Veliskou (our local councillor) and Mathew Allen (chief engineer at the council) as far back as 2015-2016 trying to solve the parking and access issues then. Resulting from these concerns raised, the Marion Council installed the 'don't park opposite other cars' signs along the street. These issues are far worse now than they were then. The issue has not been resolved.
- ❖ parking space in the cul-de-sac at the western end has been a major issue for a number of years. Residents have been forced into parking in inappropriate areas, meaning that they have been partially blocking access to driveways and making access around the cul-de-sac and along the street very challenging. As a result, there is no room for more vehicles if further subdivisions are allowed by the council.
- ❖ large trucks and delivery vehicles, including the Marion Council rubbish trucks often have problems gaining access to Mitchell St (West) due to the narrowness of the street and number of cars parked in the street.

- ❖ another resident said that their teenager has just got their P-plates and they want to buy a car for them, but they are trying to work out where to park it. There is literally no space available.
- ❖ 3 other residents expressed the concern that there are several households along Mitchell St who have teenage children ready to drive and who will want cars soon, thus adding further complications to the already insufficient parking space in the street.
- ❖ word about this issue has passed onto residents on Filmer St who live close to Mitchell St (West). They are having similar parking and access issues on Filmer St because of the overflow of cars from Mitchell St (West) parking on Filmer St. The reason for this is the insufficient parking space in Mitchell St (West).
- ❖ 7 residents have asked to mention the very serious issue of the lack of access for emergency vehicles. There are 5 residents who are in their 80s and 90s as well as another resident who has serious ongoing medical issues and requires ambulance attendance from time to time, all of whom live at the cul-de-sac end of Mitchell St (West). This is not to mention fire engines, SES etc... At regular times during the day and night, access for even medium sized vehicles is not possible.
- ❖ 1 resident complained that they regularly cannot drive along Mitchell St (West) in their medium sized work vehicle because the cars are parked so closely together and take up too much of the road.
- ❖ another resident complained that in frustration they had to 'sit on their car horn one night coming home' to alert residents in the nearby houses that they couldn't get through and needed cars moved.

- ❖ a resident also said that they have had problems with tradespeople parking their vehicles incorrectly in the street during the day not allowing vehicle access along the street. When this resident had politely asked some of the workers if they could move their vehicles, they had received some aggressive responses along with abuse from some. These are not just tradespeople building new properties, but those called in to do regular maintenance work: electrical, plumbing etc....

- ❖ a young woman resident said that she often must park her vehicle quite a way from her property in Mitchell St (West) due to the limited parking space. She leaves for work between 4.40 and 5.15 in the morning and feels unsafe and uncomfortable having to walk quite a distance alone in the dark to get to her car. She wanted to emphasise the safety concerns related to this situation.

- ❖ another resident complained that he must back his medium sized work vehicle out along Mitchell St (West) to be able to get to work in the morning. There is no other possibility due to the lack of access and number of cars parked in such a narrow-confined street.

- ❖ a resident on Filmer Ave, whose driveway backs out into Mitchell St, is having to get a new driveway installed fronting Filmer St because she regularly cannot either get into or out of her driveway from Mitchell St (West).

- ❖ another resident has cracks in their driveway from very large vehicles having to use their driveway as a turning point. This resident has also found very large trucks parked in their driveway at different times while the driver delivers goods or conducts their business down the street. This is due, again, to the lack of parking space and access along Mitchell St.

10 Committee Recommendations

10.1 Confirmation of the minutes for the Asset and Sustainability Committee meeting held on 7 September 2021

Report Reference	GC211012R10.1
Originating Officer	Executive Officer to the General Manager City Development – Louise Herdegen
Corporate Manager	N/A
General Manager	General Manager City Development - Ilia Houridis

REPORT OBJECTIVE

The purpose of this report is to facilitate the receiving and noting of the minutes of the Asset and Sustainability Committee meeting held on 7 September 2021.

EXECUTIVE SUMMARY

A summary of items considered by the Committee Members is noted below.

Presentation

- Preparing for a zero-carbon economy

Reports for Discussion

- Grant for Rainwater Tank Pilot Study
- Transport Plan

RECOMMENDATION

That Council:

1. **Receives and notes the minutes of the Asset and Sustainability Committee meeting held on 7 September 2021.**
2. **Notes that separate reports will be brought to Council for consideration of any recommendations from the Asset and Sustainability Committee.**

ATTACHMENTS

1. ASC210907 - Final Minutes [10.1.1 - 5 pages]



**Minutes of the Asset and Sustainability Committee
held on Tuesday, 7 September 2021 at 6.30 pm
Council Chamber, Council Administration Centre
245 Sturt Road, Sturt**





PRESENT

His Worship the Mayor Kris Hanna
 Councillor Matthew Shilling
 Councillor Bruce Hull
 Councillor Ian Crossland
 Councillor Nathan Prior

In Attendance

Councillor Raelene Telfer (via Zoom)
 Councillor Kendra Clancy (via Zoom)
 Chief Executive Officer - Tony Harrison
 General Manager City Services - Tony Lines
 General Manager City Development - Ilia Houridis
 Unit Manager Engineering – Carl Lundborg
 Unit Manager Environmental Sustainability – Ann Gibbons
 Water Resources Coordinator – Glynn Ricketts
 Executive Officer to the General Manager City Development – Louise Herdegen
 Mott MacDonald – Adam Kilsby, State Manager South Australia
 Mott MacDonald Digital Ventures – Alex Osti, Territory Lead, Australia

1 Open Meeting

The Chair opened the meeting at 6:33pm.

2 Kaurna Acknowledgement

We acknowledge the Kaurna people, the traditional custodians of this land and pay our respects to their elders past and present.

3 Elected Member Declaration of Interest

The Chair asked if any member wished to disclose an interest in relation to any item being considered at the meeting

Nil interests were disclosed.

4 Confirmation of Minutes

4.1 Confirmation of Minutes of the Asset and Sustainability Committee Meeting held on 1 June 2021

Report Reference ASC210907R4.1

Moved – Councillor Crossland

Seconded – Councillor Prior

That the minutes of the Asset and Sustainability Committee Meeting held on 1 June 2021 be taken as read and confirmed.

Carried Unanimously



5 Business Arising

5.1 Business Arising Statement - Action Items

Report Reference ASC210907R5.1

Moved - Councillor Crossland

Seconded - Councillor Prior

That the Asset and Sustainability Committee:

1. Notes the business arising statement, meeting schedule and upcoming items.

Carried Unanimously

6 Workshop / Presentation Items

6.1 Preparing for a zero-carbon economy

Report Reference ASC210907R6.1

A presentation was received from Mr Alex Osti and Mr Adam Kilsby from Mott MacDonald to provide an outline of the Carbon Portal tool that tracks and reports on carbon footprints, including embedded carbon, to assist with measuring whole of life carbon costs of assets. An opportunity to explore a partnership with the City of Marion to achieve positive outcomes across the community and South Australia.

Discussion points noted:

- Platform and tools are developed, maintained and funded through Mott MacDonald Digital Ventures.
- Being authentic to achieve real outcomes.
- Understand the options, to solve the problem in the most carbon effective solution with the information available.
- Designed as an evaluation tool to analyse the materials and carbon involved.
- City of Marion has been proactive in investing in trees, biodiversity and wetlands however, this hasn't lowered the carbon footprint legislatively. The type of tree species planted may be a factor.
- Important to have other lenses as to why you are doing it – balance offset carbon but doing it in a way that realises all the other considerations.
- Need to be informed about the tools we use balanced with cost and outcomes. City of Marion could be seen as a leader in this area, however further understanding and consideration required to determine benefits and relevance.

Action: Administration to follow up with Mott Mac Donald to initiate further discussion.

Moved – Mayor Hanna

Seconded - Councillor Prior

That the Asset & Sustainability Committee:

1. Notes the presentation.

Carried Unanimously

7 Confidential Items - Nil



8 Reports for Discussion

8.1 Grant for Rainwater Tank Pilot Study

Report Reference ASC210907R8.1

The Water Resources Coordinator joined the meeting and gave a presentation to outline a grant opportunity for the City of Marion to undertake a pilot study, in conjunction with the City of Holdfast Bay, to encourage residents in the Frederick Street Glengowrie catchment to plumb rainwater tanks to their houses to make use of the water and reduce stormwater runoff. The study will include data capture and analysis as part of the initial process. The grant is 50% funded by DEW (Green Adelaide) and 25% City of Holdfast Bay (both confirmed) and is subject to 25% funding by City of Marion.

Key discussion points noted:

- New Planning & Design Code effectively removed the ability to mandate rainwater tanks in new developments however onsite stormwater solutions are required.
- Pilot study would subsidise up to 40% of the costs for circa 20% of the dwellings to retrospectively install rainwater tanks to reduce an estimated 30% run-off from the catchment.
- The grant will fund data collection and analysis to support future decision making.
- Grant could be perceived as another cost shifting objective to local government.
- Advice was to be clear on objectives of pilot study and work toward objective.
- Stormwater Management Authority are looking at how to prevent large scale increases in stormwater. Investing in onsite, at source, options considered most effective.
- Joint benefits to reducing stormwater runoff.
- Investment in projects to improve practices on Council owned property preferred rather than private property. The majority of runoff is coming from private / infill.
- This grant will deliver an outcome that is tangible rather than a desktop model approach.
- There are a number of challenges to work through, however mindful over the next couple of decades the issue is only going to grow. This is a relatively inexpensive pilot to see if there is an alternative to pits and pipes.

Moved – Mayor Hanna

Seconded - Councillor Hull

That the Asset and Strategy Committee:

1. Supports the aspirations of the State Government and the Stormwater Management Authority to reduce rainwater runoff to the Gulf St Vincent.
2. Notes the recently implemented Planning & Design Code does not require rainwater tanks in all new residential developments.
3. Notes the purposes of this project are to satisfy City of Holdfast Bay corporate goals and to undertake a scientific experiment on a grand scale as to the effectiveness of rainwater tanks as a measure to reduce runoff of rainwater to the Gulf of St Vincent.
4. Notes the in-principle funding offer of up to \$130,000 for the Rainwater Tank Pilot Project.
5. Notes that the City of Marion will be the lead agency in this tripartite arrangement.
6. Notes that up to \$65,000 in City of Marion funding is required, secured during quarterly budget review process during the 2-year anticipated timeframe for this project.
7. Notes that the project and \$65,000 in funding is already supported with a City of Holdfast Bay funding commitment.

ASC210907 - Asset and Sustainability Committee - 7 September 2021



8. Supports the report to go to a General Council meeting for consideration.

Carried Unanimously

8.2 Transport Plan

Report Reference

ASC210907R8.2

The report was taken as read and the Unit Manager Engineering joined the meeting to respond to questions and comments from the Members.

The following discussion points were noted:

- Reaffirm commitment to consultation.
- Scooters good for mobility however concerned equipment left lying around which may lead to liability concerns.
- Adequate on street parking is necessary as this is important to the residents and community.
- Look for holistic parking solutions around destination sites ie schools.
- Deliver a footpath plan, with the intention to widen, in high priorities areas. Specific measurements not necessary.
- Continue to advocate for projects that improve transport linkage.

Moved - Councillor Crossland

Seconded - Councillor Prior

That the Asset and Sustainability Committee:

1. Notes the Community Engagement Feedback Report (Attachment 1 of the report).
2. Provided feedback and supports the Draft Transport Plan being presented to a General Council meeting for endorsement (Attachment 3 of the report).

Carried Unanimously

9 Reports for Noting - Nil

10 Other Business

11 Meeting Closure

The meeting was declared closed at 9:06 pm.

CONFIRMED THIS 5TH DAY OF OCTOBER 2021.

CHAIRPERSON

10.2 Confirmation of the minutes for the Special Review and Selection Committee meeting held on 21 September 2021

Report Reference	GC211012R10.2
Originating Officer	Manager People and Culture – Jessica Lynch
Corporate Manager	N/A
General Manager	Chief Executive Officer - Tony Harrison

REPORT OBJECTIVE

The purpose of this report is to facilitate the receiving and noting of the minutes of the Special Review and Selection Committee meeting held on 21 September 2021.

EXECUTIVE SUMMARY

A summary of items considered by the Committee Members is noted below.

Confidential Item

- Chief Executive Officer Probationary Review

RECOMMENDATION**That Council:**

1. **Receives and notes the minutes of the Special Review and Selection Committee meeting held on 21 September 2021.**
2. **Notes that separate reports will be brought to Council for consideration of any recommendations from the Review and Selection Committee.**

ATTACHMENTS

1. SRSC210921 - Final Minutes [**10.2.1** - 3 pages]



**Minutes of the Special Review and Selection Committee
held on Tuesday, 21 September 2021 at 5.30 pm
H1 and H2, City Services
935 Marion Road, Mitchell Park**



PRESENT

His Worship the Mayor Kris Hanna
 Councillor Tim Gard
 Councillor Maggie Duncan

In Attendance

Manager People and Culture – Jessica Lynch

1 Open Meeting

The Mayor opened the meeting at 5:27pm.

2 Kaurna Acknowledgement

We acknowledge the Kaurna people, the traditional custodians of this land and pay our respects to their elders past and present.

3 Elected Member Declaration of Interest (if any)

The Chair asked if any member wished to disclose an interest in relation to any item being considered at the meeting

Nil conflicts of interest disclosed.

4 Confirmation of Minutes

4.1 Confirmation of Minutes of the Special Review and Selection Committee Meeting held on 20 August 2021

Report Reference SRSC210921R4.1

Moved – Councillor Gard

Seconded – Councillor Duncan

That the minutes of the Special Review and Selection Committee Meeting held on 20 August 2021 be taken as read and confirmed.

Carried unanimously

5 Confidential Items

5.1 Cover Report - Chief Executive Officer Probationary Review

Report Reference SRSC210921F5.1

Moved – Councillor Gard

Seconded – Councillor Duncan

That pursuant to Section 90(2) and (3)(a) of the *Local Government Act 1999*, the Review and Selection Committee orders that all persons present, with the exception of the following persons:

SRSC210921 - Special Review and Selection Committee - 21 September 2021



3

Manager People and Culture be excluded from the meeting as the Council receives and considers information relating to Chief Executive Officer Probationary Review, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to personal affairs of the Chief Executive Officer.

Carried unanimously

5:28pm the meeting went into confidence.

Moved – Councillor Duncan

Seconded – Councillor Gard

In accordance with Section 91(7) and (9) of the *Local Government Act 1999*, the Review and Selection Committee orders that this report, Chief Executive Officer Probationary Review, any appendices and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(a) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential until the conclusion of the council meeting dealing with this review.

Carried unanimously

6:11pm the meeting came out of confidence.

6 Reports for Discussion - Nil

7 Reports for Noting - Nil

8 Workshop / Presentation Items - Nil

9 Other Business

10 Meeting Closure

The meeting was declared closed at 6:11pm.

CONFIRMED THIS 2ND DAY OF NOVEMBER 2021.

CHAIRPERSON

11 Corporate Reports for Decision

11.1 Rainwater Tank Funding Opportunity, Frederick Street Catchment

Report Reference	GC211012R11.1
Originating Officer	Water Resources Coordinator – Glynn Ricketts
Corporate Manager	Manager Engineering, Assets and Environment - Mathew Allen
General Manager	General Manager City Services - Tony Lines

REPORT OBJECTIVE

This report seeks support from Council, to accept a grant from the Department for Environment and Water to undertake a pilot study, in conjunction with the City of Holdfast Bay, on the benefits and costs of a proposed rebate scheme to encourage residents to install rainwater tanks.

REPORT HISTORY

Report Reference	Report Title
ASC210907R8.1	Grant for Rainwater Tank Pilot Study

EXECUTIVE SUMMARY

As part of the Government of South Australia's New Life for our Coastal Environment commitment, funding has been made available to invest in projects to limit damaging stormwater run-off containing sediment and pollutants from entering Gulf St Vincent.

The Cities of Holdfast Bay and Marion have previously investigated options to reduce stormwater runoff to the marine environment. Options investigated include permeable pavers, rain gardens and wetlands and incentives for residents to use rainwater tanks to increase stormwater reuse and reduce stormwater outflow. The use of plumbed rainwater tanks within private property was identified as a cost-effective solution to reduce stormwater discharge to the marine environment.

Consequently, the State Government (Department for Environment and Water, DEW) has proactively approached Council with an in-principle offer of funding for the Frederick Street, Glengowrie, catchment rainwater tank incentive pilot scheme. This project was identified as aligning the objectives of the New Life for our Coastal Environment commitment.

The project would be a tripartite arrangement between the State Government, City of Marion and City of Holdfast Bay (CoHB). CoHB approved matched funding required from DEW at their General Council meeting on 10 August 2021.

RECOMMENDATION

That Council:

1. Supports the aspirations of the State Government and the Stormwater Management Authority to reduce rainwater runoff to the Gulf St Vincent.
2. Notes that the recently implemented Planning & Design Code does not require rainwater tanks in all new residential developments over 4 dwellings.
3. Notes the in-principle funding offer from Department of Environment and Water of up to \$130,000 for the Rainwater Tank Pilot Project.

4. Notes that up to \$65,000 in City of Marion funding is required, secured during quarterly budget review process during year 1 and the annual budget and business plan process in year 2.
5. Notes that the project and \$65,000 in funding is already supported with a City of Holdfast Bay funding commitment.
6. Notes that the City of Marion will be the lead agency in this tripartite arrangement.
7. Notes that a Report on the project outcomes will be presented to Council on completion of the pilot project (March 2024).

GENERAL ANALYSIS

Council, in partnership with City of Holdfast Bay (CoHB) has been systematically implementing our joint Coastal Stormwater Management Plan. Consequently, we have jointly investigated water management options to reduce polluted stormwater flows to the Gulf St Vincent by up to 30%. To understand the optimum solutions to reduce stormwater flows to the Gulf, a consultant was engaged to identify and rank management solutions to recommend the best value solution. The report concluded that Rainwater Tanks provide the most economical method of helping to meet this target accepting that other methods, such as permeable surfaces, rain gardens and wetlands are continued to be deployed as part of existing civil and open space project delivery.

The pilot project involves encouraging residents in Frederick Street Glengowrie catchment to plumb rainwater tanks into their houses to use the water and reduce stormwater runoff to the street and ultimately to the marine environment. To encourage residents, a financial incentive is proposed to either plumb existing rainwater tanks (preferred) or purchase and plumb a new rainwater tank (less preferred). The pilot project is budgeted at \$260,000 with \$130,000 from the State Government and the balance of funds from the City of Marion and City of Holdfast Bay.

A water balance assessment for a variety of rainwater tank configurations and a financial analysis to inform the optimum quantum and structure for a rebate scheme was undertaken. If effective and installed across the whole of the two Council areas, installed rainwater tanks are expected to reduce total annual runoff volume by 15%.

An incentive scheme that provides the equivalent of a 40% rebate (could be more depending upon level of interest) to residents for connecting an existing rainwater tank (minimum 2,000 litres per 100 square metres connected roof area) and for new rainwater tank installations (minimum 2,500 litres per 150 square metres connected roof area) has been recommended. The scheme is primarily targeted at households with existing rainwater tanks, as optimisation of the usage of existing tanks was a more economical option per kilolitre of water harvested compared with new tank installations. The rebate would not be applied to new dwellings, and it is expected that these would install a plumbed rainwater tank as part of the new building (albeit the new planning code weakens the requirement to install a tank for new builds)..

Table 1 shows a summary of the costs associated with the recommended rebate scheme.

Table 1: Summary of costings for Rainwater Tank Incentive rebate pilot

Cost item	Frederick St PILOT
Door knocking	\$10,000
Administration	\$40,000
Monitoring and evaluation	\$106,600

Rebate - Tank + connection	\$36,800
Rebate - Connection only	\$66,600
Total	\$260,000

If the trial proves successful, the estimated cost of implementing the incentive scheme over the entire Council areas to achieve a 15% stormwater reduction is estimated to be around \$7.7M for Marion and \$3.5M for Holdfast Bay over at least 12 years. There is no commitment to expanding the project and this would be critically reviewed based on the success of the pilot.

The 'Frederick Street Catchment' located within City of Marion has been identified as a potential demonstration site for the rainwater tank uptake strategy. The catchment is 45 ha with approximately 650 homes (with ongoing examples of infill development occurring which is seeing a gradual increase in homes within the catchment boundary). Based on the estimated number of existing rainwater tanks for Adelaide, 200 homes are expected to have an existing rainwater tank installed, and 65 are expected to have existing rainwater tanks plumbed for indoor use. The catchment runoff flow and water quality in this catchment has been monitored and has been previously used as a case study for modelling on-site retention and detention options by the University of South Australia. Monitoring equipment is still in place to enable ongoing work within the catchment. Given the pilot scheme is within Marion, Marion will be the lead delivery agent.

The University of South Australia has modelled the expected flow reduction benefit associated with 20% of the households in the Frederick Street Catchment using their rainwater tanks for indoor and external use. An annual volume reduction of around 10% of total annual runoff is expected based on average daily demand for a 3-person home.

The Department for Environment and Water has offered Councils 50% of this funding, up to \$130,000 subject to both Councils providing the balance. The project including the monitoring phase is expected to take 2 years. 2021/22 costs will be covered through quarterly budget reviews, and 2022/23 costs will be included in the Annual Business Plan process.

It is recommended that to understand the benefits of proposing a rainwater tank rebate scheme across both Council areas that a pilot scheme is implemented and monitored in the Frederick Street catchment. The total cost of the pilot project is estimated at \$260,000 with up to \$130,000 provided by the Department for Environment and Water and the balance being equally provided by both the Cities of Marion and Holdfast Bay.

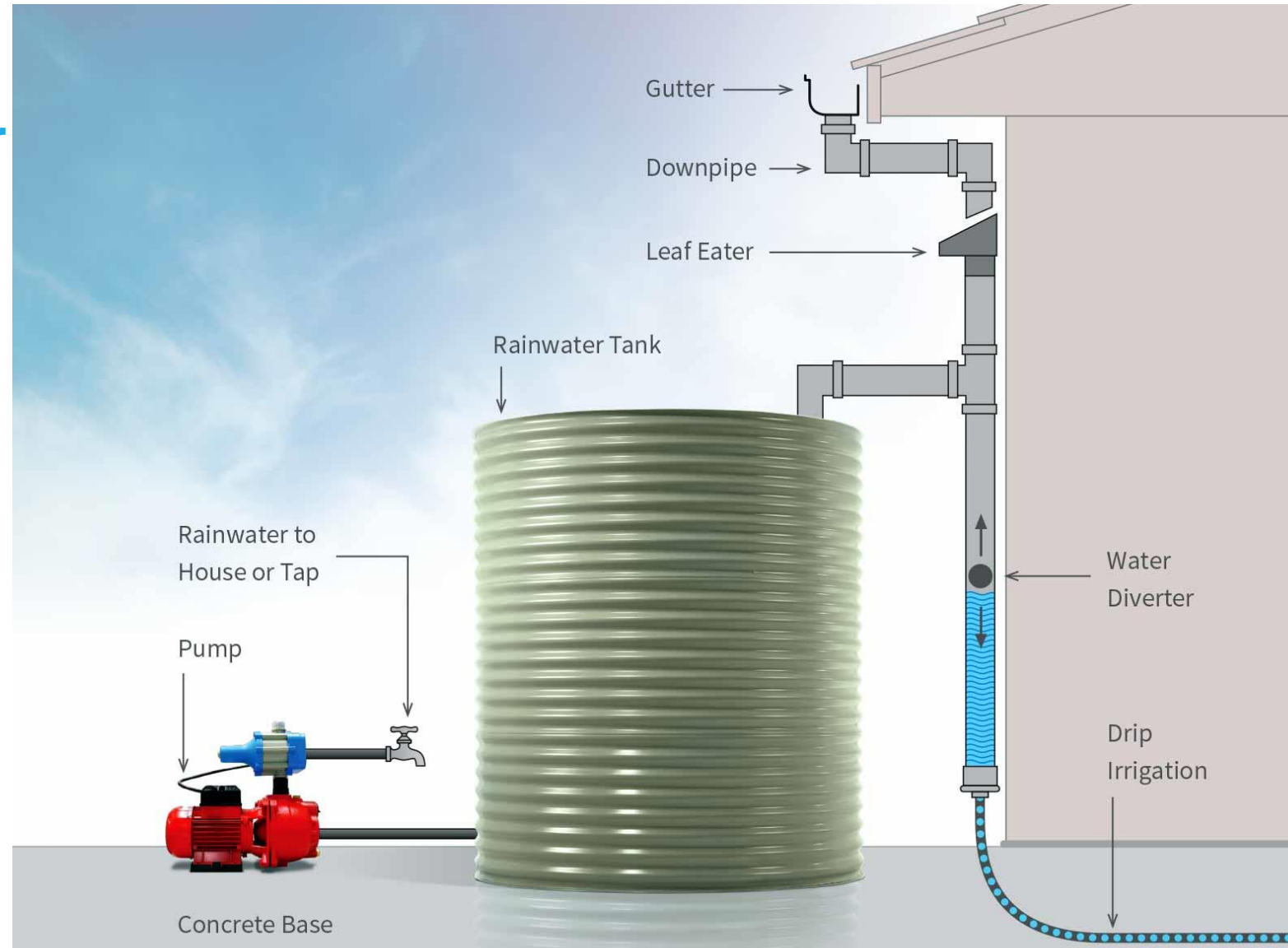
A detailed presentation on the pilot scheme was provided to the Asset and Sustainability Committee on the 7 September 2021. After some discussion and a thorough Q & A session the Committee supported the report to go to Council for endorsement. The key information from the presentation is attached to this report (Attachment 1).

ATTACHMENTS

1. Attachment 1 Rainwater Harvesting Pilot Project [11.1.1 - 4 pages]

Attachment 1

Rainwater Tanks Pilot Scheme



FREDRICK STREET CATCHMENT; 13.5% INCREASE IN IMPERVIOUS AREA. SINCE 1997





Stage 2 - Final Report

Rainwater Tank Incentive Scheme Optimisation

City of Holdfast Bay and City of Marion

28 June 2019

Cost item	Frederick St	City of Marion	City of Holdfast Bay
Doorknocking	10,000	307,692	138,462
Administration	40,000	1,230,769	553,846
Monitoring and evaluation	106,600	0	0
Rebate - Tank + connection	36,800	2,173,040	995,440
Rebate - Connection only	66,600	4,014,000	1,839,600
Total	260,000	7,725,501	3,527,348



11.2 Section 270 Review - De Laine Avenue

Report Reference	GC211012R11.2
Originating Officer	Manager Office of the Chief Executive – Kate McKenzie
Corporate Manager	N/A
General Manager	Chief Executive Officer - Tony Harrison

REPORT OBJECTIVE

The objective of this report is for Council to consider the outcomes of the section 270 review completed for De Laine Avenue, Edwardstown, Driveway link

REPORT HISTORY

Report Reference	Report Title
GC210525R10	Request for Review of Decision - De Laine Avenue - Driveway link (Section 270 Report)

EXECUTIVE SUMMARY

The City of Marion's Complaints and Grievance Policy provides a fair, consistent and structured process for stakeholders who are dissatisfied with an action, decision or service of the Council. Section 4, part 3 of the Policy outlines that, when a complaint cannot be resolved, an internal review (pursuant to section 270 of the Local Government Act 1999) may be requested.

The City of Marion received a request from a resident for an internal review of the decision to install a new driveway link on De Laine Avenue, Edwardstown and how this resolution of Council has been implemented. This request was considered by Council at its meeting of 25 May 2021 and Council resolved to appoint an independent investigator to undertake the Review of Decision.

That review is now complete and found that the Council had the power to make its decision to alter the driveway link, except for an aspect of that resolution which was not in conformance with the technical requirements. This unlawful aspect of the Council's decision was subsequently rectified by the decision of the administration. Council's decision (to the extent it was, or had been lawful) was reasonable, and the correct or preferable decision. The subsequent decision of the Council's administration was lawful and reasonable in the circumstances. However, it has been identified some deficiencies within that decision, and have determined that it was not necessarily the preferable approach to take. More particularly, the administration decided to amend the scope of the project and increase the budgeted funds. Whilst lawful and reasonable, the best and preferable approach (in these circumstances) was to report to Council on the deficiencies (i.e. technical non-conformance) of the decision, and have Council consider and make a lawful decision relating to the matter.

The review also notes that despite finding that the decision of Council's administration rectified the unlawful aspects of Council's decision, we acknowledge that the issues raised by the complainant associated with the driveway link have not been resolved, to the satisfaction of the complainant.

RECOMMENDATION

That Council:

- 1. Notes the recommendations of the report.**
- 2. Formally advises the complainant of the outcome of the section 270 review**

3. **Acknowledges that the identified decisions and processes could have been managed better, and in the future, attention should be given to appropriate rectification of these deficiencies.**
4. **Upholds and stands by its decisions with respect to the Driveway Link.**

or

Considers further noise testing and determines what avenues and options are available to assist the Complainant (if possible).

ATTACHMENTS

1. Final s270 Report - De Laine Avenue Driveway Link [**11.2.1** - 69 pages]



Local Government Act 1999 - s 270 review

Request for review of Council decision

—

Final Report

—

23 September 2021

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MinterEllison

ME_190711619_2



Local Government Act 1999 - s270 review

Request for review of Council decision

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Executive summary

1.1 Section 270 Process and Merit Review

Triggered by a community complaint and petition relating to the device, and after a series of decisions relating to the matter, the City of Marion (**Council**) resolved to alter an existing driveway link traffic control device so as to bring it in conformance with the applicable technical requirements. The Council's administration subsequently carried out the alterations in a different manner than resolved, including utilising different materials and at increased cost.

Pursuant to section 270 of the *Local Government Act 1999* (SA), an applicant has sought an internal review of the Council resolution to alter the device and the subsequent decision (by the administration) to make the alterations, not in accordance with the Council resolution.

We have undertaken the review and find that Council had the power to make its decision to alter the driveway link, except for an aspect of that resolution which was not in conformance with the technical requirements. This unlawful aspect of the Council's decision was subsequently rectified by the decision of the administration. Council's decision (to the extent it was, or had been lawful) was reasonable, and the correct or preferable decision.

The subsequent decision of the Council's administration was lawful and reasonable in the circumstances. However, we have identified some deficiencies within that decision, and have determined that it was not necessarily the preferable approach to take. More particularly, the administration decided to amend the scope of the project and increase the budgeted funds. Whilst lawful and reasonable, the best and preferable approach (in these circumstances) was to report to Council on the deficiencies (i.e. technical non-conformance) of the decision, and have Council consider and make a lawful decision relating to the matter.

1.2 General Procedural Review

Separately to the above section 270 review sought by the applicant, the Council has requested a broad review of the entirety of the decision-making with respect to the driveway link project, from a procedural perspective. We have conducted this assessment alongside the section 270 review, and have made various findings and recommendations. Council's request to require this review has been critical as we have found some procedural anomalies, and to the extent that they impact on the validity (and/or reasonableness) of other and key decisions, they are raised in the substance of this report for Council's attention.

1.3 Resolution of Complainant's Concerns

Despite finding that the decision of Council's administration rectified the unlawful aspects of Council's decision, we acknowledge that the issues raised by the complainant associated with the driveway link have not been resolved, to the satisfaction of the complainant.



A handwritten signature in black ink, appearing to read 'Susie Inat', positioned above a horizontal line.

Susie Inat

Special Counsel

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Report

1. Background

1.1 Driveway Link

This review concerns the Council's decisions in respect of a driveway link. A driveway link, also known as a 'chicane', is a type of traffic control device, being:

a single lane two-way raised meandering path extending over two or more properties. The aim of the driveway link is to give the appearance of a closed road with a heavy reliance on the form and depth of the landscaping.¹

In contrast to driveway *entries*, driveway *links* are 'located mid-block along a road', rather than at an intersection.² The Council currently has 1797 traffic control devices,³ and approximately 20 to 30 driveway links.⁴

The driveway link in question is located within De Laine Avenue,⁵ Edwardstown SA 5039, immediately east of the Macklin Street intersection and directly in front of 25 De Laine Avenue (referred to hereafter as the **Driveway Link**).⁶ The Driveway Link is located in the Woodlands Ward.

The following section 1.2 details Council's resolutions in respect of the Driveway Link.

1.2 Council Resolutions

In 1994, the Council conducted a local area traffic management study, which led to construction of the Driveway Link in 1997. De Laine Avenue residents were surveyed at the time, the majority of whom were in favour of the Driveway Link. The purpose of the Driveway Link was to control traffic movements and speed (the speed limit for De Laine Avenue was 60 km/hr at this time).⁷ It was designed in accordance with AS 1742 (Manual of Uniform Traffic Control Devices) and the Manual of Legal Responsibilities and Technical Requirements for Traffic Control Devices.⁸

Six years after construction of the Driveway Link, the South Australian Government introduced the state-wide general urban speed limit of 50km/hr, which applied to De Laine Avenue.⁹ This led to some suggestions from local residents that the Driveway Link was no longer necessary and/or

¹ Council Agenda, p. 75 (9 February 2016).

² Manual of Legal Responsibilities and Technical Requirements for Traffic Control Devices (Part 2 – Code of Technical Requirements), SA Government, p. 68.

³ Council Draft Transport Asset Management Plan 2020 – 2030, p. 17.

⁴ Council Meeting (audio), 26 November 2019 (Part 1, 16:30).

⁵ Note that some Council documents refer to this street as 'Delaine Avenue' but 'De Laine Avenue' appears to be the preferred spelling: South Australia, *Government Gazette*, No 23, 28 May 1981, 1628.

⁶ Council Agenda, pp. 62, 72 (22 October 2019).

⁷ Council Agenda, p. 118 (25 May 2020).

⁸ Council Agenda, p. 518 (26 November 2019).

⁹ Council Agenda, p. 118 (25 May 2020).

performing as intended, and in 2006, Council received a request to review the Driveway Link.¹⁰ It does not appear that any formal review took place. In any event, it seems no changes to the Driveway Link resulted from the request to review.

On 8 October 2019, Council received a petition (having 69 signatories, mostly De Laine Avenue residents, and being organised by Kathy and George Dunlop of 25 De Laine Avenue), which requested that Council remove the Driveway Link. The petitioners considered the Driveway Link to no longer be necessary, and explained that it created 'high levels of unacceptable traffic noise'.¹¹

In the report enclosing this petition (contained in the Agenda for Council's 22 October 2019 meeting),¹² Council's officers commented that, on a review of crash data for the preceding five years and relevant traffic data, the Driveway Link 'is operating well'.¹³ Further, to remove the Driveway Link 'would be detrimental to community safety', and 'would appear contrary to National Road Safety Strategy'. The author of the report was of the view that noise reduction 'should not take priority over safety', and that the Driveway Link should be retained.

At its meeting of 22 October 2019, Council resolved:

That Council:

1. Notes the Petition

At this meeting, Councillor Masika, (ward councillor for Woodlands Ward) also presented a written Notice of Motion, essentially requesting that Council investigate the alleged noise pollution and usage of alternative traffic control devices at De Laine Avenue. This Notice of Motion was not considered at the 22 October 2019 meeting.¹⁴

At Council's meeting on 26 November 2019, Cr Masika put forward a further Notice of Motion, seeking that the Driveway Link be removed as soon as possible.¹⁵ The supporting information within the Notice of Motion pointed to the noise impacts caused by the Driveway Link, and noted that it also causes other traffic incidents, such as bollards and posts being hit frequently.¹⁶ In the corresponding staff comments, Council's officers repeated their concerns from the original response to the petition.¹⁷ The Driveway Link was 'considered to be operating well, reducing speed and the potential occurrence of accidents and their severity.' The Council officers added:

Nevertheless, if Council wishes to proceed with the removal, the following resolutions are suggested.

That:

1. The driveway link in Delaine Avenue be removed, as per the request of residents.

¹⁰ Council Agenda, p. 118 (25 May 2020). The results of this request are unable to be established.

¹¹ Council Agenda, p. 62 (22 October 2019).

¹² Council Agenda, pp. 62—4 (22 October 2019).

¹³ Ibid 62.

¹⁴ Council Minutes (22 October 2019).

¹⁵ Council Agenda, p. 517 (26 November 2019).

¹⁶ Ibid.

¹⁷ Ibid 518.

2. The work to be undertaken (as soon as possible) within the 2020/21 financial year as part of the Capital Works Program.

3. That \$47,000 be allocated with the 2020/21 Annual Business Plan (Transport).

Council adopted this suggestion/recommendation and made a resolution on those terms.¹⁸

On 22 January 2020, Council received a petition (having 28 signatories, all of whom reside on De Laine Avenue, and being organised by Ben Jaeger of 19 De Laine Avenue), which requested that Council reconsider removal of the Driveway Link until further investigations were completed.¹⁹ The petitioners explained that most signatories to the first petition did not live in the vicinity of the Driveway Link, and that many residents signed it 'because they felt the driveway link was ineffective and if removed, wished it to be replaced with alternative measures.'²⁰

In the report enclosing this petition, Council's officers identified three options, being, in summary:

- 1. Uphold the original decision*
- 2. Undertake further investigations and report back prior to any rescission or amendment to the decision of 26 November 2019 or*
- 3. Rescind or amend the decision of 26 November 2019*

It was identified that, if Council selected option 2, the report could include:

- Traffic noise and traffic data*
- Feedback from affected residents*
- Analyse alternative options*
- Consider the installation of alternative traffic calming*

At its 28 January 2020 meeting, Council adopted the second option and resolved as follows:

That Council:

(Option 2)

- 1. Notes the petition.*
- 2. Prior to implementing the decision of 26 November 2019, namely that:*
 - 1. The Driveway Link in Delaine Avenue, Edwardstown be removed as per the request of residents.*
 - 2. The work to be undertaken (as soon as possible) within the 2020/21 financial year as part of the Capital Works Program.*
 - 3. That \$47,000 be allocated with the 2020/21 Annual Business Plan (Transport).*

undertakes further investigation work on the following:

- Traffic noise and traffic data*

¹⁸ Council Minutes, p. 11 (26 November 2019).

¹⁹ Council Agenda, p. 99 (28 January 2020).

²⁰ Ibid 104—6.

- *Feedback from affected residents*
 - *Analyse alternative options*
 - *Consider the installation of alternative traffic calming*
3. *Notes that a further report on the outcomes of the investigation will be presented to the 28 April 2020 Council meeting.*
4. *Authorises administration to advise the head petitioner of Council's decision.*²¹

At its meeting on 28 April 2020, Council received a report from administration explaining that the report contemplated by the 28 January 2020 decision 'has taken longer than originally anticipated, therefore the report will now be presented at the General Council meeting on 26 May 2020.'²²

Council accordingly resolved:

That Council:

1. *Notes the report.*
2. *Notes a further report will be presented at the General Council meeting held on the 26 May 2020 incorporating outcomes of the technical review and community consultation.*²³

Council subsequently received the report at its 26 May 2020 meeting.²⁴

The report, some 133 pages, was summarised by Council officers as follows:

...

This report, incorporating the independent engineering assessment, covers the following:

- *Historic background*
- *Technical review / Assessment to code*
- *Site observations*
- *Traffic volumes and crash data*
- *Theoretical effect of removal*
- *Other traffic treatment options*
- *Acoustic assessment*
- *Feedback from community consultation*

...

The assessment concludes that the existing traffic device should be retained based on:

- *the majority of survey responses wanted a traffic management device*
- *the device is operating effectively in reducing vehicle speeds*
- *no vehicle crashes are attributed to the device*

²¹ Council Minutes, pp. 11—12 (28 January 2020).

²² Council Agenda, p. 145 (28 April 2020).

²³ Council Minutes, p. 13 (28 April 2020).

²⁴ Council Agenda, p. 117 (26 May 2020).

- average noise levels at the device are less than standards guideline levels and less than other parts of the road
- removal of the device is expected to result in some increase in traffic speeds and volumes
- the cost of removal of the device is estimated at \$47,000.²⁵

Council resolved (largely in accordance with the report's recommendation²⁶):

That Council:

1. Notes the report.
2. Requests the CEO to submit a report to the 9 June 2020 General Council Meeting under regulation 21(1) of the Local Government (Procedures at Meetings) Regulations to rescind the decision of 26 November 2019 that states:

That:

1. The Driveway Link in Delaine Avenue, Edwardstown be removed as per the request of residents.
2. The work to be undertaken (as soon as possible) within the 2020/21 financial year as part of the Capital Works Program.
3. That \$47,000 be allocated with the 2020/21 Annual Business Plan (Transport).

and makes a recommendation that Council:

- i. Retains the Driveway Link in Delaine Avenue, Edwardstown.
- ii. Endorses the following Driveway Link improvements:
 - a. Remove existing trees within the Link as they are considered non-frangible.
 - b. Increase the length of the Driveway Link.
 - c. Replace the existing pavers through the Link with contrasting coloured bitumen.
 - d. Increase landscaping areas to further define the Link.
 - e. Install appropriate signage to delineate the Link.
- iii. Reduces the 2020/21 budget allocation for the De Laine Driveway Link from \$47,000 (cost of removal) to \$25,000 (cost of compliance improvements and replacement of pavers with coloured bitumen).²⁷

Following this, Council's CEO duly put forward the rescission motion to Council at its 9 June 2020 meeting.²⁸ Council resolved:

That Council:

1. Rescinds the following decision from its meeting on 26 November 2019:

²⁵ Ibid.

²⁶ Refer Section 3.1 of this Report for further commentary.

²⁷ Council Minutes, p. 11 (26 May 2020).

²⁸ Council Agenda, p. 258 (9 June 2020).

1. *The Driveway Link in Delaine Avenue, Edwardstown be removed as per the request of residents.*
2. *The work to be undertaken (as soon as possible) within the 2020/21 financial year as part of the Capital Works Program.*
3. *That \$47,000 be allocated with the 2020/21 Annual Business Plan (Transport).*

That Council:

1. *Retains the Driveway Link in De Laine Avenue, Edwardstown.*
2. *Endorses the following Driveway Link improvements:*
 - a. *Remove existing trees within the Link as they are considered non-frangible.*
 - b. *Increase the length of the Driveway Link.*
 - c. *Replace the existing pavers through the Link with contrasting coloured bitumen.*
 - d. *Increase landscaping areas to further define the Link.*
 - e. *Install appropriate signage to delineate the Link.*
3. *Reduces the 2020/21 budget allocation for the De Laine Avenue, Edwardstown Driveway Link from \$47,000 (cost of removal) to \$25,000 (cost of compliance improvements and replacement of pavers with coloured bitumen).²⁹*

1.3 Council Administration and Elected Member actions and decisions

(a) Pre-Construction

February 2019 meeting

Prior to Council receiving the first petition, Cr Masika was contacted by Mr George Dunlop and Mrs Kathy Dunlop (the first petitioners) in respect of the Driveway Link.³⁰

This resulted in a meeting between Mr and Mrs Dunlop, Cr Masika, then-CEO Adrian Skull, and Mark Griffin, (then Unit Manager Engineering Services) on 20 February 2019. Mr Skull, on behalf of Council, made commitments to:

1. investigate possible solutions to calm traffic speeds
2. look to enhance the plantings on the road reserve
3. look at options for reducing the height of the tree
4. put an ongoing watching brief on the drain³¹

Subsequently, additional planting occurred, various trees were trimmed, and inappropriate plants were removed. Maintenance of landscaping continued on a regular basis.³²

²⁹ Council Minutes, p. 9 (9 June 2020).

³⁰ Interview with Councillor Masika (14 July 2021).

³¹ Email from Adrian Skull to Tony Lines and Mathew Allen (21 February 2019).

³² Council Agenda, p. 518 (26 November 2019).



Mayor Hanna letterbox drop

Following Council's 26 November 2019 meeting, at which it resolved to remove the Driveway Link, Mayor Hanna undertook a letterbox drop.³³

At his interview with the investigator, Mayor Hanna advised he was surprised at Council's 26 November decision to remove the Driveway Link at the behest of the petitioners and had sought to advise the local residents as to the making (and consequences) of this decision.³⁴ On 6 December 2019, Mayor Hanna provided the local residents with a letter, on Council's letterhead and signed by himself, outlining Council's 26 November 2019 resolution (**Letter**). The Letter also summarised the staff report and comments made during the debate.

It has been suggested that Mayor Hanna's letterbox drop was designed to, or else did, precipitate a responsive petition and further, that it (inappropriately) impacted Council's decision making and decision making processes relating to the matter. MinterEllison has not made any findings to this effect. This is discussed further at section 4.2 of this Report.

Councillor Masika's Consultation

Following receipt of the two conflicting petitions, Councillors Masika and Crossland conducted a form of local consultation on 25 January 2020 (**Cr Masika consultation**). The Cr Masika consultation found that, of eight respondent households within 50 metres of the Driveway Link, six preferred removal and two preferred retention of the Driveway Link. Of 14 respondent households within 100 metres of the Driveway Link, six preferred removal, seven preferred retention, and one had no preference.³⁵ Councillors Masika and Crossland concluded that Council should uphold its original decision to remove the Driveway Link, as this was the preference of the majority of residents living within 50 metres of the Driveway Link. Results of the Cr Masika consultation were provided by Cr Masika to Council staff (specifically, Kate McKenzie, Manager Corporate Governance) on 28 January 2020. Cr Masika requested that the results be circulated within the administration.³⁶ It should be noted 28 January 2020 was the date of a Council meeting. The Agenda and reports (which included a copy of the second petition) had already been prepared, distributed and received by all elected members prior to the Cr Masika consultation. Indeed copies were publicly available on the Council website. The results of the Cr Masika consultation were not distributed to elected members, (or the public) by the administration.

Cr Masika determined to undertake this consultation in response to the conflicting petitions that had been received.³⁷ Cr Crossland assisted and counselled Cr Masika in conducting this process.³⁸ According to the councillors, this consultation was intended to provide an independent and unambiguous reference point, and to ascertain the true sentiment of the community in relation to the Driveway Link. Cr Masika was concerned that the previous petitions had not been carried

³³ Interview with Mayor Hanna (12 July 2021).

³⁴ Ibid.

³⁵ Loose-leaf document, titled '*The Two Petition to City of Marion*' authored by Councillor Masika.

³⁶ Interview with Councillor Masika (14 July 2021).

³⁷ Ibid.

³⁸ Interview with Ian Crossland (12 July 2021).



out transparently or accurately. Cr Masika's consultation allocated one 'vote' per household, and was directed towards those residents within 50 metres and 100 metres of the Driveway Link.

Councillors Masika and Crossland spoke to Council staff (including Tony Lines, General Manager City Services, and some members of engineering team) about undertaking this consultation, and specifically about identifying which residents should be surveyed. Council staff reject the assertion that they endorsed or agreed with the process.³⁹ The councillors in question did not obtain, and were not able to convey to the residents, any information concerning traffic studies, technical compliance, historical safety data, engineering considerations, or potential options (other than simply retaining/removing the Driveway Link).

Cr Masika may have spoken to his consultation at the 28 January 2020 Council meeting. However, MinterEllison has not found that the undertaking of the Cr Masika consultation, nor whether Cr spoke to that consultation at the meeting, nor the results of the consultation, impacted (inappropriately or otherwise) Council's decision making or decision making processes relating to the matter. This is discussed further at section 4.3 of this Report.

Council community consultation

In accordance with the 28 January 2020 Council resolution, between 20 April and 1 May 2020, Council staff undertook community consultation for the Driveway Link project.⁴⁰ This was conducted notwithstanding the intention of Councillors Masika and Crossland that the Cr Masika consultation was sufficient, and that no further consultation was necessary.⁴¹

In circumstances where Council resolves (or for example is legislatively required) to undertake consultation, MinterEllison concurs that consultation undertaken (at any stage in the process) by an elected member(s) is neither sufficient or appropriate for Council to base its decision-making on. Individual elected member consultation is more akin to effecting representation. Whilst councillors can use this process (and any results) to inform their own decision-making, and to influence others, Council has a community consultation policy and procedure pursuant to which consultation should, or must be carried out.

The formal Council community consultation resulted in 108 consultation letters being delivered with 37 responses received. Community sentiment was split, between those who wished to retain the Driveway Link and those who wished it to be removed.⁴² Other respondents indicated that a different type of traffic control device was preferred. Further, some respondents who preferred removal also identified other initiatives, such as a reduction in speed limit, or a complete block of right-hand turns from Towers Terrace onto De Laine Avenue. Having collated, interpreted and reviewed the community consultation results, together with the technical data and other investigation results, a recommendation was developed and reported to Council in readiness for its 26 May 2020 meeting.

³⁹ Interview with Tony Lines (15 July 2021).

⁴⁰ Council document, titled '*Community Engagement Outcomes*'; Council Agenda, p. 121 (26 May 2020).

⁴¹ Interview with Councillor Masika (14 July 2021); interview with Councillor Crossland (12 July 2021).

⁴² Community Engagement Outcomes loose-leaf document provided by Mathew Allen.



At some time between the distribution of that report to elected members, and the commencement of that 26 May meeting, the Council administration thought it best, so as to achieve a preferred outcome for aggrieved residents, to revise the recommendation.

In the afternoon preceding Council's 26 May 2020 meeting, Tony Lines advised the elected members by email that Council staff and the ward councillors, (Councillors Masika and Mason) had agreed a slightly modified and preferred recommendation to put to Council to manage the Driveway Link. This was to retain the device, undertake minor compliance works, and to replace the existing pavers with contrasting coloured bitumen (as this would help with noise levels).⁴³ The ward councillors also engaged with the concerned residents.⁴⁴ Council staff estimations of the cost of these works was \$23,640, and an amount of \$25,000 was put forward as an appropriate budget allocation.⁴⁵ (MinterEllison has considered (prime facie) whether a decision was made outside of a formally constituted council meeting (in breach of s 90(8) of the *Local Government Act 1999* (SA)), but we do not consider these actions evidence such a decision being made).

Specifically and relevantly, this 26 May 2020 email suggested two changes to the original recommended Council resolution, (as set out in the 26 May 2020 Council agenda report (p. 118)) being:

- rather than the pavers within the Driveway Link being cleaned, these pavers would be entirely replaced with bitumen; and
- rather than the budget allocation be removed, the allocation would be reduced to \$25,000 (being the cost of compliance improvements and replacement of pavers with coloured bitumen).

This amended recommendation was ultimately accepted by Council at its 26 May 2020 meeting, and put into effect at its 9 June 2020 meeting.

At this time, Council's engineering staff were of the view that bitumen was a technically-compliant material. It was thought that endorsement from the Department of Planning, Infrastructure and Transport could be gained at a later time, if required.

On 24 July 2020, Alex Dorn (Coordinator – Survey & Design) contacted various external engineers to understand the industry practice for driveway link design. It was suggested by these engineers that Alex Dorn should contact DPTI (as the approving authority) in respect of utilising a material other than block pavers (which is the standard approach).⁴⁶

Alex Dorn made contact with Vince Varricchio of DPTI to discuss. Mr Varricchio suggested that if Council were to replace the existing block paving with asphalt, then Council would need to make an application to DPTI for a non-compliant device.⁴⁷

⁴³ Email from Tony Lines to Council Members (26 May 2020).

⁴⁴ Interview with Councillor Masika (14 July 2021).

⁴⁵ Email from Mathew Allen to Tony Lines (26 May 2020).

⁴⁶ Email from Alex Dorn to Mathew Allen and Mark Griffin (24 July 2020).

⁴⁷ Ibid.



In a further telephone call between Alex Dorn and Ingrid Hunt of DPTI, Ms Hunt advised again that bitumen was not able to be used, but concrete was a possible option, and would be compliant with the Code.⁴⁸ The effect of these communications is discussed in section 4.4 of this Report.

The 'Code' referred to is the 'Code of Technical Requirements',⁴⁹ and more specifically, the Manual of Legal Responsibilities and Technical Requirements for Traffic Control Devices (Part 2 – Code of Technical Requirements) published by the Government of South Australia,⁵⁰ referred to hereafter as the **Code**.

Between July and August 2020, Council staff undertook a survey of the Driveway Link and identified non-Code compliant height of the structure.⁵¹ This had not been identified (or at least reported on) by the external technical review that had been commissioned and received by Council at its 26 May 2020 meeting.

During a ward briefing in August 2020, Council staff verbally updated the ward councillors as to the newest developments and the potential changes required to the project scope.⁵²

Faced with a Driveway Link that exhibited non-conforming length, height, and material, Council staff formed the view that the Driveway Link needed to be rebuilt to Code requirements, to ensure complete compliance with the Code.⁵³

On 16 September 2020, at a meeting between Mathew Allen (Manager Engineering, Assets and Environment), Tony Lines and Mark Griffin, it was decided that the scope of the project would be changed (so as to be completely compliant with the Code). It was agreed that the ward councillors would be advised of the scope change, and to adjust the cost of the project through the quarterly budget review process. At this time, the cost of the project was estimated at \$75,000.⁵⁴

As part of these discussions and Ward Briefings, Cr Masika liaised with Tony Lines and the engineering team, as well as the residents, to ensure all parties were content with the proposed modifications to the Driveway Link.⁵⁵ However, the ward councillors and Council staff agree that, at these ward briefings, the ward councillors were not adequately advised of the increased cost of the project.⁵⁶

We are advised that the Council staff, in making this decision, intended to complement, rather than contradict, Council's May and June 2020 resolution. It was considered that (parts of) the original resolutions (of 26 May and 9 June 2020) were problematic, and that those Council staff members involved in the meeting had the requisite and sufficient approval and authority relating to the alterations, and financial delegation, to alter the scope and cost of the works and the project.⁵⁷

⁴⁸ Interview with Mathew Allen (16 June 2021).

⁴⁹ Instrument of General Approval and Delegation to Council, Clause H (Definition of Terms).

⁵⁰ Current Issue Date: 31 December 2019.

⁵¹ Interview with Mathew Allen (16 June 2021).

⁵² Ibid.

⁵³ Interview with Tony Lines (15 July 2021).

⁵⁴ Interview with Mathew Allen (16 June 2021).

⁵⁵ Interview with Councillor Masika (14 July 2021).

⁵⁶ Email from Tony Lines to Councillor Masika (22 April 2021).

⁵⁷ Interview with Tony Lines (15 July 2021).



In an email from Mathew Allen to Councillors Masika and Mason on 2 October 2020, Mr Allen outlined the agreed changes to the scope of the project, and provided a proposed letter to residents.⁵⁸ This letter advised residents of the new scope of the project and indicated a schedule of works.⁵⁹

Following this update, Mark Griffin received a phone call from Mrs Dunlop requesting further information about the works.⁶⁰

In response to the preliminary report, the complainant asserted that the letter to residents did not have sufficiently detailed information to trigger any concerns, and was misleading in that it did not advise that significant changes to the design (and Council's resolution) were required. We find that the letter did outline the totality of the works to be completed, albeit in summarised form. Of relevance is the inclusion of contact details for a staff member, so that residents could make further enquiries if desired. We do share the view that Council staff should consider whether further deliberation by Council itself is required in certain circumstances (and whether residents should be kept better informed of decisions which are subject to change). As such, section 4.4 of this Report includes recommendations to this effect.

The complainant also reiterates that the community consultation which did occur was inadequate, with insufficient information being provided by both Council administration and the relevant ward councillors. In this respect, section 4.4 of this Report does recommend that community consultation be clearer and more consistent.

(b) Budget Adjustments

In an email from Mathew Allen to Katherine Galea (Assistant Accountant Partnering) on 16 October 2020, it was advised that Traffic Control Summarised budgets had been increased to \$75,000 to fund the Driveway Link. The basis for this estimate is unable to be established.⁶¹ Mr Allen advised Ms Galea that this project was identified in the original capital works budget, and requested that a cost centre be created.⁶²

On 13 January 2021, Fiona Harvey (Manager Operations) emailed Ms Galea and Heath Harding (Unit Manager – Finance Partnering & Rates), asking whether a cost centre had been set up from the Driveway Link. Mr Harding subsequently questioned the detail of the works and costs of the project, as the budget referenced by Mathew Allen was "quite different" to Council's original resolution.⁶³

⁵⁸ Email from Mathew Allen to Councillor Masika and Sasha Mason (2 October 2020).

⁵⁹ Letter to residents titled 'Driveway Link Reconstruction – Update' dated October 2020.

⁶⁰ Email from Mark Griffin to Mathew Allen (28 October 2020).

⁶¹ Noting the final cost of the project works, this estimate was not unreasonable.

⁶² Email from Mathew Allen to Katherine Galea (16 October 2020).

⁶³ Email from Heath Harding to Fiona Harvey and Katherine Galea (14 January 2021).



Ms Harvey questioned this with Mr Allen, asking whether the councillors were aware of the costs beyond the \$25,000.⁶⁴ Mr Allen advised that the change in the scope of work had been discussed at the ward briefing and in emails to the ward councillors in October.⁶⁵

Ms Harvey subsequently advised Mr Harding that the Driveway Link works had changed since Council's original resolution, and that Mr Allen had engaged with the ward councillors in respect of the increased budget.⁶⁶

(c) Construction

We are advised that Fiona Harvey (Manager Operations) and her team primarily dealt with the engagement of the contractor and construction of the Driveway Link.⁶⁷ Note that the procurement process and contractor's work are outside the scope of this review.

Cr Masika visited the site on 11 April 2021,⁶⁸ and was "shocked" with the modifications to the Driveway Link. In his view, and as informed by the residents, the Driveway Link had been built too short, too high, and without proper management of stormwater and flooding (with each of these design elements not previously being agreed to by the councillors).⁶⁹

Following this, Cr Masika corresponded with Mayor Hanna, Mathew Allen and Tony Lines, advising them of these issues.⁷⁰

A site visit subsequently took place, attended by Cr Masika, Fiona Harvey, Colin Natt, and Wilson Nguyen (the project manager). It was agreed that the contractor had constructed the Driveway Link in a deficient manner, and that the Driveway Link needed to be essentially re-done.⁷¹

On 22 April 2021, Tony Lines and Cr Masika met and discussed the issues with the project. This culminated in the following outcomes:

- the Driveway Link was at one point 100mm too high, as it had not been constructed by the contractor in accordance with the drawings. The contractors were to remedy this mistake at their cost
- the failure of the contractor to maintain access to Mr and Mrs Dunlops' property during construction was immediately rectified
- Unit Manager Civil, Colin Natt, took over day-to-day oversight of the project, and was to attend the site every day
- the 25mm lip at the entry and exit of the device was removed, to reduce vehicle noise
- the length of the steel plates was reduced to eliminate the stormwater runoff into neighbouring properties.⁷²

⁶⁴ Email from Fiona Harvey to Mathew Allen (15 January 2021).

⁶⁵ Email from Mathew Allen to Fiona Harvey (15 January 2021).

⁶⁶ Email from Fiona Harvey to Heath Harding (15 January 2021).

⁶⁷ Interview with Mathew Allen (16 June 2021).

⁶⁸ Email from Councillor Masika to Tony Lines (11 April 2021).

⁶⁹ Meeting with Councillor Masika (14 July 2021).

⁷⁰ Email from Councillor Masika to Tony Lines (11 April 2021).

⁷¹ Meeting with Councillor Masika (14 July 2021).

⁷² Email from Tony Lines to Councillor Masika (22 April 2021).

On 29 April 2021, Tony Lines attended the site and spoke to the residents (and Cr Masika) about the Driveway Link's modifications.⁷³ The noise levels of the Driveway Link were observed, and Mr Lines commented that it may take some time for the road users to adapt to the new device.⁷⁴

At this time, Tony Lines reiterated that all modifications had been made to ensure compliance with the Code, and that the Driveway Link was completely fine in that respect. Cr Masika commented that the original focus had been the noise level, not the Code, and that nearby driveway links were also not Code-compliant.⁷⁵

The Council's internal survey team undertook an as-built survey of the Driveway Link. Alex Dorn reviewed the results of this survey and determined that the Driveway Link was entirely compliant with the Code.⁷⁶

On 5 May 2021, Tony Lines sent an email to all elected members in respect of the Driveway Link, conveying that:

the concept design for the device upgrade proposed compliance improvements and an overlay of coloured asphalt with a corresponding cost of \$25,000. We anticipated receiving DPTI/DIT approval for the asphalt overlay solution, but this was not granted. This necessitated the device being constructed out of concrete, which has increased the construction cost of the device. The construction cost of the civil works is now likely to be about \$60,000.⁷⁷

We are advised that the Driveway Link project's final cost was approximately \$66,000.⁷⁸

1.4 Internal Review Request

On 6 May 2021, in response to complaint that had been received, Tony Harrison (Council CEO) wrote to Mr Stasinowsky, in similar terms to Mr Lines' 5 May 2021 email to the elected members.⁷⁹

On 11 May 2021, Tony Harrison and Tony Lines received an email from Andrew Stasinowsky (a resident who lives on De Laine Avenue, adjacent to the Driveway Link), seeking a review under section 270 of the *Local Government Act 1999* (SA), of Council's actions and decisions (see this email attached as part of **Annexure A**). The email was received subsequent to previous correspondence with Mr Stasinowsky, and more specifically the request was in the following terms:

... Therefore I request under section 270 of the Local Government act 1999 an internal review of councils actions and decisions to reflect why the council's resolution that was passed on the 9th June 2020 was not adhered to.⁸⁰

⁷³ Email from Tony Lines to Council Members (5 May 2021).

⁷⁴ Interview with Councillor Masika (14 July 2021).

⁷⁵ Ibid.

⁷⁶ Interview with Mathew Allen (16 June 2021).

⁷⁷ Email from Tony Lines to elected members (5 May 2021).

⁷⁸ Interview with Mathew Allen (16 June 2021).

⁷⁹ Letter from Tony Harrison to Andrew Stasinowsky (6 May 2021).

⁸⁰ Council Agenda, p. 111 (25 May 2021).



The officers presenting this to Council explained that Council 'has received a request from a resident for an internal review of the decision to install a new driveway link on De Laine Avenue, Edwardstown and how this resolution of Council has been implemented.' It was recommended that an independent investigator conduct an external review of these decisions, and Council resolved:

That Council:

1. *Appoints an independent investigator to undertake the Review of Decision regarding the decision of Council to implement a driveway link on De Laine Avenue, Edwardstown and the implementation of that Council decision.*⁸¹

Upon MinterEllison's engagement as independent investigator, clarification was sought from Mr Stasinowsky as to the scope of his internal review request.⁸² Mr Stasinowsky's response (of 31 May 2021) advised that he intended the review to: 'be broad and include the original decision (26/11/19) and actions taken thereafter. I therefore [*sic*] ask that the review include this ...' (as elected members and staff had indicated to him that the review would encompass this).

On 7 June 2021, MinterEllison advised Mr Stasinowsky of the time limit contained in Council's Complaints and Grievances Policy, which is stated as follows:

Applications for the review of decisions must be lodged within six (6) months of the decision in question being made. However, in exceptional but reasonable circumstances, the Manager Corporate Governance may agree to accept a late application. This will be assessed on a case by case basis.

and as a result, Council's resolution of 26 November 2019 (and indeed all Council decisions made prior to November 2020) fell outside this six-month timeframe.

However, Kate McKenzie (as Council's Manager Corporate Governance) determined to exercise her discretion to accept a late application, in respect of Council's 9 June 2020 decision relating to the Driveway Link. As a result, MinterEllison's review was to encompass (as advised to Mr Stasinowsky), both:

1. Council's resolution on 9 June 2020 in respect of the Driveway Link; and
2. the subsequent decision by relevant Council officers to carry out the Driveway Link project in a certain manner (a manner which the complainant asserts is not consistent with the Council's resolution of 9 June 2020).

MinterEllison also assured Mr Stasinowsky that all previous decisions (dating back to 26 November 2019) in respect of the Driveway Link (i.e. each decision preceding Council's 9 June 2020 resolution) will not be neglected and will be assessed broadly, including from a procedural perspective.

⁸¹ Council Minutes, pp. 15—6 (25 May 2021).

⁸² Letter from MinterEllison to Andrew Stasinowsky (31 May 2021).



1.5 Legislative and policy framework

Council's decisions considered and were made within the following legislative and policy framework:

Key Legislation

The overarching legislation is the *Local Government Act 1999* (SA) and accompanying regulations. The *Road Traffic Act 1961* (SA) is also relevant.

Council Policies

We have identified a number of Council policies potentially relevant to the Driveway Link project and associated decision-making, including:

- (a) Asset Management Policy (2018)
- (b) Asset Management Strategy 2019 – 2028
- (c) Transport Asset Management Plan 2020 – 2030
- (d) Disposal of Land and Assets Policy (2019)
- (e) Procurement and Contract Management Policy (2020)
- (f) Prudential Management Policy (2012)
- (g) Public Consultation Policy (2019)
- (h) Public Consultation Procedure (draft)
- (i) Risk Management Policy (2020)
- (j) Streetscape Policy (2018)

2. Internal review

2.1 Request for internal review – Details of the Complaint

As stated above at section 1.4, on 11 May 2021, Andrew Stasinowsky (the **Complainant**) requested an internal review of Council's decisions in relation to the Driveway Link (**Request for Review**) (attached as part of **Annexure A**).

The email relevantly states:

... the Council resolution that was passed on the 9th June 2020, was to retain the Driveway link with various improvements. The council has not adhered to this resolution, the decision to remove, redesign and rebuilt without following due process has now greatly affected residents living directly adjacent the new device ...



Therefore I request under section 270 of the Local Government act 1999 an internal review of councils actions and decisions to reflect why the council's resolution that was passed on the 9th June 2020 was not adhered to.

The Request for Review is governed by Council's Complaints and Grievance Policy and accompanying Procedure (**CGP&P**) (see section 2.3 below). The CGP&P prescribes that an application for an internal review of a decision must include, inter alia, 'a statement clearly indicating which decisions the applicant wishes to be reviewed', and 'a statement outlining the reasons why the review is requested'.

It appears that the Request for Review was made because the Complainant believed that Council's actions were wrong in that the decision to remove, redesign and rebuild the Driveway Link was made without following due process and without adherence to its 9 June 2020 resolution.

2.2 Concerns raised by Complainant

The Complainant attended an interview with the Investigator and outlined a number of concerns, which broadly can be summarised as follows:

1. Mr and Mrs Dunlop, as head petitioners for the first petition, did not receive any correspondence from the Council about the progress of their petition or subsequent decisions of Council.
2. Following Council's 28 January 2020 decision to amend/postpone its earlier resolution to remove the Driveway Link, Mr and Mrs Dunlop were considering whether to seek assistance from the Ombudsman. Cr Masika advised that they should not do this.
3. Council's summaries and analysis of its community consultation misrepresented the data. More particularly, of 37 responses received, seven individuals wanted an alternative device. Whilst Council interpreted this as those residents requesting a retention of the Driveway Link, the Complainant was of the view that these seven individuals wished for the Driveway Link to be removed.⁸³
4. Since the completion of the modifications, the Driveway Link has been far noisier than ever before. Vehicles crossing the Driveway Link make loud noises akin to a car crash, as early as 4.00am to 5.00am. Council staff have concurred that there is an exceptional level of noise. This has resulted in anxiety, stress, expenditure of money (on noise mitigation measures), lack of sleep and strained domestic relationships.
5. The comments made by Mayor Hanna after Council's first resolution of 26 November 2019 toward Mr Dunlop were disrespectful.
6. The letter sent by Mayor Hanna to the local residents was intended to undermine Council's decision and was not warranted. The content of the letter was also inaccurate.

⁸³ This Review does not reassess Council administration's interpretation of the community consultation data. It is reasonable for Council to rely on the data, and the interpretation given to it by the administration, in making its decisions. The complainant has pressed the issue of Council staff misrepresenting the data. We reiterate that any such interpretation given to the data exceeds the scope of this Review, which is concerned primarily with Council's reliance on that interpretation and data.



7. The Complainant was subject to a telephone consultation from an unidentified Councillor doing a survey of the residents in the locality.
8. The organiser of the second petition (Ben Jaeger) appeared to bully another resident into signing the petition. As a result, action should have been taken by Council and less weight should have been given to the petition.
9. Council has not properly implemented the 9 June 2020 decision, including rectifying the non-compliant signage.
10. The height of the Driveway Link remains 2cm higher than the Code's prescribed measurement.
11. The Complainant was advised by Tony Lines that the approval for the change in scope of the works came through the ward briefings, but Councillor Mason confirmed that ward briefings do not change or override Council resolutions.
12. There has been no opportunity for residents to be consulted on the changes in scope to the project.

MinterEllison's review has centred on the validity of the various decisions identified in section 2.6 below. It was not intended that findings of fact were to be made in respect to the concerns delineated above. Nonetheless, some of these concerns have to some extent informed the recommendations and comments made in sections 4 and 5 of the Report.

2.3 Complaints and Grievance Policy & Procedure (CGP&P)

The CGP&P outlines and governs the processes to be followed when an internal or external review of a Council decision is to be made (attached as part of **Annexure A**).

2.4 Appointment of MinterEllison

Council's CGP&P allows the Manager Corporate Governance to refer a matter to an independent investigator to conduct a review.

Council's Manager Corporate Governance has referred the Request for Review to MinterEllison for independent investigation.

2.5 Methodology

Procedure

Council's CGP&P prescribes that in conducting our investigation we must:

- (i) Establish the facts, including:
 - a. obtaining statements from stakeholders;
 - b. interviewing any relevant staff, elected members or the complainant;



- c. establishing legislative framework; and
 - d. gathering facts and information,
- (ii) Prepare a Preliminary Report that includes:
- a. details of the complaint;
 - b. scope of the review;
 - c. details of the investigation;
 - d. findings; and
 - e. recommendations,
- (iii) Prepare a final report that includes:
- a. any feedback received from the complainant and undertake any further enquiries;
 - b. the final determination of the complaint/grievance; and
 - c. the external review processes if the complaint/grievance remains unresolved.

Scope of Review

A Preliminary Report was prepared in accordance with the CGP&P. Council and the Complainant were provided with a copy of the Preliminary Report, and were given 10 working days to respond. Pursuant to the CGP&P, the Complainant provided feedback, and the Council also provided comments as to factual accuracy.

In preparing this Final Report, we have considered this feedback, and addressed aspects of it as necessary. See Annexure B for a copy of the Complainant's feedback.

Reviews pursuant to section 270 of the *Local Government Act 1999* (SA) will encompass both merit and process review.⁸⁴ Accordingly, this Report will encompass a process review (review of the correctness of the procedures followed in making the decision/s) and a merits review (reconsideration of the facts, law, and policy aspects of the decision/s and determining the correct or preferable decision).⁸⁵

⁸⁴ Ombudsman SA, 'Right of Review: An audit of Local Government Internal Review of Council Decisions Procedures' (November 2016) <<https://www.ombudsman.sa.gov.au/publication-documents/audit-reports/2016/Right-of-Review-An-audit-of-Local-Government-Internal-Review-of-Council-Decisions-Procedures.pdf>> [143].

⁸⁵ Ombudsman SA, 'Report to the Minister for Local Government regarding implementation of Ombudsman recommendations from "Right of Review: An audit of Local Government Internal Review of Council Decisions Procedures"' (June 2017) <<https://www.ombudsman.sa.gov.au/publication-documents/audit-reports/2017/Report-to-Minister-for-Local-Government.pdf>> (Annexure B).



This involves having regard to the following:

Process:

- (i) The decision maker had the power to make the decision;
- (ii) The decision maker considered all matters relevant to the decision and was not influenced by extraneous factors;
- (iii) The process was free from bias and conflicts of interest;
- (iv) The decision maker did not exercise a discretion or power in bad faith or for improper purpose;
- (v) The subject of the decision was afforded adequate procedural fairness; and

Merit:

- (vi) The decision was reasonable, findings of fact were based on evidence, and the decision maker considered any relevant legislation, policies or procedures.

While Council's CGP&P does not prescribe that Council decisions must comply with these principles, they represent best-practice administrative decision-making as outlined by the South Australian Ombudsman.⁸⁶ We have used these principles as a guide for assessing the legality and reasonableness of Council's decisions.

2.6 Identification of Decision

As stated above in section 1.4, the scope of this review is:

1. Council's resolution on 9 June 2020 in respect of the Driveway Link; and
2. the subsequent decision by relevant Council officers to carry out the Driveway Link project in a certain manner (a manner which the Complainant asserts is not consistent with the Council's resolution of 9 June 2020).

In respect of the 9 June 2020 decision, it is apparent that Council's resolution of this date is closely interrelated with its 26 May 2020 resolution.

On 26 May 2020 (as detailed in section 1.2 above), Council received a comprehensive report relating to the Driveway Link, and it was at that meeting that Council considered the information for the purposes of informing its substantial decision to retain and upgrade the Driveway Link, with a budget of \$25,000 allocated. Due to the procedural mechanism adopted (the CEO putting forth a rescission motion), the 9 June 2020 resolution sought simply to give effect to the 26 May 2020 resolution. As a result, and with the exception of where separate procedural consideration has

⁸⁶ Ibid.



been given, these two decisions will be considered in tandem. These will be collectively referred to as the **Council Decisions**.

In respect of the decision by Council officers to carry out the Driveway Link project in a certain manner, we have identified (in conjunction with Council staff), the meeting of 16 September 2020, attended by Mathew Allen, Mark Griffin and Tony Lines, as being the catalyst for the decision in question, which must be scrutinised as part of this Report. This will be referred to as the **Staff Decision**.

For convenience and efficiency, the Council Decisions and the Staff Decision will be considered and reviewed concurrently.

3. Review - Details of the Investigation and Findings

3.1 Power to make decision

We have considered whether decision-maker(s) had the power to make the decision(s).

(a) Power to make decision to maintain / alter Driveway Link

Section 17 of the *Road Traffic Act 1961* (SA) provides for the ability of a road authority to deal with traffic control devices. It relevantly provides:

17—Installation etc of traffic control devices—general provision

- (1) A road authority may, with the approval of the Minister (or in accordance with a roadworks permit issued under section 20), install, maintain, alter or operate, or cause to be installed, maintained, altered or operated, a traffic control device on, above or near a road.
- (2) A road authority may, with the approval of the Minister (or in accordance with a roadworks permit issued under section 20), remove a traffic control device or cause a traffic control device to be removed. ...

By Clause A of an Instrument of General Approval and Delegation to Council, made by the Minister for Transport and Infrastructure on 22 August 2013 (the **Minister's Instrument**),⁸⁷

Councils are authorised to:

... install, maintain, alter, operate, or remove, or cause to be installed, maintained altered, operated, or removed any traffic control device on, above or near a road which is under its care, control and management ...

⁸⁷ https://dit.sa.gov.au/_data/assets/pdf_file/0015/114810/DOCS_AND_FILES-2023271-v4-Tass_Legal_Index_-_Notice_to_council_-_traffic_control_devices.pdf.



And further, that:

Council may authorise any Officer to exercise the powers conferred on it pursuant to Clause A of this Instrument. Any Authorisations to any Officer must be made by instrument in writing and approved by the Chief Executive Officer on behalf of Council. All actions carried out by any Officer in accordance with Clause A must be done so "for, and on behalf of the Council".

In accordance with the Minister's Instrument, Council's CEO (on behalf of Council) has authorised Council's Unit Manager Engineering Services, and Council's Coordinator Traffic and Parking, to exercise these powers (pursuant to Council's Schedule of Delegations).⁸⁸ Note that, in accordance with clause F.1 of the Minister's Instrument, this cannot be a sub-delegation, but rather must be an authorisation.

(i) Code Compliance Condition

Clause A.3 of the Minister's Instrument invokes the 'Code'. It provides:

All traffic control devices must conform to the requirements of and be installed, maintained, altered, operated or removed in accordance with the applicable Australian Standards, and the provisions contained in the Code and the applicable Australian Standards, as amended from time to time.

The Code refers to and invokes the applicable Australian Standards. The Code must be read together with, but takes precedence over, all applicable Australian Standards.

Further to this, the delegation itself (pursuant to section 17 of the *Road Traffic Act 1961* (SA)) similarly prescribes the following condition:

F.3 Conformity with the Australian Standards and the Code

All traffic control devices must conform to the requirements of and be installed, maintained, altered, operated or removed in accordance with the provisions contained in the applicable Australian Standards and the Code.

The Code refers to and invokes the Australian Standards. The Code must be read together with, but takes precedence over, all applicable Australian Standards.

As defined above, the 'Code' being referred to is the 'Code of Technical Requirements',⁸⁹ and more specifically, the Manual of Legal Responsibilities and Technical Requirements for Traffic Control Devices (Part 2 – Code of Technical Requirements) published by the Government of South Australia.⁹⁰

As a result of the above, the power delegated to councils under the Minister's Instrument (to install, maintain, alter, operate or remove a traffic control device) must be exercised in compliance

⁸⁸ City of Marion, 'Schedule of Delegations and Sub-Delegations' (October 2017) <<https://cdn.marion.sa.gov.au/sp/Documents-Policies/Schedule-of-Delegations.pdf>> pp. 405–6.

⁸⁹ Instrument of General Approval and Delegation to Council, Clause H (Definition of Terms).

⁹⁰ Current Issue Date: 31 December 2019.



with the Code. That is, Councils are not empowered to install, maintain or alter a traffic control device in a manner that is not compliant with the Code. The authority derived from the Minister's Instrument simply does not encompass an ability to install, maintain or alter a non-compliant traffic control device.

(ii) Traffic Impact Statement Condition

Clause A.7 of the Minister's Impact Statement mandates the preparation of a Traffic Impact Statement in certain circumstances. It provides:

A.7 Traffic Impact Statement

Before any traffic control device is installed, altered or removed, a Traffic Impact Statement must be prepared by a person, who in the Council's opinion is an experienced traffic engineering practitioner.

The Traffic Impact Statement must be endorsed by a person authorised by Council. The Traffic Impact Statement summarises the investigations undertaken to justify the installation, alteration or removal of traffic control devices and must address road safety issues and the traffic management effects for all road users, including cyclists and pedestrians. It need not be a lengthy document. The Code provides further guidance on the preparation of Traffic Impact Statements.

A Traffic Impact Statement is not required for the installation, alteration or removal of traffic control devices on road-related areas that do not constitute a public place.

The Code is referred to and invoked in these passages. The Code does provide explanation and pertinent discussion in respect of Traffic Impact Statements, as follows:

1.4.3. Traffic Impact Statement

A Traffic Impact Statement (TIS) shall be undertaken in accordance with the requirements of the relevant Instrument ...

A TIS is a report indicating the traffic management and road safety effects for all road users, including cyclists and pedestrians, expected by the installation, operation, alteration or removal of a traffic control device.

Almost all traffic control devices have an impact on road users and the way the road and the surrounding area can be used. A TIS explains both the positive and negative effects expected on all road users by implementing the proposed devices.

A TIS is a source of information from which there should be a clear understanding of the proposal, the need for the proposal, the alternatives considered, any impacts that may occur and any measures to be taken to minimise those impacts.

A TIS provides a framework within which informed decision-makers may consider the traffic management aspects of the proposal in parallel with social, economic, technical and other factors.

All relevant details of the proposal shall be provided in the TIS. These include:

- background information detailing the intent of the proposed changes, and reasons for the installation, alteration or removal of the traffic control device;



- the impacts and the likely effects of the traffic control device in the immediate vicinity of the device and where necessary, the wider area or road network;
- identification and discussion of all the advantages and disadvantages;
- the options considered and the reasoning behind the selection of the proposed device, and rejection of other devices;
- details of traffic re-distribution and generation;
- identification of the risks associated with the proposal and an assessment of these risks;
- expected time frame for the implementation of the proposed changes to traffic control devices, including any staging and timing details.

The TIS template (<http://www.dpti.sa.gov.au/?a=43141>) should be used to assist in the preparation of a TIS. This template includes the certification and endorsement statements which reflect the requirements of the Instrument to Council.

As a result of the above, the power delegated to councils under the Minister's Instrument (to install, maintain, alter, operate or remove a traffic control device) must only be exercised in conjunction with the preparation of a Traffic Impact Statement. That is, councils are not empowered to install, maintain or alter a traffic control device where a Traffic Impact Statement has not been prepared.

(b) Lawfulness of Council Decisions

(i) Code Compliance Condition

It must be considered whether the Council Decisions complied with clauses A.3 and F.3 of the Minister's Instrument (and whether the decisions were directed towards Code compliance).

The substance of the Council Decisions was to alter the Driveway Link by:

1. removing the existing trees
2. increasing its length
3. replacing the pavers with contrasting coloured bitumen
4. increasing its landscaped areas; and
5. installing appropriate signage.

It is clear that the bases for these alterations was to ensure compliance with the Code. The Council Decisions were (appropriately) informed by the WGA Traffic Study and Driveway Link Review provided to Council at its 26 May 2020 meeting (**WGA Review**). The WGA Review found, inter alia:

1. the trees within the Driveway Link have trunks which are not frangible, which presents a roadside hazard (in the event an errant vehicle leaves the paved road). The Code requires that plants should not present an unreasonable degree of hazard if struck by an errant vehicle, and as a result, the trees present non-compliance with the Code (pp. 5, 17).



2. the length of the Driveway Link is 28 metres. It is a mandatory design element that driveway links must be greater than 30 metres. As a result, the length of the Driveway Link is non-compliant with the Code (pp. 5, 17).
3. the Code requires driveway links to be constructed in a material which has a contrasting colour and texture to the adjacent road. The red pavers used in the Driveway Link do provide some contrast, but they have become stained by tyre rubber and the contrasting effect has lessened. The pavers are also deteriorated through chipping and surface deformation. It is recommended that the pavers are re-levelled, replaced where chipped, and water-blasted (to renew the contrast to the pavement and to ensure compliance with the Code) (pp. 6, 17).
4. The Code requires a ratio of 2:1 between the total landscaped area to road area within a driveway link. The Driveway Link has a ratio of 14:11 (significantly lower than the requirement). This appears to be a result of the driveway access to 25 De Laine Avenue (which should have necessitated a lengthening of the Driveway Link to achieve the 2:1 ratio) (pp. 5, 17).
5. signage shall only be used where the driveway link may not be visible to approaching drivers. In cases where signage is warranted, the signs to be used are W5-33 ('SLOW POINT') and W8-16 ('ONE LANE'). The signage currently installed at the Driveway Link is not these specific types of signs and is therefore non-complaint with the Code. This should be addressed (pp. 6, 7, 17, Appendix A).

Notably, although the WGA Review advised that the pavers in their current form were non-compliant, it did not recommend usage of bitumen. This was a recommendation of Council staff resulting in a Council decision to that effect.

As discussed above, Alex Dorn was tasked with delivering technical compliance of the Driveway Link, and through investigating industry practice he became aware that bitumen was a non-Code compliant material. As a result, Council staff determined to use concrete. This was one of the aspects of the Staff Decision.

It is apparent that the Council Decisions constituted a slight departure from the recommendations WGA Review, insofar as it resolved to use bitumen. As was subsequently discovered, bitumen is a non-Code compliant material.

The Council Decisions were directed toward ensuring Code compliance of the Driveway Link, and for the most part it achieved this aim. However, it is an unavoidable conclusion that, by resolving to use bitumen, Council made a decision to install, maintain and/or alter the Driveway Link in a non-Code compliant manner.

As discussed above, the authority that the Council derived from the Minister's Instrument does not empower Council to make such a decision. The Council Decisions were lawful in most respects, but the aspect of the decision pertaining to bitumen was made without authorisation. This aspect



of the decision was non-Code compliant and therefore not compliant with the conditions of the Minister's Instrument.

In other words, the aspect of the Council Decisions relating to bitumen was unlawful. It was made without the power to do so. The other aspects of the Council's decision (which *do* ensure Code-compliance), will not be unlawful on the basis of non-compliance with clauses A.3 and F.3 of the Minister's Instrument.

Critically, this aspect of the Council Decisions was not implemented. A key component of the Staff Decision was to use concrete (a Code-compliant material) rather than bitumen.

(ii) Traffic Impact Statement Condition

It must be considered whether the Council Decisions complied with clause A.7 of the Minister's Instrument (and whether the decisions were made in conjunction with the preparation of a Traffic Impact Statement).

As outlined above, the Code explains the function and purpose of a Traffic Impact Statement, and sets out the required content of a Traffic Impact Statement. This includes the positive/negative expected effects and impacts, the alternatives and options considered, social/economic/technical factors, background information and reasons, advantages and disadvantages, and risk identification, etc.

In our view, the WGA Review provides sufficient discussion and consideration of the abovementioned criteria. The WGA Review was of course presented to, and considered by, Council (when making the Council Decisions).

Although the Code states that 'The TIS template (<http://www.dpti.sa.gov.au/?a=43141>) should be used to assist in the preparation of a TIS', the WGA Review clearly does not take the form of the DPTI standard template. Importantly, this template is only a *recommendation*, being provided by the Department so as to provide road authorities with a means to ensure all relevant factors are covered in preparing a Traffic Impact Statement. Part 1.3 (Definitions) of the Code provides that: '*Should*: indicates a recommendation.' In our view, provided a road authority such as the Council receives and considers a document which adequately covers all of the required content of a Traffic Impact Statement, it is not consequential that Council uses or does not use the Department's template.

In the case of the Council Decisions, the WGA Review will therefore constitute an adequate Traffic Impact Statement and the requirement in clause A.7 of the Minister's Instrument will be satisfied. The Council Decisions will not be unlawful on the basis of non-compliance with clause A.7.



(iii) Lawfulness of June Decision

As has been explained above, the Council considered the WGA Review, public consultation results and other information for the purposes of informing its decision to retain and modify the Driveway Link at its 26 May 2020 meeting. Council clearly and correctly identified that due to the fact that this decision would be and ultimately was directly contradictory to its previous 26 November 2019 resolution, it required the 26 November 2019 resolution to be rescinded. As a result, at the 26 May 2020 meeting, instead of making the substantive decision to keep but make alterations to the Driveway Link, Council requested that the CEO put forth a rescission motion at the next general Council meeting, recommending the substitution of the 26 November 2019 resolution with the content of the 26 May 2020 resolution.

The 26 May and 9 June 2020 decisions each referred to and invoked regulation 21(1) of the *Local Government (Procedures at Meetings) Regulations 2013* (SA). Regulation 21(1) permits a CEO to recommend the revocation or amendment of a previous Council resolution. The Regulation 21 does give rise to some procedural issues, we understand that this is a longstanding and accepted practice for revocation of Council decisions.

Although the 9 June 2020 resolution purported to affect the revocation and make a new decision, it was at the 26 May 2020 meeting that Council had the benefit of the reports and investigation outcomes. As such the 26 May 2020 decision clearly indicated Council's intent with respect to the carrying out of the Driveway Link project. It was proper for Council staff to pay due regard to both of these decisions (whether separately or collectively), and follow the directive to carry out the Driveway Link project in the manner enunciated.

Although not subject to a merits review, the findings from our procedural review of Council's decisions preceding 26 May 2020, in particular the 28 January 2020 and 26 November 2019 decisions are also relevant. They are discussed at part 4.1 (and in particular parts (a), (b) and (c)).

(c) Lawfulness of Staff Decision

Correction of Deficiency of Council Decisions

It is necessary to consider the consequences of the initial unlawful decision of Council and the subsequent correction by Council staff.

As explained above in section 1.3(a), Council staff, in making the Staff Decision, intended to complement Council's original resolution as it was (correctly) identified that the original resolutions (of 26 May and 9 June 2020) were deficient for non-compliance.

It is an administrative law principle that where a decision-maker exceeds its authority and makes a decision it was not empowered to make, the decision will be affected by jurisdictional error – (the decision-maker did not have jurisdiction to make that decision).



'If a purported decision is affected by jurisdictional error, it is regarded as no decision at all. It is a nullity'.⁹¹

In other words, the decision is 'invalid' or 'void'.⁹² In such a situation, 'administrative decision-makers may have the power to "reconsider", "correct", or "rectify" decisions made that are infected by jurisdictional error'.⁹³

It is not a universal proposition that a decision impacted by jurisdictional error will have no consequences whatsoever – this will depend on the particular statute.⁹⁴

Applying the principles to the case at hand, it is apparent that the unlawful aspect of the Council Decisions was affected by jurisdictional error. As a result, it will be void and invalid, as though it was simply not made. In our view, the governing legislation in this instance does not prohibit a reconsideration of an unlawful decision by a council. We find that the preferred approach is that the Council, as administrative decision-maker, is entitled to rectify the deficient aspect of the decision.⁹⁵

This is what the Council staff (in making the Staff Decision) purported to do. More specifically, the Council staff accepted that they had been directed to implement the Driveway Link upgrades, and also decided to use concrete as the base material for the Driveway Link. As explained above, this was in accordance with the Code and DPTI's directives.

Importantly, in making the Staff Decision, the Council Staff (and specifically the Unit Manager Engineering Services) were exercising the same authority as the Council, pursuant to the Council's Schedule of Delegations.

As a result, the Staff Decision, insofar as it purported to:

- alter/maintain the Driveway Link in a manner so as to utilise concrete; and
- rectify the deficiency in the Council Decisions (with respect to the bitumen),

was lawful. The Council staff, and more particularly the Unit Manager Engineering Services, was empowered to make these decisions, by virtue of the *Local Government Act 1999* (SA), the Minister's Instrument, the Council's Schedule of Delegations, the Code, and DPTI's directives.⁹⁶

⁹¹ Kristen Walker QC, 'Jurisdictional Error Since Craig' (2016) 86 AIAL Forum 35, 40, citing *Minister for Immigration and Multicultural Affairs v Bhardwaj* (2002) 209 CLR 597.

⁹² *Hossain v Minister for Immigration and Border Protection* (2018) 264 CLR 123, 133.

⁹³ *AA v Secretary to the Department of Health and Human Services* [2020] VSC 400 [195], citing *Minister for Immigration & Multicultural Affairs v Bhardwaj* (2002) 209 CLR 597.

⁹⁴ *AA v Secretary to the Department of Health and Human Services* [2020] VSC 400 [197], quoting *Jadwan Pty Ltd v Secretary, Department of Health and Aged Care* [2003] FCAFC 288 [42].

⁹⁵ See section 4.4 of this Report for further discussion and recommendations in this respect.

⁹⁶ Council's Unit Manager Engineering Services at the time, Mark Griffin, was present at the 16 September 2020 meeting and in our view, the Staff Decision (insofar as it related to these specific aspects) can be attributed to him.

In furtherance of this conclusion, we note that the Unit Manager Engineering Services' authority to deal with the Driveway Link pursuant to the Council's Schedule of Delegations was given by the Council's CEO. The Council CEO is constrained by the Act to ensuring that the 'lawful' decisions' of the Council are implemented.⁹⁷

The Complainant's feedback has stressed his concern that Council administration have changed a Council resolution without authority to do so. We reiterate that the Council administration have not *changed* any Council resolution. The relevant staff have lawfully supplemented the Council resolution using their own delegated authority. They have also treated unlawful aspects of the Council resolution as void and invalid, which they were entitled to do. Council staff cannot change a Council decision, and they have not done so in this case.

Increasing of Budget and Expenditure of Budgeted Funds

Another component of the Staff Decision was the identification of the increased cost for the Driveway Link project. Due to a number of factors, primarily the switch from bitumen to concrete, the Council staff identified that approximately \$75,000 of funds would be required for the necessary upgrades and modifications to the Driveway Link.

Of critical importance is the fact that the Council Decisions unambiguously directed the Driveway Link upgrades to be carried out utilising a budget of \$25,000.

The means by which the Council staff would seek Council endorsement of the increased \$75,000 budget was through the quarterly budget review process. As outlined above, emails between Mathew Allen, Fiona Harvey, Katherine Galea and Heath Harding in late-2020 and early-2021 were directed toward a revision in the estimated budget required for the Driveway Link project.

In conducting this review, we have carried out a desktop assessment of the relevant budget and finance reviews, adjustments and resolutions.

At its meeting on 6 June 2020, Council considered the Draft Annual Business Plan.⁹⁸ At this time, the prevailing resolution in respect of the Driveway Link was to remove it entirely, at a cost of \$47,000. The Draft Annual Business Plan appears to have reflected this. The Budgeted Capital Expenditure for the Capital Works Program indicated a budget of \$468,000 for Traffic Control Devices, and the 'Traffic Devices Program 2020/21' noted that De Laine Avenue would see driveway link 'removal'. Subsequently, at its 23 June 2020 meeting, Council considered the final Annual Business Plan.⁹⁹ The Budgeted Capital Expenditure for Traffic Control Devices was decreased by \$22,000, to \$446,000. The 'Traffic Devices Program 2020/21' was revised, with De Laine Avenue to see driveway link 'improvements' (rather than 'removal').

⁹⁷ *Local Government Act 1999* (SA) s 99(1)(a). Emphasis added.

⁹⁸ Council Agenda, p. 45 (9 June 2020).

⁹⁹ Council Agenda, p. 27 (23 June 2020).



In the intervening period between these two meetings, Council made the decision to remove the \$47,000 budget allocation (to remove the Driveway Link) and replace it with a \$25,000 budget allocation. This is a \$22,000 reduction – in line with the \$22,000 reduction in the Budgeted Capital Expenditure for Traffic Control Devices, which occurred between the draft and final versions of the Annual Business Plan. These figures, in conjunction with the Traffic Devices Program 2020/21 statements, confirm that the final Annual Business Plan approved by Council at its 23 June 2020 included an allocation of \$25,000 for improvements to the Driveway Link.

Following this, and as is standard practice, quarterly budget reviews of Council's Annual Business Plan occurred in the subsequent months. The first budget review occurred on 24 November 2020, and the second on 23 February 2021. The November 2020 review indicated that the Capital Works Expenditure forecast would increase by \$5,351,000.¹⁰⁰ The February 2021 review indicated that the Capital Works Expenditure forecast would decrease by \$1,268,000.¹⁰¹ Neither of these reviews stated whether the Driveway Link project was accounted for in making these adjustments.

However, as at 23 February 2021, it is apparent that Council's Capital Works Expenditure budget forecast saw a net increase of \$4,083,000. That is, Council expressly approved and resolved for an increase in the Capital Works budget for that amount.

As explained above, in this late-2020 and early-2021 period, the Council staff with oversight of the Driveway Link project were liaising with the relevant finance staff to facilitate an increase in the \$25,000 allocation for the Driveway Link to a \$75,000 allocation by means of the quarterly budget review. We find that this revision in the budget did occur, and it is probable that the net increase in \$4,083,000 to the Capital Works budget incorporated the increase of \$50,000 for the Driveway Link project.

As a result, we find it lawful and appropriate for Council staff to have expended a maximum of \$75,000 for the Driveway Link improvements, on the basis that Council approved the revisions to the Capital Works Expenditure budget.

As it eventuated, and in accordance with the Staff Decision, the Driveway Link improvements were carried out to an approximate cost of \$66,000. As this was within the \$75,000 maximum budget, this expenditure will be lawful and in accordance with the Council resolutions (subject to relevant financial delegations).

Tony Lines oversaw the expenditure, assisted by Mathew Allen. Council's Schedule of Delegations provides for the authority of each Council staff member to expend budgeted funds. More specifically, item 47.1 of Council's 'Instrument of Delegation under the Local Government Act 1999' (which is contained within the Schedule of Delegations) provides:

¹⁰⁰ Council Agenda, p. 231 (24 November 2020).

¹⁰¹ Council Agenda, p. 79 (23 February 2021).



47.1. Subject to the Act or another Act, the power pursuant to Section 137 of the Act to expend the Council's approved budgeted funds in the exercise, performance or discharge of the Council's powers, functions or duties under the Act or other Acts.

and this authority is subject to the Financial Delegations annexed to that instrument.¹⁰²

Those Financial Delegations relevantly provide for various delegated amounts, attributed to specific Council employee offices. A \$1 million limit is delegated to the General Manager City Services, and a \$75,000 limit is delegated to the Manager Engineering & Field Services, being Tony and Mathew respectively.¹⁰³ (Considering the size and both operational and capital budgets of the Council, these financial delegation amounts are likely reasonable and necessary). MinterEllison has given consideration to whether the discrepancy between the title noted in the Financial Delegations (Manager Engineering & Field Services) and Mr Allen's title at the relevant time (Manager Engineering, Assets and Environment), affects the exercise of Mr Allen's delegated authority, but in our view this is immaterial in light of the fact the decision in question could equally be attributed to Mr Lines. In our view, Mr Lines was the decision-maker in relation to the financial aspect of the Staff Decision.

It is clear that the authority to expend a sum of \$66,000 is vested in both Tony Lines and Mathew Allen. As a result, we find the expenditure of these funds for the Driveway Link project was lawful and in accordance with the applicable Council resolutions, reports, and instruments of delegation. Accordingly, the financial aspect of the Staff Decision, which was simply to seek to adjust the prevailing \$25,000 budget with an increased budget of \$75,000 through the quarterly budget reviews, was lawful.

We are advised that the Council staff (in making the Staff Decision) turned their minds to the applicable financial delegations and they concluded that the requisite authority existed to request and expend budgeted funds up to \$75,000.

It is acknowledged that the Council clearly directed the Council staff to expend only \$25,000, but the staff utilised an increased budget (of \$75,000) instead. It is important to explain why this was a permitted course of action.

In our view, it was appropriate for Council staff to consider that they were not limited by the \$25,000 figure. That sum was reliant on, and made in the context of, Council's determination to use bitumen. As discussed above, this was a non-compliant material and consequently an unlawful decision.

¹⁰² City of Marion, 'Schedule of Delegations and Sub-Delegations' (October 2017) < <https://cdn.marion.sa.gov.au/sp/Documents-Policies/Schedule-of-Delegations.pdf> > p. 262.

¹⁰³ Ibid 338.



It would therefore have been inappropriate for the Council staff to consider themselves bound by the direction to use up to \$25,000. That figure simply became no longer applicable or relevant, and that allocation was unable to be used to achieve Council's stated aims.

Council staff were faced with two options:

1. go back to the Council, seeking another specific resolution concerning the Driveway Link, increasing the allocated budget; or
2. rely on its own delegations to construct a Code-compliant device, utilising as much budgeted funds as necessary (within the Capital Works Program budget).

Council staff chose the latter option, and were entitled to do so, due to the existence of the financial delegation (in conjunction with the Quarterly Budget Review increase to the Capital Works Program) and the traffic control device delegation of the relevant staff decision-makers (as discussed above).

The staff were entitled to consider themselves not limited by the \$25,000 figure, and this entitlement arose only because of the unlawfulness of Council's original decision. If the decision had been unlawful, Council staff would not have been entitled to choose this course of action. There would have been no need to revisit Council's original decision.

As a result of the foregoing, we find that Council had the power to make the Council Decisions (excluding the unlawful aspects as discussed above), and that the Council staff had the power to make the Staff Decision and expend the relevant funds.

3.2 Matters relevant to decision

We have considered whether the decision-maker(s) considered all matters which were relevant to the making of the decision(s) at the time, and did not take into account matters which were not relevant.

Council Decisions

When making the Council Decisions, Council had before it a comprehensive staff report accompanied by external expert reports. The following matters were summarised and brought to Council's attention, in respect of the Driveway Link:

- (a) historical background
- (b) technical review/code assessment
- (c) site observations
- (d) traffic data
- (e) theoretical effect of removal



- (f) other traffic treatment options
- (g) acoustic assessment
- (h) feedback from community consultation; and
- (i) cost of removal of device (and other options).

In our view, these are all highly relevant considerations when making a decision concerning a traffic control device such as the Driveway Link. Council staff were correct to provide the elected members with this information and Council was correct to rely on it.

The weight placed on each of these considerations is a matter for a merit review, assessed below in the reasonableness assessment (see section 3.6 of this Report).

As previously discussed, this decision was precipitated by a number of matters, including the first petition, second petition, and Cr Masika's consultation. We find no evidence that these matters were taken into account when the Council Decisions were made, and this was the correct approach.

Of note, there were a number of Council policies that directly or indirectly bore on the subject matter of the Council Decisions. For example, the Asset Management Policy, Asset Management Policy Transport Asset Management Plan, Prudential Management Policy, and Streetscape Policy are all variously relevant to the management of the Driveway Link.

There is no indication that the Council directly considered any of these policies in making its decisions. Nonetheless, we have not found any evidence of non-compliance with those policies, and indeed, the policy positions stated within them have been broadly followed.

- The Asset Management Policy speaks of maintenance before renewal, and renewal before new/upgrade, and the making of effective and informed decisions.
- The Asset Management Strategy similarly speaks to effective and informed decisions, requiring accurate, relevant and complete data to be put before the Council. It also promotes the provision of data concerning cost, funding, risks, trade-offs and consequences.
- The Transport Asset Management Plan explicitly notes the Code as being a relevant legislative requirement.
- The Prudential Management Policy requires Council projects to be undertaken only with an appropriate level of due care, diligence and foresight.

Each of these policy positions, preferences and directives have been, in our view, adequately applied and complied with.

We find that, in making the Council Decisions, Council considered all relevant matters, and did not take into account matters which were not relevant.

It is also important to note that (as discussed above), Council made an unlawful determination to use bitumen, a non-Code compliant material. It is clear that Council only made this decision in light of the advice from the administration – it was not for Council to investigate Code compliance.



In our view, the administration recommended Council use a material which was contrary to technical compliance. It was reasonable for the Council to rely on this recommendation. However, this resulted in the Council being unable to make the proper (lawful) decision, with respect to the material. The actions of Council staff are discussed below at section 4.4 but in our view, these circumstances do not render the Council Decisions deficient.

Staff Decision

The substance of the Staff Decision was very similar to that of the Council Decisions. The staff members also had the benefit of the materials before the Council.

The considerations listed above for the Council Decisions are also largely relevant to the Staff Decisions. Some are even more so, for example the Transport Asset Management Plan's requirement regarding Code-compliance was clearly applied in making the Staff Decision.

We are advised that the staff members did not have specific reference or regard to any applicable policies at the time of making the Staff Decision. They did, however, proceed on the view that the overarching thrust and intent of all relevant policies was to mandate compliance with the Code. It was against this background that the decisions were made to ensure Code compliance. We find this view to be correct.

We find that, in making the Staff Decision, the Council staff considered all relevant matters, and did not take into account matters which were not relevant.

3.3 Bias and Conflicts of Interest

We have considered whether the decision-maker(s) had a conflict of interest, were biased, or demonstrated perceived bias.

There is no suggestion, nor any evidence, that the Council Decisions and/or the Staff Decision involved any conflict of interest, bias, or perceived bias.

We find that the Council and the staff members had no relevant conflict of interest, and their respective decisions were not biased.

3.4 Bad faith or improper purpose

We have considered whether the decision-maker(s) exercised a discretion or power in bad faith, for an improper purpose, or while subject to duress or the influence of another person.

Relevantly, in respect of the Council Decisions, the presence of 'fettered discretion' is worthy of discussion. Regulation 21 of the *Local Government (Procedures at Meetings) Regulations 2013* (SA) provides that:

- (1) The chief executive officer may submit a report to the council recommending the revocation or amendment of a resolution passed since the last general election of the council.



Clearly this grants a discretionary power to the CEO. The Council, in seeking to revoke its 26 November 2019 decision and replace it with its 26 May 2020 decision, requested that the CEO exercise his power under regulation 21 at Council's 9 July 2020 meeting. The CEO did so, and pursuant to regulation 21, at that meeting Council's 26 November 2019 resolution was purportedly replaced with its 26 May 2020 decision.

The administrative law principle of 'fettering discretion' requires that an authority, who possesses a discretionary power, must exercise that power independently, and not at the dictation of another decision-maker.¹⁰⁴

In considering whether Council dictated the CEO exercising his discretion in a certain way, the wording of the resolution is important. Relevantly, Council resolved on 26 May 2020:

Requests the CEO to submit a report to the 9 June 2020 General Council Meeting under regulation 21(1) of the Local Government (Procedures at Meetings) Regulations to rescind the decision of 26 November 2019 ...

In our view, this is a request, not a directive. The CEO retained the ability to refuse Council's request.

Further, it is apparent that the Council administration chose this particular procedural mechanism – rather than the Council itself. Council administration were exercising the authority of the CEO in the preparation of the relevant agenda and recommendation, revealing the implicit involvement of the CEO in any event.

As a result, we find there to be no fettered discretion. We do, however, caution Council (and administration) in ensuring that the CEO's discretion under regulation 21 is not fettered, and that if Council seeks the discretion to be exercised, it *requests* rather than *directs* the CEO's cooperation.

We find that the Council Decisions and Staff Decision were not made in bad faith, for an improper purpose, or while subject to duress/influence.

3.5 Procedural Fairness

We have considered whether the decision-maker(s) afforded an opportunity to be heard to person(s) whose interests will be adversely affected by the decision(s).¹⁰⁵

Requirement of Procedural Fairness

Public authorities such as the Council will generally always be obliged to afford 'procedural fairness' in making decisions. This requires allowing an affected person a 'fair hearing', which will

¹⁰⁴ Chris Wheeler (Deputy NSW Ombudsman), 'Judicial Review of Administrative Action: An administrative decision-maker's perspective', 26 AIAL National Administrative Law Conference (22 July 2016).

¹⁰⁵ Administrative Review Council, *The Scope of Judicial Review* (Report No 47, 2006) 61.



ordinarily require and include notifying the person that a decision will be made, notification of the critical issues to be addressed, and provision of a reasonable opportunity to present a case.¹⁰⁶

In this instance, the appropriate means of procedural fairness (in respect of the Council Decisions) was the official community consultation undertaken, and the advance publication of the Council agenda and report preceding the meetings in question.

We find the community consultation was carried out properly and appropriately, in accordance with Council's Public Consultation Policy.

In respect to the Staff Decision, a letter was sent to the local residents advising of the change to the scope of the project in October 2020. The letter invited concerned residents to contact Mark Griffin and provided his phone number. We understand a resident did in fact contact Mr Griffin and ask questions.¹⁰⁷ As a result of the above we have found that Council and Council staff (in making their respective decisions) notified the local residents that a decision would be made, provided information as to the substance of that decision, and allowed residents an opportunity to contact the Council and ask questions and/or make submissions.

As such we find that both the Council and Council staff afforded procedural fairness in making their respective decisions.

3.6 Reasonable

We have considered whether the decision(s) were reasonable, findings of fact were based on evidence and logical reasoning, and the decision-maker(s) gave proportionate or excessive weight to factors of little or no importance.

The assessment of reasonableness is largely determinative of the question of merit, and whether a decision was correct or preferable. When there is only one possible lawful decision, the enquiry is centred on the 'correct' decision. When there is more than one correct decision, the enquiry is centred on the best decision (the 'preferable' decision).¹⁰⁸

As discussed above, both the Council Decisions and the Staff Decision were, in material respects, lawful. This review must now assess the reasonableness of these decisions, which will determine whether the decisions in question were correct or preferable.

¹⁰⁶ Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Laws* (Report No 129, December 2015) [14].

¹⁰⁷ Email from Mark Griffin to Mathew Allen (28 October 2020).

¹⁰⁸ Ombudsman SA, 'Right of Review: An audit of Local Government Internal Review of Council Decisions Procedures' (November 2016) <<https://www.ombudsman.sa.gov.au/publication-documents/audit-reports/2016/Right-of-Review-An-audit-of-Local-Government-Internal-Review-of-Council-Decisions-Procedures.pdf>>.



Weight Afforded to Factors

A critical aspect of both the Council Decisions and the Staff Decision, which affect the reasonableness of those decisions, concerns the weight afforded to community opinion and sentiment.

Council's Asset Management Policy explains that the role of the Council is to ensure its assets 'meet the needs of the community now and into the future'.

The notion of 'informed decisions' is also prevalent, with the Asset Management Policy and Asset Management Strategy explaining that the role of Council Administration is to ensure that effective and informed decisions are made in respect of Council assets.

This is achieved through provision of accurate data. In accordance with the Asset Management Strategy, data should be accurate, relevant and complete, and incorporate information concerning economic, social, cultural and environmental consequences, so as to ensure it can be relied upon to make informed decisions in Council's (and the Community's) best interests.

Community consultation of course a key role of Council. The Asset Management Strategy speaks of engagement with relevant stakeholders, and consideration of community expectations.

The Transport Asset Management Plan similarly references that operation of Council assets should be informed by customer feedback, which is also in line with Council's purpose, (as stated in that Plan) as being improvement of residents' quality of life.

Finally, the Public Consultation Policy is instructive. Relevantly:

We commit to evaluation and continuous improvement in our community engagement. We will commit to appropriate levels of community engagement before making significant decisions taking into account the number of people affected and the likely degree of impact of the decision.

Clearly then, community sentiment is a decision-making consideration with significant weight. In particular, the 'likely degree of impact of the decision', guided by Council's purpose of 'improvement of residents' quality of life', assists in distinguishing between competing and incongruent desires within the community.

This being said, it remains clear to us that decisions regarding Council infrastructure, such as traffic control devices, should be guided by paramount considerations of traffic data, technical compliance, engineering considerations and safety (of residents and road users). These considerations should be seen as overarching, but equally, the concerns of residents should not be ignored. In the present case, the decision-makers were faced with all of these factors, in addition to competing resident concerns. From our review, it appears that the decision-makers in each instance did lend weight to all of these factors – none were ignored. The community sentiment was relevant (and indeed precipitated the present Driveway Link discourse), the noise



concerns by the residents in the immediate locality were sought to be rectified, and the overarching consideration was the safety and technical compliance.

As has since become apparent, the Complainant has not seen a reduction in noise levels (to his satisfaction), and his concerns have not been alleviated (to his satisfaction). However, importantly, the decision-makers in each instance (in making the Council Decisions and Staff Decision) did seek to address the noise, and did make their decision in a manner which (at the time), appeared directed at rectifying the noise. This did not eventuate to the Complainant's satisfaction, and the implications of this are discussed below. Nonetheless, we find the decision-makers adopted a reasonable approach in making each decision, and afforded appropriate weight to the relevant considerations.

The Complainant's feedback has asserted that the Council staff did not sufficiently consider the noise impacts of the changes to the Driveway Link. In response, we note that the Council staff made a decision to make the Driveway Link technically compliant. This necessarily involved an alteration to the height of the Driveway Link. It was not open for the staff to make a value judgement about the preferred height of the Driveway Link by virtue of potential noise impacts. It was the Council itself which made such a judgement. Indeed, the Council had the benefit of the WGA Review and various associated staff reports. These documents clearly addressed the noise concerns of the residents, and also provided potential options (as well as the noise effects of such options). Council balanced the competing considerations, and made a decision. From the Council administration's perspective, it was reasonable for them to consider that the question of noise had been addressed. They were simply (and rightfully) concerned with the technical compliance of the Driveway Link. Of course, it was preferable that the staff inform the Council of the non-compliance and the required rectification works. They did not, and the reasonableness of this course of action is discussed in depth in the following paragraphs and section 4.4 of this Report.

The Complainant also asserts that the Council administration's decision to alter the Driveway Link was done without further consultation with affected residents, and without following proper processes and procedures. We do not find any legal or policy obligation for Council to undertake further publicly consultation. We do however, point to the recommendations contained in sections 4.4 and 5 of this Report, which explain that Council staff should consider the appropriateness of seeking input from concerned residents, and keeping them better informed as to such decisions. Our recommendations also acknowledge that there has been deficiencies in Council's processes which should be managed better in the future.

Decision-making reasoning

There are some aspects of the Staff Decision which do not display best practice reasoning and decision-making processes.

It was conveyed to us that the staff viewed their decision as reasonable and preferable, as they were simply furthering Council's own decisions, and their decision was in line with Council's



intention. We acknowledge this viewpoint, but we have found deficiencies in the reasoning and decision-making of the staff.

When making the relevant decisions, the Council was faced with advice to the effect that expenditure of \$25,000 would address resident concerns, would reduce noise, and would ensure technical compliance.

The Council administration, in making the Staff Decision, interpreted Council's intention as being a steadfast preference for retaining and upgrading the Driveway Link and ensuring Code compliance. As a result, the change to the project scope and the increase in budget to \$75,000 was (lawfully) authorised (and deemed reasonable).

In our view, if Council had all accurate and relevant information before it, such as the accurate cost of Code compliant upgrades, the lawfulness of the bitumen material, and the fact that the upgrades would not resolve the noise concerns to the satisfaction of some residents, it is *not unlikely* that Council would have made a different decision. The cost of removing the entire device was only \$47,000. Council may have chosen the cheapest and easiest option. It may have sought further engineering advice as to noise mitigation measures. It may have undertaken an additional consultation process.

Council Staff (lawfully) determined to increase the budget threefold,¹⁰⁹ and to alter the scope of the project, without advising or formally consulting with the elected members via a report to Council. We understand the hesitance of staff to involve the elected members once more (this matter had been reported to Council a number of times and staff considered their decision was complementary to the Council Decisions); and in the circumstances, we acknowledge that the decision-making process was likely reasonable.

Notwithstanding this conclusion, the *best* option for the Council staff was to formally report and consult with the Council proper. The approach taken was therefore not the preferable approach.

4. Additional Comments and Concerns

During the course of this review, a significant quantity of decision-making has been observed, by a variety of Council actors. Whilst only the Council Decisions and Staff Decision have been subject to a substantive process and merits review, we take this opportunity to comment on a select number of other Council decisions and actions.

4.1 26 November 2019 Resolution

At Council's 26 November 2019 meeting, it resolved to remove the Driveway Link. The basis for this was the receipt of the first petition, which had indicated resident dissatisfaction with the noise

¹⁰⁹ As discussed above, the adjusted budget was technically authorised by the Council by means of quarterly budget reviews. These comments as to reasonable remain relevant, however.



and safety of the device. There are strong grounds to conclude that this resolution was unlawful and invalid, as discussed below. (Reasons for undertaking this assessment and making this finding are particularly relevant to the procedural review of key Council resolutions).

(a) Traffic Impact Statement Condition

As advised in the accompanying staff comments to the 26 November 2019 Agenda report, removal of the Driveway Link requires a Traffic Impact Statement. This is correct, being a requirement of clause A.7 of the Minister's Instrument. As explained in the discussion at section 3(1)(a)(ii) of this Report, the Minister's Instrument refers to the Code, which sets out the requirements of a compliant Traffic Impact Statement. A Traffic Impact Statement must contain discussion about those specific factors and considerations, though it need not be in the Department's template.

At its 26 November 2019 decision, Council resolved to remove the Driveway Link, but it did not have before it a Traffic Impact Statement (whether based on the Department's template or otherwise). Prime facie, this evidences that the Council's decision was not in conformance with the Minister's Instrument, but there must be analysis of the required *timing* of preparation of a Traffic Impact Statement. Clause A.7 of the Minister's Instrument explains that 'Before any traffic control device is installed, altered or removed, a Traffic Impact Statement must be prepared ...'. Although it was not provided to the Council prior to the 26 November 2019 resolution, there does appear to be evidence that a Traffic Impact Statement was prepared by Council staff. We have been provided with an (unsigned and undated) Traffic Impact Statement (based on the Department's template) referencing the removal of the Driveway Link (in accordance with that 26 November 2019 resolution). It was not presented to Council at its 26 November 2019 meeting and it is probable that the document became redundant upon Council's 28 January 2020 resolution.

Question arises as to whether (on the wording of the Minister's Instrument) it is sufficient for a Traffic Impact Statement to be prepared at any time prior to the commencement of works (to remove a traffic control device), or whether it must be provided to a Council *prior to the decision to alter/maintain/remove that traffic control device*. This is dependent on a construction of the relevant instruments, and in our view, the Minister's Instrument and the Code require that a Traffic Impact Statement be provided to the Council *prior to its decision*, (not simply prior to the works).

The considerations to be included in a Traffic Impact Statement are outlined above at section 3(1)(a)(ii). These items are clearly relevant factors to be considered by a decision-maker when deciding whether to deal with a traffic control device or not. For those to be complied and considered *after* such a decision would render the Traffic Impact Statement redundant, ineffectual, and simply a mere formality with no substantive effect on the decision-making process. The Code speaks of the Traffic Impact Statement supporting 'informed decision-makers'. This aim cannot be achieved if the Traffic Impact Statement is never put before the decision-maker. Clause A.7 of the Minister's Instrument also explains that the 'Traffic Impact Statement summarises the investigations undertaken to justify the installation, alteration or removal of traffic



control devices ...'. Investigations directed towards justifying a decision to install, alter or remove a traffic control devices can only (in accordance with proper decision-making principles) be made *prior* to such a decision. It would be an absurd result if a Council could make a decision with respect to a traffic control device, and then seek to subsequently justify that decision (through retrospective investigations and a Traffic Impact Statement).

In light of the above discussion, we find that the Minister's Instrument and the Code mandate the preparation (and production to Council) of a Traffic Impact Statement *prior* to any decision of the Council which requires preparation of a Traffic Impact Statement. In respect of the 26 November 2019 decision, Council purported to exercise its approval and delegated authority under the Minister's Instrument, but the decision was not compliant with Clause A.7 of the Minister's Instrument insofar as the Council did not have the benefit of a Traffic Impact Statement. The 26 November 2019 resolution was therefore non-compliant with the Minister's Instrument.

A separate enquiry must occur in respect of whether this non-compliance renders the 26 November 2019 resolution unlawful and invalid. The test for invalidity centres on whether the applicable legislation intends that an act done in breach of a provision should be invalid.¹¹⁰

The *Road Traffic Act 1961* (SA), the Code and the Minister's Instrument together convey the clear importance of the relevant provisions and regulations. The strictness and importance of compliance (with those provisions) is apparent. In our view, it would be incorrect to conclude that non-compliance with the Minister's Instrument (and, where relevant, the provisions of the Code that the Minister's Instrument invokes) will not render a decision of a council invalid.

The relevant provisions of the Minister's Instrument (relating to the Traffic Impact Statement process) are imperative: 'Before any traffic control device is installed, altered or removed, a Traffic Impact Statement **must** be prepared ...' (emphasis added).

The Code itself is equally mandative. Clause 1.1 explains that the Code '... sets out the mandatory requirements ... for the use of traffic control devices in South Australia', and that 'Traffic control devices shall be used only in accordance with this Code ...'. Clause 1.4 requires that 'Traffic control devices shall be installed, maintained, altered, operated and removed with the proper approval.'

Clause 1.4.1 of the Code explains the effect of the Minister's Instrument: '... it is important for all parties to refer to their relevant Instrument to ensure they are complying within their legal authority ... Not complying with the details and conditions specified in the Instrument may mean the traffic control device is installed (or removed) without proper authority, which is an offence under section 21 of the Act.'

¹¹⁰ *Project Blue Sky Inc v Australian Broadcasting Authority* (1998) 194 CLR 355.



This reference to section 21 of the *Road Traffic Act 1961* (SA) is material, as that section makes it abundantly clear that installation, alteration or removal of a traffic control device without the proper authority constitutes an offence, with a maximum penalty of \$5,000 or imprisonment for one year.

In light of this discussion, our view is that this legislative framework makes it clear that non-compliance with applicable provisions will not be tolerated. The aims of the legislative framework would be defeated if the provisions were not strictly complied with, and in our view the legislature has intended that failure to comply with the requirements will invalidate the acts done by the authority. The nature of the conditions in the legislative scheme are such that strict compliance is necessary, and failure to observe the requirements will constitute an invalid act.¹¹¹

We conclude that a decision made contrary to the Traffic Impact Statement process in clause A.7 of the Minister's Instrument, which fails to meet the strict procedure set out, will be invalid by reason of that non-compliance.

In the present case, the result is that the Council, in making its 26 November 2019 resolution and failing to comply with clause A.7 of the Minister's Instrument, made an invalid decision. The 26 November 2019 resolution was therefore unlawful and void. The Council, and other actors, would be entitled to treat that resolution as a nullity.

(b) Other Process Deficiencies

The primary consideration before the Council was the existence of the first petition. Secondary to this was a single paragraph, contained with the staff comments of the Agenda report, as to performance of the Driveway Link. For Council to make a decision concerning an expensive and significant piece of road infrastructure, largely reliant on a resident petition and without extensive consideration of the engineering, traffic and technical aspects of the device, would appear to be a failure to take into account all relevant considerations.

Finally, the staff comments in the Agenda report advised that the Driveway Link was operating well, and that to remove the device would be detrimental to community safety and contrary to the National Road Safety Strategy. For Council to resolve to remove the Driveway Link in light of these (expert) comments brings the reasonableness of that decision into question.

(c) Impact on Subsequent Decisions

As a result of the foregoing, we consider there to be a strong likelihood (and in fact it is our view) that the 26 November 2019 decision to remove the Driveway Link was unlawful, or at least manifestly unreasonable to such an extent that it would be rendered void.¹¹²

We are comfortable that this is the preferred view. However, if this conclusion is wrong (and the 26 November 2019 resolution was in fact lawful) then procedural issues would arise with respect

¹¹¹ *Tasker v Fullwood* [1978] 1 NSWLR 20, 23—4.

¹¹² *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 62 CLR 24, 41.



to Council's 28 January 2020 resolution. The 28 January 2020 resolution had the effect of varying the implementation of the 26 November 2019 resolution. This was likely, in effect, an amendment to the 26 November 2019 resolution, which would require a written notice of motion (pursuant to regulation 12(3) of the *Local Government (Procedures at Meetings) Regulations 2013* (SA)). As a written notice of motion was not utilised in this instance, the procedural irregularity of the 28 January 2020 resolution would likely render that resolution unlawful and void. This would have significant follow-on consequences, as all subsequent actions and resolutions of Council and Council staff were made in reliance on that 28 January 2020 decision.

However, as noted above, it is our view that the 26 November 2019 resolution was unlawful. As a result, the 28 January 2020 resolution would be correctly categorised not as an amendment, but as a decision afresh (being no 26 November 2019 resolution to amend). As such, the 28 January 2020 resolution would not require a written notice of motion, and the resolution as passed would remain lawful and valid.

Both the 26 November 2019 and 28 January 2020 decisions fall outside the scope of a merit review and as a result they have not been subject to full scrutiny. We do not consider it necessary to undertake such a review. As stated above, this preceding discussion has been included as a result of the general procedural review and due to the follow-on effects in the event either of these resolutions are likely unlawful. As it stands, our view is that the 26 November 2019 resolution was unlawful, rendering the 28 January 2020 resolution (and all subsequent decisions and actions carried out in reliance on that resolution) lawful.

4.2 Mayor Hanna's Letterbox Drop

Questions have been raised regarding the propriety of Mayor Hanna's letterbox drop on 6 December 2019. We have reviewed the contents of that letter (to the extent that it is relevant to this review) and conclude that it contained accurate information, and its content was not inflammatory, biased or otherwise unethical. We are of the view that the letter did not improperly affect any of the decisions the subject of the review (i.e. Council Decisions and Staff Decision).

The Complainant has questioned the accuracy and appropriateness of Mayor Hanna's letter. We maintain our views. No inaccuracies or undue influence has been identified.

4.3 Local Consultation undertaken by Councillors Masika and Crossland

The Cr Masika consultation has been discussed above. In our view, this consultation was directed toward representation. The results of the consultation can appropriately be used to inform Cr Masika (as a ward councillor) as to the prevailing community sentiment. However, the results cannot be taken as a fulsome and exhaustive dataset from a formal consultation. Further, Cr Masika (and the surveyed residents) did not have any of the requisite information and expertise to properly consider all implications of removing or retaining the Driveway Link.

We find this consultation, and its results, to be an irrelevant consideration in Council's deliberations with respect to the Driveway Link. We find no evidence that it was considered in

making the Council Decisions (as it is not referenced in the relevant agendas, reports or minutes), and to the extent it was, little or no weight was given to it. We find this to be the correct approach.

4.4 Improvement of Processes

Tony Lines made the following concessions in his email of 5 May 2021 email:

However I do accept that there are a number of areas where we could have done better:

- *We didn't close the loop with Ward Councillors in expressly advising them of the final tendered construction sum*
- *We didn't request additional funds from Council (we should have, but were reluctant to come back to the Chamber after ten reports)*
- *We could have kept the residents better informed before and during the construction phase.*

We strongly agree with Mr Lines' summary of the deficiencies in Council's processes. These were the key parts in Council's processes and decision-making that contributed to the complaint being lodged, and it is commendable that Council staff have identified these issues. It is also important that Council administration have sought to avoid such issues in the future:

*We have committed that all future projects that are likely to exceed Council recommended budgets will be brought back to Council for further approval.*¹¹³

Indeed, we recommend that, in future:

- if a resolution of Council, especially one subject to significant interest and debate, requires rectifying, careful consideration be given as to whether the decision should be put back to Council;
- notwithstanding having the requisite authority, if an increase to an allocated budget is required, consider if quarterly budget review processes are the preferred approach;
- staff should also not rely on informal (or second-hand) agreement from local residents. Particularly in respect of the change from bitumen to concrete, although the ward councillors were (rightfully) advised of this, the staff should consider the appropriateness of making direct contact with the concerned residents and seeking their input.

Throughout the management of the Driveway Link project, there also appeared to be a lack of clarity as to *whether* Council staff could make decisions concerning traffic control device, *which* Council staff had this authority, and *what conditions* attached to that authority. The Asset Management Policy prescribes that:

Our asset management processes will be appropriate, streamlined, efficient, well-defined and documented.

In future, we recommend that Council staff undertake further efforts to ensure that the decisions and processes follow a streamlined and well-defined path (as required by the Asset Management

¹¹³ Email from Tony Lines to Elected Members (5 May 2021).



Policy). This will assist in avoiding issues of unlawfulness, invalidity, resident dissatisfaction and elected member concerns.

As explained above, the Asset Management Policy and Asset Management Strategy both explain that the role of Council Administration is to ensure that effective and informed decisions are made in respect of Council assets. Alex Dorn explored the Code-compliance of the bitumen material *after* Council had resolved to use it (at the staff's recommendation). As has been established, this rendered Council's decision partly unlawful, and demonstrates an instance where Council were not making fully informed decisions. The investigations (and conclusions) regarding Code compliance (or approvals required) should be made prior to the recommendation, rather than after the fact.

The Complainant has asserted that the Council staff 'made premature recommendations to the CEO, without proper investigation, research and due diligence.' We agree and reiterate our comments above. The Staff should have made their investigations prior to the recommendation, as this resulted in an situation where Council was not fully informed, and made a (partly) unlawful decision.

Finally, we recommend that the Council review the concerns of the Complainant, as enumerated above in section 2.2 of this Report, and consider how these may be rectified (both for the Driveway Link and for future infrastructure projects) and particularly, whether:

- the signage at the Driveway Link is now Code-compliant.
- petitioners can be kept better informed as to the outcome of their petition.
- community consultation can be clearer and more consistent, rather than a scattered approach with various elected members and Council staff undertaking consultations with respect to the same subject matter.
- residents can be kept better informed as to decisions made by Council administration (as an unelected body) which amend or alter decisions made by the Council (as the elected body).

5. Conclusion and Recommendations

The Council Decisions were lawful, and correct and preferable. This excludes the unlawful aspect of the decision relating to the usage of bitumen (a non-Code compliant material). This unlawful aspect in respect of Code-compliance was later rectified.

The Staff Decision was lawful, and although it was reasonable in the circumstances, it was not the best or preferable approach. Council staff should have formally reported to elected members (i.e. Council proper).

It is recommended that Council review and consider the comments and concerns in section 4 above, and particularly the comments regarding Council's processes in section 4.4. This should



extend to a review of the Complainant's concerns (as listed in section 2.2 above), and consideration of how these grievances may be addressed (if possible).

We recommend that Council acknowledge that the identified decisions and processes could have been managed better, and in the future, attention should be given to appropriate rectification of these deficiencies.

We have found that the decisions and actions of Council and Council staff have not addressed the noise concerns of the Complainant to the standard expected by the Complainant. In this regard, Council is not obliged to rectify its decisions (as they were materially lawful), but it is now faced with two options:

- Council may consider what avenues and options are available to appease the Complainant and address his outstanding concerns, if possible; or
- Council can uphold and stand by its decisions with respect to the Driveway Link.

In reaching such a decision, Council may take other steps, for example undertaking a further noise study. Council may (but is not required) to adopt either of these approaches.



Annexure – A

Request for Review and CGP&P

Annexure to Local Government Act 1999 – s 270 review

Request for internal review of Council decision

Request for Review of Decision - De Laine Avenue - Driveway link (Section 270 Report)

Originating Officer Manager Corporate Governance - Kate McKenzie

Corporate Manager Manager Corporate Governance - Kate McKenzie

General Manager Chief Executive Officer - Tony Harrison

Report Reference GC210525R10

Confidential ☐

REPORT OBJECTIVE

To seek Council direction regarding how Council would like to undertake the section 270 Internal Review for the implementation of the driveway link on De Laine Avenue, Edwardstown.

EXECUTIVE SUMMARY

The City of Marion's Complaints and Grievance Policy provides a fair, consistent and structured process for stakeholders who are dissatisfied with an action, decision or service of the Council. Section 4, part 3 of the Policy outlines that, when a complaint cannot be resolved, an internal review (pursuant to section 270 of the *Local Government Act 1999*) may be requested.

The City of Marion has received a request from a resident for an internal review of the decision to install a new driveway link on De Laine Avenue, Edwardstown and how this resolution of Council has been implemented. A copy of the request is included in **Attachment 1**.

As the matter relates to a decision of Council, the Council must determine how the review is undertaken, either by an independent investigator or an internal review panel. Due to the nature of the request, it is recommended that the review is outsourced to an independent investigator. It is estimated that an external review of decision by an independent investigator would cost between \$5,000 and \$10,000. The funds would be allocated from existing budgets.

RECOMMENDATION

That Council:

- 1. Appoints an independent investigator to undertake the Review of Decision regarding the decision of Council to implement a driveway link on De Laine Avenue, Edwardstown and the implementation of that Council decision.**

Legal / Legislative / Policy: The Review will be completed in accordance with the City of Marion's Complaints and Grievance Policy.

Timeline The Policy states that section 270 Reviews can take 6 -8 weeks depending on the complexity.

Current Budget Allocation This review will be absorbed within current budget.

DISCUSSION

A request for a review of decision was received via email on 11 May 2021 (Attachment 1).

The request relates to the installation of a driveway link on De Laine Avenue and that the Council has not adhered to the resolution of the Council regarding these works. The matter was considered by Council through ten Council reports over six General Council Meetings between October 2019 and June 2020. Various petitions, resident deputations, a motion and Council reports were considered looking to either remove or retain the advice. Council ultimately decided on 9 June 2020:

That Council:

1. Retains the Driveway Link in De Laine Avenue, Edwardstown
2. Endorses the following Driveway Link improvements:
 - Remove existing trees within the Link as they are considered non-frangible
 - Increase the length of the Driveway Link
 - Replace the existing pavers through the Link with contrasting coloured bitumen
 - Increase landscaping areas to further define the Link
 - Install appropriate signage to delineate the Link
3. Reduces the 2020/21 budget allocation for the De Laine Avenue, Edwardstown Driveway Link from \$47,000 (cost of removal) to \$25,000 (Cost of compliance improvements and replacement of pavers with coloured bitumen)

The Complaints and Grievance Procedure (attachment 3) requires that if an *"Internal Grievance Review is received for a decision of the CEO or Council, upon receiving the request for review, the Manager Corporate Governance will advise the CEO and Council of the request and conduct a preliminary investigation to prepare a report for the next General Council Meeting, including a recommendation regarding how the review will be undertaken. A review of this nature, will be completed by either an independent investigator or an internal review panel."*

Attachment

#	Attachment
1	Attachment 1 - request for section 270
2	Complaints_and_Grievance_Policy
3	Complaints-and-Grievance-Procedure

From: [REDACTED] >
Sent: Tuesday, 11 May 2021 8:27 AM
To: Tony Lines <Tony.Lines@marion.sa.gov.au>; CEOEA <ceoea@marion.sa.gov.au>; Electronic Mail <ElectronicMail@marion.sa.gov.au>
Subject: Fwd: Correspondence from Tony Harrison, CEO City of Marion

Dear Mr Harrison and Mr Lines,
Thank you for your response. As you have clearly outlined the Council resolution that was passed on the 9th June 2020, was to retain the Driveway link with various improvements. The council has not adhered to this resolution, the decision to remove, redesign and rebuild without following due process has now greatly affected residents living directly adjacent the new device. Every day since the opening of the new device the noise created by motorists whom don't slow to a reasonable speed is intolerable and is affecting our sleep which will have long term health and mental health repercussions. This is simply unfair and unjust considering the aim of the original petition that triggered this action was to decrease noise levels.

Therefore I request under section 270 of the Local Government act 1999 an internal review of councils actions and decisions to reflect why the council's resolution that was passed on the 9th June 2020 was not adhered to.

I look forward to hearing from the council on how the review process works and also request a copy of the council's policy and procedure on internal reviews.

Kind regards
Andrew Stasinowsky

[REDACTED]

Complaints and Grievance Policy



1. RATIONALE

This Policy is consistent with the Australian Standards for complaint handling and the Ombudsman SA *Right of Review* Audit (completed November 2016).

2. POLICY STATEMENT

The City of Marion:

- Is committed to providing good governance practices through efficient fair and accessible mechanisms to resolve services complaints or grievances.
- Encourages customers and the community to raise issues and complaints with the Council as it provides the opportunity to improve services to the community.
- Recognises the importance of transparency in decision making and the need to provide a fair and objective process for the review of all decision and actions.

3. OBJECTIVES

The purpose of this Policy is to provide a fair, consistent and structured process for City of Marion's customers if they are dissatisfied with an action, decision or services. These actions, decisions or services may be delivered by the Council (being the elected body as a whole), an employee of the council or another person acting on behalf of the council.

Lessons learnt from a complaint investigation will be used to directly inform service improvement.

Where complaints cannot be settled in the first instance the City of Marion will ensure that they are dealt with through appropriate, more formal procedures by staff or Council with the authority to make decisions. Complainants will be referred to this Policy and the associated procedure which details the steps required for further review.

PRINCIPLES

This policy is based on the following principles:

- Fairness – All Complaints and grievances will be treated with procedural fairness, impartiality and transparency at all stages of the review.
- Responsiveness – taking into consideration the complexity of the matter, all complaints and grievances will be resolved in a timely manner.
- Efficiency – those involved in the complainant process will have the required skills, knowledge and resources to undertake the review.

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Category: Legislative
Owner: Manager Corporate Governance
Authorisation Date: 10 October 2017 (GC101017R07)
Amended and adopted GC270318
Review Date: 2021

Complaints and Grievance Policy



4. POLICY SCOPE AND IMPLEMENTATION

MANAGING INTERNAL COMPLAINTS AND GRIEVANCE

Complaints and grievances can vary in their complexity and seriousness. There are three ways in which a complaint or grievance can be resolved/reviewed:

1. Immediate response to resolve the matter

All staff are empowered to handle complaints in the first instance and it is preferable that they are dealt with promptly at the initial point of contact and at the appropriate officer level where ever possible.

2. Escalated to a supervisor or manager

When a complaint cannot be resolved in the first instance, it will be referred to either a supervisor or manager. Additionally, where the circumstances indicate that the complaint would be more appropriately dealt with at a high level, the matter will be escalated. Complaints of this nature must be made in writing and outline the specific nature of the complaint.

3. Internal Grievance Review – Review of Decision (pursuant to section 270 of the Local Government Act 1999)

When a complaint cannot be resolved in the first instance and/or by a supervisor or manager, it will be referred for internal review in accordance with the Complaints and Grievance Procedure. The complaint or grievance will be reviewed by the Manager Corporate Governance. The Manager Corporate Governance may investigate the matter themselves, or establish an internal Review Panel (depending on the complexity of the matter) or refer the matter to an independent investigator.

Any complaint or grievance relating to a decision made by the Chief Executive Officer or the Council at a Council or Committee Meeting, will be referred to the next General Council Meeting to determine how the matter will be reviewed, either by an internal Review Panel or outsourced to an independent investigator.

Complaints of this nature must be made in writing to the Manager Corporate Governance and outline the specific nature of the complaint and the dis-satisfaction with any internal review completed so far.

Applications for the review of decisions must be lodged within six (6) months of the decision in question being made. However, in exceptional but reasonable circumstances, the Manager Corporate Governance may agree to accept a late application. This will be assessed on a case by case basis.

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Complaints and Grievance Policy



This process will be the last level of internal review for the Council's complaint and grievance process.

ALTERNATIVE DISPUTE RESOLUTION METHODS

The City of Marion prefers to try and resolve complaints and grievances internally but there will be circumstances where this is not possible. If this occurs, the dispute resolution methods available to complainants include:

1. Mediation – refer to Mediation SA
Contact details:
Address: 175 Oaklands Road, Warradale SA 5046
Email: wreception@mediationsa.org.au
Phone: (08) 8350 0376
2. Ombudsman Review – refer to Ombudsman SA
Contact details:
Address: Level 9, 55 Currie Street, Adelaide SA 5000
Email: ombudsman@ombudsman.sa.gov.au
Telephone: (08) 8226 8699
3. Legal action

TIMEFRAME

Timeframes for complaints and grievances will be dependent on the complexity of the matter. Complainants will be advised upfront of the likely timeframe required to investigate a matter and updated on progress where necessary. Timeframes may change as matters progress. The estimated timeframe for complaints and grievances are as follows:

1. Immediate response to resolve the matter
1-3 working days
2. Escalated to a supervisor or manager
10 working days of the matter being escalated
3. Internal Grievance Review (pursuant to section 270 of the Local Government Act 1999)
6 – 8 weeks of the matter being referred to the Manager Corporate Governance but may take up to six months for complex matters.

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ITEMS EXCLUDED FROM THIS POLICY

The following matters are excluded from being reviewed pursuant to this Policy and associated procedure:

- If the complaint is made by an employee of the council and relates to an issue concerning his or her employment.
- It appears that the complaint is frivolous or vexatious.
- If the Complainant does not have a sufficient interest in the matter.
- Complaints which are determined to be about matters that are not Council's responsibility (i.e. neighbourhood disputes).
- Complaints that refer to staff or elected member misconduct or behaviour (will be referred to relevant Code of Conduct).
- Reports of fraudulent, corrupt or illegal activity (will be referred to the relevant authority).
- Matters that have existing appeal rights through their own legislations (i.e. Freedom of Information, Expiation of Offences act 1996, Development Act 1993 etc).
- Claims and Insurance decisions made by other agencies.

Matters that fall outside statutory appeals procedures will be considered for the conduct of an Internal Grievance Review on the merits of the individual application.

UNREASONABLE COMPLAINANT

All complaints received by the City of Marion will be treated seriously and complainants will be treated courteously. However, occasionally the conduct of a complainant can be unreasonable. This may take the form of unreasonable persistence, unreasonable demands, lack of cooperation, argumentative or threatening behaviours.

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

Any decision to restrict contact or suspend action on a complaint process will be made by the Chief Executive Officer and/or a General Manager. This will be communicated to the complainant in writing.

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REPORTING

All matters reviewed via an Internal Grievance Review will be reported via the City of Marion Annual Report.

Part 2 – Complaints regarding Code of Conduct for Council Employees

Complaint procedure

Where a person alleges –

- an employee (or a relative of an employee) has sought or received a gift or benefit that is, or could reasonable be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or to influence the employee in the performance or discharge of the employees functions or duties; or
- an employee has failed to record, or correctly record, details of a gift or benefit received by the employee (or a relative of an employee) on the gift and benefits register; or
- the CEO has not appropriately maintained a register for gifts and benefits received by employees of the council,

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

A complaint must be given to the Chief Executive Officer, Manager Human Resources or Manager Corporate Governance. In the case of a complaint against the Chief Executive Officer, a complaint must be given to the principal member of the council, except in circumstances where it would be inappropriate to do so (such as where legislation requires the matter to which the complaint relates to remain confidential).

A complaint will be investigated and resolved according to the industrial and human resource procedures of the council.

5. POLICY AVAILABILITY AND REVIEW

This policy will be made available to all staff, elected members and the community via the City of Marion website and intranet. This policy will be reviewed every three years.

6. DEFINITIONS

Request for Services

A request for service is an application to have Council or its representative take some form of action to provide a Council service. Council receives thousands of requests for services

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each year. This will include matters such as hard rubbish collection, street sweeping, pot holes, home care, etc. All requests for services will be logged within the City of Marion Customer Event System, and managed through this process.

Feedback

The City of Marion may receive feedback from customers on services provided. It is important to distinguish between feedback and a complaint. Feedback can take the form of comments, both positive and negative, which do not necessarily require a corrective action, alternation of service or a formal review of the decision.

Complaint

A Complaint is defined as an expression of dissatisfaction with a product or service delivered by the Council or its representatives that has failed to reach the standards set, implied or expected. This includes complaints about a service that has been, or should have been delivered.

Grievance

A grievance is defined as a wrong decision or action of Council, Council staff or representative. A grievance often occurs when complaints cannot be resolved or have caused significant distress to the complainant.

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7. REFERENCES

- Complaints and Grievance Procedure
- Employee Code of Conduct
- Elected Member Code of Conduct
- Fraud and Corruption Policy
- Whistleblowers Policy

8. REVIEW AND EVALUATION

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Complaints and Grievance Procedure



1. Purpose

The purpose of this document is to detail the City of Marion's procedures for managing complaints and grievances, to set expectations for customers and staff in how complaints will be managed, and to explain the procedure so all staff understand their role in the complaint handling process.

2. Scope

This procedure applies to all City of Marion employees (including the CEO), consultants/contractors, volunteers and Elected Members or members of the public who make a complaint. All staff are empowered and encouraged to handle complaints in person in the first instance and it is preferred that they are promptly dealt with at the initial point of contact. This procedure applies to complaints which are not resolved at this first 'local' level and require escalation or referral to other staff or agencies.

3. Reporting and Investigation Procedure

An overview of the reporting and investigation procedure is provided on the following pages.

Making or Receiving a Complaint

A person can make a complaint in person, over the phone or in writing via email or post. If the complaint requires an Internal Grievance Review, the complaint must be submitted in writing. Where required, assistance may be provided in preparing a written complaint, including the provision of interpreters, aids or advocates if necessary.

All complaints will be electronically recorded in the City of Marion records management system to ensure that relevant information can be analysed for any service improvement opportunities.

Often complaints can be resolved at this first point of contact and all council employees are encouraged to promptly address complaints person to person at this local level wherever possible. If the complaint is received in writing, Council staff will acknowledge the receipt of a complaint within one (1) to three (3) working days and, where possible resolve it within this time.

If the complaint is unable to be resolved at this point and requires the provision of further information, escalation to a more senior staff member or a thorough investigation, the following steps will be followed.

Escalation to Supervisor or Manager for further review

The purpose of this review is to resolve the complaint by reaching a fair and objective view on the issues identified by the complainant and to provide an appropriate solution or remedy.

It is expected that all complaints will be dealt with transparently and within appropriate timeframes. Depending on the nature and complexity of the complaints, Council staff will advise the complainant if the matter will not be resolved within 10 working days and the likely timeframe required to resolve the complaint. Regular progress updates will be provided where necessary. At the conclusion of the investigation, the findings will be communicated to the complainant and they will be offered a resolution.

Where a complaint is not resolved to the customers' satisfaction, the decision will be explained clearly and any alternative actions or review opportunities will be provided to the complainant.

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Internal Grievance Review (Review of Decisions pursuant to section 270 of the Local Government Act 1999)

If a complainant is not satisfied with the reviews completed to date or the matter progresses straight to an Internal Grievance Review, then a written grievance may be formally lodged with the Manager Corporate Governance requesting a review of the decision. Requests for review must include:

- a statement clearly indicating which decisions the applicant wishes to be reviewed;
- a statement outlining the reasons why the review is requested;
- any other relevant information; and
- their name and contact details.

Applications for a review of a decision are to be acknowledged within five (5) working days. In the majority of cases, requests for review will be considered and determined within 6 – 8 weeks. Some reviews may take up to six months depending on the nature and complexity of the matter.

Establishing a Review Panel

If determined appropriate, the Manager Corporate Governance will establish an internal review panel of senior staff who have not been involved in the decision making process to date. The Panel will consist of at least three people (including the Manager Corporate Governance) who will bring independent views and opinions regarding the matter.

The Review Panel may seek legal advice on a matter if required.

Referring to an independent investigator

The Manager Corporate Governance may, on a needs basis, refer a matter to an independent investigator. The independent investigator may be a:

- Consultant experienced in investigations and reviews
- A lawyer within Councils legal services panel.

Costs associated with this investigation will be incorporated within the Corporate Governance Budget.

Matters can be referred to an independent investigator based on the following:

- The complexity of a matter,
- If the matter is time critical,
- If specialist skills and advice is required,
- Matters relating to the decision making or conduct of Council (and Elected Members), the Chief Executive Officer, General Managers or the Manager of Corporate Governance.

Review of Staff or Representative Decision

The grievance will be assessed by the Manager Corporate Governance who will determine if the matter will be reviewed by themselves, an internal review panel or outsourced to an independent investigator.

The complainant will be advised in writing of the process to be undertaken and expected timeframes. The complainant will receive a preliminary report before the matter is finalised as

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a matter of procedural fairness. A final report will be prepared once feedback has been received on the preliminary report.

In preparing the preliminary report, consultation will occur with staff and elected members involved in the decision making process. This will include the gathering of information, documentation and, if required, an interview and statement from those involved. Staff and elected members will be requested to review the preliminary report prior to it being released to the complainant, for factual accuracy of the matter. The findings and recommendations of the section 270 review must remain independent from those involved in the original decision making process.

The Manager Corporate Governance will advise Council and/or Ward Councillors (as appropriate) of the request to Review a Staff or Representative Decision.

Review of Council or CEO Decision

If an Internal Grievance Review is received for a decision of the CEO or Council, upon receiving the request for review, the Manager Corporate Governance will advise the CEO and Council of the request and conduct a preliminary investigation to prepare a report for the next General Council Meeting, including a recommendation regarding how the review will be undertaken. A review of this nature, will be completed by either an independent investigator or an internal review panel.

Review of Manager Corporate Governance

If the complaint concerns a decision or action of the Manager Corporate Governance, the Chief Executive Officer will assign the matter to be investigated to an appropriate person of their choice.

4. Standard Process for Investigation

The standard process for investigating a matter will include:

- Establish if the grievance can be determined within the Complaints and Grievance Policy and Procedure.
- Establish how the matter will be investigated and if a review panel needs to be formed or the matter be outsourced.
- Determine:
 - the scope of the review
 - key decision makers /stakeholders in the process
 - estimated time frame
- Establish the facts including;
 - Obtaining statements from stakeholders
 - Interviewing any relevant staff, elected members or the complainant
 - Establishing legislative framework
 - Gathering facts and information
- Prepare a Preliminary Report that includes:
 - Details of the complaint
 - Scope of the review
 - Details of the investigation
 - Findings
 - Recommendations

The preliminary report will be reviewed for factual accuracy by staff and elected members involved in the grievance.

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The preliminary report must be provided to the complainant for review for a minimum of 10 working days.

- Prepare a final report that includes:
 - Any feedback received from the complainant and undertake any further enquires.
 - The final determination of the complaint/grievance.
 - The external review processes if the complaint/grievance remains unresolved.

The final report must be provided to the complainant in writing (either by email or hard copy).

5. Reporting on process improvement, findings and/or recommendations

All findings and/or recommendations from Internal Grievance Reviews that require action will be tracked to ensure implementation.

Any finding or recommendation not implemented within specified timeframes will be raised and escalated accordingly.

All Internal Grievance Reviews completed will be reported within the City of Marion's Annual Report.

6. Availability of the Procedure

This procedure will be promoted throughout the City of Marion via the City of Marion website and the organisations intranet.

7. Review and Evaluation

The review of this Procedure is to be conducted every three years. An interim review is to be carried out in the event of an amendment to any relevant Acts; or a matter reported via this Procedure is not managed appropriately. Any changes to the document will be submitted to the Executive Leadership Group (ELT) for approval.

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Annexure – B

Complainant's Feedback on Preliminary Report

Annexure to Local Government Act 1999 – s 270 review

Request for internal review of Council decision

From: Andrew Stasinowsky
Sent: Tuesday 21 September 2021 07:05:39 AM
To: Ryan Feuerherdt; Susie Inat
Subject: Fwd: City of Marion Internal Review - Driveway Link Upgrade [ME-ME.FID6216794]

Thank you Ryan and Susie for the opportunity to review and provide feedback, I have several concerns which are listed below:

- Factual error on page 20 stating that I wanted "the review to: "be broad and include the original decision (26/11/19) and actions taken thereafter", is incorrect. These were the promises made by Ms McKenzie, after Councillor Hull questioned the scope of the review, at a council meeting. I was simply making sure the review was actioned as indicated by Ms McKenzie. Please correct.
- I spoke at length during our interview, that there was a Traffic Study and Driveway Link Review completed in v, stating no compliance issue with the height of the driveway link. It states in 1998, one year after the original link was completed, noise complaints lead to the height being lowered to 40mm, as the code allows this under certain conditions. However, you've stated the council staff completed their own survey in July/August 2020, and concluded that the height of the driveway link as non-compliant and subsequently changed the design, without further consultation with the residents most affected, or correct council processes and procedures. This contradicts the March 2020 Review, and the council staff used their own survey as justification of the changes made, without consultation. This is unfair and unreasonable, given they knew this would greatly increase the noise. I believe you have missed looking at this vital part, which is the root cause of this issue.
- I question your assessment that council staff can change a council resolution, I agree they should identify any unlawful or non-compliant aspects, but they do not have the authority to make changes that would significantly alter the outcome of which is what happened in this case. Any change that significantly alters the outcome should always be sent back to council for consideration. I do not believe this would ever be considered lawful for any organisation let alone local council. If so, it would render the council chamber obsolete, and their decisions nothing but guidelines.

- Another point of concern is regarding the CEO's recommendations to the council. The council staff made premature recommendations to the CEO, without proper investigation, research and due diligence. Only after the council voted in favour of the council staff's recommendations, did the staff complete their July/August 2020 survey, and discovered further so called 'non compliance', eg. height and surface type. If correct steps were taken, and they recommended the height change, the council would not have approved, as this wouldn't address the original issue of noise. This shows either complete incompetence by the council staff, or they blindsided the council to pass their recommendations, with the knowledge that they can then make sneaky changes thereafter.
- I would like to draw your attention again to the Mayors letter, with the sentence stating, "During debate, Councillors stated that if resident wanted the traffic control removed, future requests for reinstallation of traffic calming or traffic-detering devices may not be heeded". I would like an explanation as to how this is factual, as I have researched and listened to audio minutes of each meeting and have been unable to locate such a statement being said by any councillors. This letter was unnecessary as Councillor Masika and Mr & Mrs Dunlop, had already approached every property facing De Laine Ave with their petition, so everyone was aware what was being proposed (evident by the 69 signatories of support), if they had concerns they could have objected with Councillors etc. I put it to you that this plus the mayor's inappropriate comments after the first motion did in fact indicate the Mayors intent to influence the processes and was inappropriate.
- On page 16, you've noted "following this update, Mark Griffin received a phone call from Mrs Dunlop requesting further information about the works". It is my understanding after talking with Mr & Mrs Dunlop that Mark Griffin did not follow up and provide requested information, therefore council staff neglected their responsibilities in community consultation, and not giving residents any opportunity to object, a deliberate act to conceal their agenda. Mr & Mrs Dunlop have also advised, they had extensive communication with Councillor Masika who indicated he would advise them on any design changes especially about the height given noise is a major concern. No information about the design or height was ever forthcoming from Councillor Masika and I believe that was because the design or scope change of the project

was never adequately or even explained to Councillors, therefore not triggering any questions or ability to object.

- Addressing 3.5 Procedural Fairness page 42-43.
You indicate that council staff afforded procedural fairness. I simply don't agree. The "Driveway Link Reconstruction – Update" dated October 2020 (letter to residents) did not have detailed information to trigger any concerns. The letter basically read like it was confirming what was passed by council. This is misleading, as we now know there were significant changes made to the design, that should have been spelt out clearly in this letter. No consultation or thought was given to residents. This is an underhanded and deliberate act to ensure the council staff plans move forward, without having to deal with residents' concerns or objections. A complete failure in due process given the impact of the council staff decision to change the scope/design.
- 1.4 Internal Review Request.
I'm not sure why there was a need to indicate that I didn't sign either petitions. In our interview, I have explained that for the 1st petition, I had no opportunity to sign it, as it was submitted before I moved into 23 De Laine Avenue. And, for the 2nd petition, I wasn't given the opportunity and not approached by Ben and he also never approached number 25 or 27 De Laine Avenue (residents living very close to the link).
- Did you investigate the reason why council staff chose to misrepresent the data from its own resident survey to Council?
- 3.6 Reasonable page 43-46.
The review focuses a lot on the surface material which isn't the issue in focus, you've completely missed reviewing their decision to change the height which is the cause of more noise. Therefore your comment indicating the council staff decision did seek to address the noise, I believe is inaccurate. There is no evidence that the council staff's decision to change the design even tried to address this, in fact they went to some lengths to ignore the report and did their own survey and draw their own conclusions (eg. non-compliance issues) which made the situation worse. Given all the past discussions about the height of this driveway link, they would have been very aware of this impact to residents but didn't care. This conclusion seems biased towards council staff without evidence.

- 4.4 Improvement and Processes

Tony Lines comments, "We didn't request additional funds from council (we should have but were reluctant to come back to the Chamber after ten reports)', is a poor excuse and deliberate act to withhold the staff council's decision to alter the scope, i.e.. height of link, which would have been not approved and accepted by council if known by the council/councillors. This is contrary to the councillor's resolution to improve the driveway link and reduce noise issues.

Many thanks for the opportunity, I look forward to your response.

Kind regards

Andrew Stasinowsky

11.3 Water Truck Purchase Cost Increase

Report Reference	GC211012R11.3
Originating Officer	Coordinator Field Operations – Luke Manuel
Corporate Manager	Manager Operations - Russell Troup
General Manager	General Manager City Services - Tony Lines

REPORT OBJECTIVE

To request additional funds for the purchase of two new water trucks.

REPORT HISTORY

GC210323R07 Tree Management

EXECUTIVE SUMMARY

On 23rd March 2021 at General Council meeting GC210323 Council approved funding up to \$370,000 for the purchase of two new water trucks to enable weekly watering to be implemented in years one and two of the three year watering program. This will significantly decrease tree mortality.

Based on current market pricing the approved funds will be insufficient to cover the purchase cost of two water trucks

RECOMMENDATION

That Council:

- 1. Approves additional funding of up to \$60,000 for the purchase of two water trucks. The additional funding will be incorporated into the 2022/23 Annual Business Plan.**

GENERAL ANALYSIS

Providing adequate water to newly planted trees is essential for good quality tree establishment and reduced mortality rates. Industry standard in South Australia is to provide 3 years of watering due to the drier climate and poor clay heavy soils. Weather and seasonal variations can impact watering programs which will require flexibility in how Council waters trees in the future.

To recap, this investment is needed to ensure the survival of new trees planted to increase the canopy coverage in the City and progress Councils strategic environmental objectives. On average, our existing two water tankers (9000L) can water 2250 trees per week each (4500 total per week). We currently have 10,103 juvenile trees (1-3 years old) that require weekly watering to ensure survival. Our current resource delivers less than half the required watering needed to prevent the mortality of new trees and undermine recent investment.

Initial costings to purchase two new trucks was based on the purchase price of the existing water trucks in our fleet which was \$185,000 per unit. Those estimates were provided by our Procurement team based on previous purchase costs with escalation aligned with CPI.

Quotations have been obtained from our preferred fleet supplier and it appears that the initial cost estimate assumptions did not reflect the actual market movement. Macro-economic factors

including the supply chain impact of COVID-19 have had considerable effect on plant and component supply.

The cost for each new water truck with the required specification has increased to \$214,580.22 per unit (ex GST). The fit-out specification is the same as our existing water trucks with the addition of a stortz cuplink. The stortz cuplink allows our water trucks to assist the Country Fire Service in emergency bushfire situations.

The total purchase price for two units is \$429,160.44 which equates to a shortfall from the approved budget of \$59,160.44. Delivery time frames have increased and delivery is expected to be between 8 to 12 months. In the interim, we are using subcontractors and internal staff with small trailer mounted units to attempt to meet the required watering frequency. These options are relatively expensive and inefficient.

The additional funds required do not significantly impact the overall financial benefits of water truck purchase as detailed in the March Council report.

Any further delay in ordering may increase delivery times and cost therefore it's recommended Council approve the additional funds.

In the interim, Council will undertake watering through the use of a contractor, which will incur an additional cost of \$215,000 plus GST. The endorsed FTE resource funds will be redirected to cover the costs with the remaining funds to be found within Operations budgets.

ATTACHMENTS

Nil

11.4 Cove Management Model

Report Reference	GC211012R11.4
Originating Officer	Acting Manager City Property – Mark Hubbard
Corporate Manager	N/A
General Manager	General Manager City Development - Ilia Houridis

REPORT OBJECTIVE

To seek a decision on the proposed approach for the future management and operational model of the Cove Sports and Community Club (CSCC) site.

REPORT HISTORY

Report Reference	Report Title
EMF210831R1.4	Cove Sports & Community Club Management Model

EXECUTIVE SUMMARY

Council took over the management of the CSCC in February 2019 to address financial issues of the previous over-arching sports hub board of management. Councils' role has helped to stabilise relationships and offer independence to the decisions on the use of the site but this has come at a significant increase in costs to Council and prevented some clubs from having greater control over their own operations.

With the Cove FC and Cove BMX moving to their new facilities on Majors Road by February 2022, it has created an opportunity to consider an alternate operating model for the CSCC.

The proposed approach for the future management and operation of the site is for Council to continue to manage the facility until Cove FC (Soccer) and Cove BMX move to their new facilities and then transition operations to the Clubs through facility and ground licenses. This will bring the agreements between the Clubs and Council in line with other sporting groups utilising Council's assets under the leasing and licensing policy, reduce Council's investment, create greater opportunities for the resident Clubs, and help maximise the utilisation of the playing spaces.

RECOMMENDATION

That Council:

- 1. Endorse the proposed future management and operational model for the Cove Sports and Community Club (CSCC) in which:**
 - **The Cove Football Club and Cove Cricket Club are provided a licence to manage and operate area/s of the facility for periods of use in line with Councils Leasing and Licensing Policy.**
 - **Council will transition out of management of the facility once Cove FC and Cove BMX have moved to the Southern Soccer and SWBMX facilities respectively, and the Cove Cricket Club and Cove Football Club have entered into new license agreements.**
- 2. Notes the current license agreements with the Cove Tigers Netball Club and Hallett Cove Lightning Netball Club for use of the netball facility and courts will continue.**
- 3. Notes the license agreements for the Cove FC and Cove BMX for the facilities at the CSCC site will cease after moving to the new Southern Soccer and SWBMX facilities.**

DISCUSSION

In February 2019 Council took over the management of the CSCC to address financial issues of the previous over-arching sports hub board of management. Councils' role has been to work with the Clubs to oversee its obligations for site maintenance, coordinate use of the clubhouse facility, and to operate the food and beverage at the clubhouse. The role has helped to stabilise relationships and offer an independence to the decisions on the use of the site.

Council provides a level of service at the facility that involves opening and operating the clubhouse when the Clubs hold their main activities. This has come at an increased cost to Council due to additional wage costs for a Facility Manager (in a part-time capacity), food and beverage staff and other increased operating costs. It has also resulted in Council being more heavily involved in day-to-day operations and issues for the facility and clubs.

With the Cove FC and Cove BMX moving to their new facilities on Majors Road by February 2022, it has created an opportunity to consider an alternate operating model for the CSCC.

In essence there are four key areas to the CSCC site (refer Attachment 1) that can be considered for a future operational model (based on the BMX track being decommissioned in early 2022 once Cove BMX moves to the new SWBMX UCI Track at Majors Road):

1. Netball Courts & Facility
2. Upper Oval
3. Main Clubhouse
4. Lower Oval

The proposed approach for the future management and operation of the site is for Council to continue to manage the facility until Cove FC (Soccer) and Cove BMX move to their new facilities and then transition operations to Clubs through facility and ground licenses for areas 1 to 4 as follows:

1. Netball Courts & Facility

- This section of the Cove Sports site currently operates under licenses with the two Netball Clubs – Hallett Cove Lighting Netball Club and Cove Tigers Netball Club.
- Both Clubs have a separate license to operate the courts at set times and have a shared responsibility for the facility (storage space, canteen, wet areas).
- Both existing Club licenses extend through to September 2025.
- It is proposed that these agreements continue.

2. Upper Oval

- The Upper Oval is currently used by the Cove Football Club and Cove Cricket Club under separate seasonal licenses.
- Council can also continue discussions with Sheidow Park Cricket Club about shared use of the Upper Oval during the cricket season to improve utilisation during summer months. Cove CC, Sheidow Park CC and the South Australian Cricket Association (SACA) have had positive discussions about shared use of the oval and both cricket clubs have been involved in the consultation process for the Cove feasibility study as future users of the site.
- It is proposed that Council provide Cove CC and Cove Football Club a separate ground license for the Upper Oval for set times
- It is proposed that Council consider a potential usage agreement with Sheidow Park CC pending further consultation.

3. Main Clubhouse

- The main clubhouse is currently operated by Council and is the largest expense to the CSCC operations, predominantly due to costs for facility management, bar and catering staff.
- The shared seasonal use of a clubhouse and oval is a common model between football and cricket clubs. Initial discussions have occurred with the two Clubs at the facility and both have indicated an interest in transitioning to a separate license to operate the facility, or parts thereof.
- It is proposed that operations of the facility transition to the Cove Football Club and Cove Cricket Club under separate seasonal licenses in line with their seasons and use of ovals.

4. Lower Oval

- With the Cove FC moving to the Southern Soccer facility on Majors Road, the Lower Oval becomes open for use by other sports.
- It is proposed that Council manage this oval and provide hire or seasonal access to users that apply to Council.
- Initially, it is expected that Cove FC will require access to the lower oval in the first half of 2022 whilst the new pitches mature at the Southern Soccer facility. The Club has been asked to provide a utilisation schedule to support a request for use of the lower oval in 2022.
- It is proposed that Council open an Expression of Interest process for the use of the oval for the 2nd half of 2022.

Finance

A high-level financial analysis of the transition from Council management to Club licenses is as follows:

- Council transitioning out of a management role for the CSCC has the potential to reduce Council's annual operational investment by up to \$125,000 per annum. This is based on:
 - The 2020-21 investment into the CSCC clubhouse facility less Council's ongoing repairs & maintenance obligations under the Leasing and Licensing Policy estimated at \$30,000 per annum.
- The main reasons for the reduction to Council operational investment under a club license scenario is:
 - The removal of all direct wage costs for the facility.
 - Reduced maintenance requirements and outgoings.
- Under the Club license structure, the clubs would come into line with other Clubs operating under Council's leasing and licensing policy.
- The Football Club is forecast to produce a surplus from their operation of the main clubhouse facility.
- The Cricket Club should be able to operate viably if only responsible for costs attributed to the use of the Oval Bar, Toilets and one Change Room. This should be monitored.
- Refer to Attachment 2 for a high-level forecast for the Cove Football and Cove Cricket Club facility operations.
 - *Some modest assumptions have been made for improved sales by Clubs due to anticipated reduced impacts from Covid in 2022 and greater support from the Clubs members and community with revenues going to the Clubs.*
- The two Netball Clubs already operate in a financially viable manner under their existing licenses.
- It should be noted that Council has negotiated a commercial contract for daytime use of the facility (8:30am – 4pm) from January 2022. This agreement will remain directly with Council

and the midweek day time use of the facility will be excluded when developing a license agreement with the Football and Cricket Clubs.

Pros and Cons – Club License Model

The following pros and cons can be identified with the transitional model being put forward.

Pros	Cons
<ul style="list-style-type: none"> • Council is removed from an operational role significantly reducing Councils financial investment into the site. • Council is further removed from weekly “coalface” matters at the site. • Clubs have operational independence consistent with other sporting clubs across City of Marion owned sporting sites, ie Plympton and Morphettville. • Clubs can generate and retain their income from the use of the facilities at their licensed times. • Council can optimise utilisation of the ovals by applying ground licenses for the upper oval, maintaining control of the lower oval to seek to optimise its use by other community groups and clubs. 	<ul style="list-style-type: none"> • The Cricket Clubs ability to operate in a financially sustainable manner under a separate license should be monitored. • Council may only be able to offer access to the Lower Oval without toilets and changerooms (albeit this will change if new facilities are built for the lower oval). • Council will still be required to perform a close monitoring role to ensure a positive operating relationship between all parties and to assist with any dispute resolution.

Cove Feasibility Study

Council is currently undertaking a feasibility study to consider options for the future provision and development of facilities at the CSCC.

The feasibility study has been developed following Council feedback at previous forums and has considered a preference for the facilities on site to be able to be operated by each of the Clubs under a lease or licensing structure. The suggested model outlined in this report is consistent with the proposals outlined in the feasibility study considering the future proposed upgrades to this site.

Timing

Should Council be supportive of a transition to the proposed operational model at the CSCC site then the following approach is proposed:

December 2021	Cove CC to commence under new license agreement – clubhouse and upper oval.
January 2022	Cove BMX move to the new SWBMX facility on Majors Road.
February 2022	Cove FC move to the new Southern Soccer facility on Majors Road.
March 2022	Cove Football Club commence operating under new license – clubhouse and upper oval.
April 2022	Council to cease facility management role, with the site and agreements continuing under standard lease and licensing conditions (through Land & Property, Open Space Operations).

The two netball clubs would continue under their existing licenses.

ATTACHMENTS

1. Cove Sports and Community Club Site [**11.4.1** - 1 page]
2. Cove Cricket and Football Clubs - Clubhouse Operational Estimates [**11.4.2** - 1 page]

COVE SPORTS AND COMMUNITY CLUB SITE



COVE SPORTS AND COMMUNITY CLUB - ESTIMATED CLUBHOUSE OPERATIONS (CLUBS)

	Cove Football Club (Seasonal Financial Estimate - Clubhouse)	Cove Cricket Club (Seasonal Financial Estimate - Clubhouse)	Comments
Revenue			
Beverage Sales	\$75,000.00	\$15,000.00	Sales based on estimates from 2020-21
Cost of Goods Sold	\$26,250.00	\$5,250.00	35% Cost of Goods
Canteen Net	\$4,500.00	\$2,100.00	Canteen revenue less cost of goods
Kitchen Net	\$0.00	\$0.00	Assumes break-even kitchen catering strategy
Offset fee provided to Clubs for use of facility by commercial users	\$2,000.00	\$1,500.00	Recognises the potential commercial usage of the clubhouse during the year and offsets some costs that would fall under the clubs licensed times for the use of the facility
Revenue Total	\$55,250.00	\$13,350.00	
Expenses			
Salaries & Wages	\$0.00		Assumes volunteer operations for both Clubs
Rent	\$3,000.00	\$1,000.00	Estimate of rental fee
Cleaning	\$6,000.00	\$1,500.00	Toilets, hygiene services, clubrooms, bar, kitchen, changerooms - Cost assumes Clubs will take on most cleaning and outsource necessary services
Contractors	\$7,500.00	\$3,000.00	Plumbing, electrical, painting, grease arrestor, beer lines, refrigeration
Security	\$600.00	\$600.00	Security monitoring services, call-outs
Materials	\$1,800.00	\$600.00	Toiletries, chemicals
Other Expenses	\$0.00	\$0.00	
Utilities - Electricity	\$10,000.00	\$3,500.00	Clubhouse and upper oval
Utilities - Gas	\$2,400.00	\$600.00	Cricket will not have access to the kitchen
Utilities - Water	\$3,000.00	\$1,500.00	Clubhouse and upper oval
Waste	\$1,000.00	\$500.00	
Expenses Total	\$35,300.00	\$12,800.00	
TOTAL	\$19,950.00	\$550.00	

Notes

The financial estimates are based on the 2020-21 actuals and modified with assumptions based on the approach clubs generally take to reduce costs.

The 2020-21 actuals were heavily impacted by Covid, significant maintenance and upgrade items across the site, and as such, the above figures are high level estimates.

11.5 Draft Transport Plan

Report Reference	GC211012R11.5
Originating Officer	Unit Manager Engineering – Carl Lundborg
Corporate Manager	Manager Engineering, Assets and Environment - Mathew Allen
General Manager	General Manager City Services - Tony Lines

REPORT OBJECTIVE

The purpose of this report is to provide a summary of the Draft Transport Plan community consultation feedback, including improvements to the plan made by the Asset and Sustainability Committee and to seek Council's endorsement of the Transport Plan.

REPORT HISTORY

Report Reference	Report Title
ASC210907R8.2	Draft Transport Plan
GC210622R15	Draft Transport Plan
GC210309R04	Draft Transport Plan
ASC210202R02	Draft Transport Plan
EMF200519R04	City Transport Plan
ISC191001R04	City Transport Plan

EXECUTIVE SUMMARY

The purpose of the City of Marion Transport Plan is to develop an overarching and consolidated approach towards the management of transport and its impact on the local community, businesses and the environment. The Plan outlines desired transport and movement outcomes for the city, and the strategies and actions to achieve these over the next five years 2021-26.

The Transport Plan is an action from the City of Marion Business Plan 2019-2023 (Action 19) and will contribute to the delivery of the outcomes of The City of Marion's community vision, in particular the themes of a liveable, connected and a prosperous city.

Community consultation on the Draft Transport Plan commenced on 8 April until the 30 April 2021. Making Marion engagement page was used to host information relating to the Draft Transport Plan and included a consultation survey. The purpose of the survey was to determine the level of support for the plan, seek feedback and identify any issues/concerns.

Through the Community Consultation survey 23 responses were submitted. Overall people provided supportive feedback and comments to the Draft Transport Plan.

The community feedback was presented to the Asset and Sustainability Committee on 7 September 2021 and further discussion on the comments/feedback resulted in minor improvements to the plan.

RECOMMENDATION

That Council:

- 1. Notes the Community Engagement Feedback Report (Attachment 1).**
- 2. Endorses the City of Marion Draft Transport Plan 2021-26 (Attachment 3).**

DISCUSSION

At the Asset and Sustainability Committee held on 2 February 2021 (ASC210202R02) the Draft Transport Plan report was presented to seek feedback from the committee in relation to the proposed action plan. 42 actions were presented and 19 actions that were identified as not included in other endorsed plans or strategies (or currently ongoing projects) were discussed.

On the 9 March 2021 Council endorsed the Draft Transport Plan to proceed to public consultation (GC210309R04). Council resolved that following the community consultation, a report of the feedback and a final Transport Plan to be considered for endorsement by Council in June 2021.

Community consultation on the Draft Transport Plan commenced on 8 April until the 30 April 2021. Making Marion engagement page was used to host information relating to the Draft Transport Plan and a survey. The purpose of the survey was to determine the level of support for the plan, seek feedback and identify any issues/concerns.

Throughout the Community Consultation survey 23 responses were submitted. Overall people provided supportive feedback and comments to the Draft Transport Plan. A report into the summary of the consultation can be found in attachment 1. Full responses to the survey can be found in attachment 2.

At the General Council meeting on the 22 June 2021 the Transport Plan Report (GC210622R15) was referred to the Asset and Sustainability Committee.

The Asset and Sustainability Committee on the 7 September 2021 (ASC210907R8.2) discussed a number of improvements to the Draft Transport Plan, these included:

- **Action 4.3** – Change the word ‘Encourage’ to ‘Explore’
 - *Explore E-Bikes and/or E-Scooters services (e.g. Tonsley Precinct)*
- **Action 5.3** – Add the word ‘Proactive’ and ‘Local’
 - *Undertake an annual proactive monitoring program of Traffic Data of the local road network to ensure network is operating as designed*
- **Action 6.3** – New Action
 - Advocate for opportunities through State Government to improve the transport network within the City of Marion (e.g. Majors Road, Diagonal Road Pedestrian Crossing, Warracowie Way & Tram Crossings)
- **Action 7.1** – Remove footpath dimensions
 - *Deliver footpath widening in high priority locations across the footpath network*
- A statement within the plan relating to community consultation which will be required on some of the actions within the Transport Plan.

These improvements have been updated in the Draft Transport Plan in attachment 3.

ATTACHMENTS

1. Transport Plan Community Engagement Feedback Report [**11.5.1** - 4 pages]
2. Transport Plan Survey Responses Report [**11.5.2** - 16 pages]
3. Draft City of Marion Transport Plan 2021-2026 [**11.5.3** - 17 pages]

Draft Transport Plan Community Engagement Feedback Report June 2021



Background

Council's Business Plan 2019-2023 includes a project to: *Develop a City Transport Plan to enable ease of movement for people of all ages and abilities within and through the city.* This is a key project for Council to achieve its 10-year goal for a 'Connected' city - *by 2029 it will be easier and safer to move around our city which will have accessible services and plenty of walking and cycling paths. New technology and community facilities will better connect our community.*

The purpose of the City of Marion Transport Plan is to develop an overarching and consolidated approach towards the management of transport and its impact on the local community, businesses and the environment. The Plan outlines desired transport and movement outcomes for the city, and the strategies and actions to achieve these over the next five years 2021-26.

Between 8th April and 30th April 2021 the City of Marion sought community feedback on the draft Transport Plan.

The Making Marion engagement page hosted the following:

- Draft Transport Plan 2021 -2026
- Survey

This feedback will be utilised to finalise the Transport Plan – a summary of community feedback is provide as an attached to this report.

The purpose of the engagement was to

- To consult with the community about their level of support for the plan, seek feedback and identify any issues/concerns.

Community Engagement techniques

- Making Marion was used to display the Draft Transport Plan with an online survey to identify level of support for the plan
- Electronic Direct Mail
- Social media updates/posts

Community feedback statistics

- 60 people visited the Making Marion page
- 444 people were 'informed' by clicking through further to content on the page
- 23 people provided a submission to the survey on Making Marion
- 569 people were notified as subscriber's Making Marion email distribution link

Social media posts

During the month of April 2021 City of Marion posted about the project on the City of Marion's Facebook page on 3 occurrences and on LinkedIn.

Draft Transport Plan Community Engagement Feedback Report June 2021



Example of posts or website information here



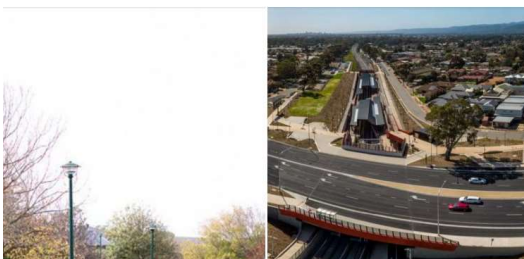
City of Marion

15 April · 🌐

The City of Marion has developed a Transport Plan to enable ease of movement for people of all ages and abilities within and through the city. 🚗🚲🦽

As a resident, business owner or visitor, we are seeking your valuable feedback on the Draft Plan.

Check out the plan now and provide your feedback before the 30 April 2021. <https://fal.cn/3eIP5>



City of Marion

3,499 followers

1mo · 🌐

Draft Transport Plan closing for consultation soon.

Marion Council's Draft Plan outlines how we can help people reach key destinations such as libraries and neighbourhood centres, railway stations, tram stops and business precincts.

It takes account of infrastructure for pedestrians, cyclists and scooter users.

As a resident, business owner or visitor, we are seeking your valuable feedback on the Draft Plan.

View the plan now and provide your feedback before the 30 April 2021.

<https://fal.cn/3f0mT>

Update engagement ⓘ

Time range: Apr 26, 2021 - Apr 28, 2021 ▼

Update title	Posted by	Created	Impressions	Views	Clicks	CTR	Reactions
City of Marion Draft Transport Plan All followers	Melanie Stewart	4/26/2021	885	-	25	2.82%	10



City of Marion

28 April · 🌐

The Draft Transport Plan is closing for consultation soon.

The City of Marion has developed the Draft Plan to enable ease of movement for people of all ages and abilities within and through the city. 🚗



As a resident, business owner or visitor, we are seeking your valuable feedback before the 30 April 2021.

Visit <https://fal.cn/3f0IT>



5

2 comments 2 shares



Like



Comment



Share



City of Marion

11 March · 🌐

Council Meeting Update

After each fortnightly Council meeting, the Mayor shares an update on the 'hot topics' coming out of the Chamber.

This fortnight Mayor Hanna talks about the Draft Transport Plan, the renewal of the Edwardstown Employment Precinct, the new BMX Track being built in O'Halloran Hill and more.

If you would like to read the meeting minutes (published on the Friday afternoon following the meeting) or see the next Council meeting agenda, please visit <https://fal.cn/3dVCw>

#CityofMarion #CouncilMeeting #BMX

See less



8

2 comments 362 views



Like



Comment



Share

**Draft Transport Plan
Community Engagement Feedback Report
June 2021**



Community Sentiment

Overall people provided supportive feedback and comments to the Draft Transport Plan.

A summary of key feedback and responses is provided here.

1. Feedback relating to how we can improve transport networks in the City of Marion

- Planting more trees to create cooler streets
- Encourage use of Public Transport
- Better access and connectivity on the road network
- Reduce Traffic congestion and improve safety
- Widen footpaths to accommodate to vulnerable users, scooters and wheelchairs
- More indented buses bays at bus stops to improve traffic movements
- Pay as you go bikes and E-Scooters
- Underground Power lines
- More electric vehicle charging stations
- Less single user cars on the road
- Liaise with council's and other relevant Government Departments

"Pay as you go bikes and E scooters like in the city"

"Promoting shaded cycling lanes that are also safe. This encourages people of the Marion community to adopt greener modes of transportation. Maybe barricading the cycling lane to promote safety for cyclists. The use of planting trees along cycling paths can be an opportunity to retain stormwater runoff. Installing more electric vehicle charging stations to encourage an uptake of hybrid vehicles to reduce emissions."

"Widen walking/bike pathways e.g. with a pram and a dog I take up more than the small side of a walkway and am always beeped by cyclists"

2. Feedback relating to overall thoughts on the Draft Transport Plan

- People had positive feedback about the draft Transport Plan
- People raised concerns on the high number of actions
- People pointed out that some actions were broad and needed specifics
- Some further comments were related around:
 - Using volunteers for greening
 - How to encourage more people to use public transport
 - Parking near schools
 - No commitment to 40 kph residential streets
 - Not particularly proactive in influencing other agencies

"The draft plan looks good, speaking as a cyclist, electric (vehicle) owner and public transport user."

**Draft Transport Plan
Community Engagement Feedback Report
June 2021**



"I think overall it is great. The greener & more community & family orientated the better for everyone."

"I think it's fairly innovative but pedestrians need to be given a bit more thought"

3. Feedback relating to the priorities listed in the Draft Transport Plan and what is most important

- 22 responders ranked their top priorities within the Draft Transport Plan

Ranking	Outcomes
1	We have an efficient and safe road network
2	We have alternative transport options
3	We have public transport areas that welcome people
4	We have schools and community facilities that encourage active travel
5	We have business districts that are attractive and accessible
6	We have cooler urban environments
7	We support zero-emissions transport initiatives
8	We have attractive streetscaping
9	We have fewer non essential vehicles within the council area
10	We use technology in our transport network

4. Any other Questions or Feedback provided

- Acknowledgment of kerb ramp upgrades occurring throughout the city
- Requesting more trees to be planted
- Highlighting the need for more investment towards DDA infrastructure
- Indicating that sub-divisions and the shift towards higher density living is negatively impacting transport movement and access

"We applaud Council on beginning this process. Associations such as ours have much to offer. We represent over 800 members, have regular contact with almost 2,500 households, and through our Committee and sub-group structure, access (to) much expertise. We are very keen to be involved in on-going consultation" – 5049 Coastal Community Association

Although some questions were unrelated to the Transport Plan and referred to operational or service requests, these requests have been logged for action in our Customer Event system.

We want your thoughts | Draft Transport Plan

SURVEY RESPONSE REPORT

08 April 2021 - 30 April 2021

PROJECT NAME:

City of Marion Draft Transport Plan



We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021



SURVEY QUESTIONS

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

Q1 How can we improve transport networks in the City of Marion?

Screen Name Redacted

4/12/2021 12:16 PM

Streetscapes having more trees, less powerlines and being more pedestrian friendly would be a big win. More connected greenways, especially the Tonsley Greenway. Trees that lose their leaves so that we still get some sunlight in winter!!

Screen Name Redacted

4/13/2021 10:49 PM

I would like to see more trees planted on streets to increase habitat for birds and other animals and also reduce the heat island effect.

Screen Name Redacted

4/14/2021 10:31 AM

Encourage use of public transport

Screen Name Redacted

4/14/2021 10:31 AM

currently in hallett cove you need a vehicle to access Reynella. It is disappointing that in peak times there is standing room only from Hallett cove to the city & discriminates against persons with a disability or marion residents so networks needs to be matched with demand. 3 years ago I communicated with DPTI as to speed along Lonsdale & moving the 100kps allowance further south to make Greta access/egress safer. At that time they stated there is sufficient usage to place traffic lights at Cove rd & Oval Rd intersections with Lonsdale rd but nothing eventuated.

Screen Name Redacted

4/14/2021 11:15 AM

For residents in the northern parts of Edwardstown, the biggest issues are the increased traffic in our streets. With blocks being sub-divided the increase population has created streets where only one car can pass at any time. I wouldn't ride a bike around this area for safety reasons. And if you can get out of this quadrant (try getting onto Towers

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

Screen Name Redacted

4/14/2021 01:41 PM

Tce during peak hour!!!) you then head straight into the gridlock that has become South road/Daws Rd/Marion/Cross. Until something is done with those roads it will remain a nightmare in this sector no matter how many bike lockers and amenities you put in.

Screen Name Redacted

4/14/2021 03:34 PM

Update the Tram crossing on Morphett Rd near the Mophettville Race Track. This is an issue in the mornings with cyclists needing to cross at the traffic lights. Oaklands is a great example of how the traffic flow has improved significantly since it's introduction.

Improve crossing safety for pedestrians and bicycles across Cliff st, especially towards the eastern end to facilitate safe crossing for school students (e.g. traveling to/from Our Lady of Grace).

Screen Name Redacted

4/14/2021 04:30 PM

Encouraging people to use public transport is vital & COVID-19 has brought with it many challenges so I'm pleased to see trains being cleaned internally at the Adelaide Railway Station. But safety for passengers when leaving the train is also a high priority. Positioning of car parks by tram/train/bus stations needs to be thought of as not just numbers of spaces but are they safe for commuters especially when it's dark. The car park on the southern side of the new Oaklands Train Station is a prime example. The old carpark was close to the station & felt safe but it was moved a long walking distance from the new station. The pathway to the carpark & the carpark it self is not well lit & is across the road from a large, not very well maintained housing complex. Very scary at night. It's a long way for the disabled parks too. I

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

Screen Name Redacted
4/14/2021 07:07 PM

often drive across to the northern side of the station or park in the street for a closer, safer park if there are any available.

Screen Name Redacted
4/14/2021 08:42 PM

Need to address Cross Road/Marion Road/tram intersection. your own data points to the issue!

Screen Name Redacted
4/14/2021 10:11 PM

Pedestrians. Access issues for walkers and people using walking sticks, walkers, scooters and wheelchairs. Widen more footpaths to 1.5m. Many footpaths have overgrown plants spilling onto them eg Gillepsie Str and Butler Cres Glengowrie. Uneven pavers around Cliff Str and other paths. So uneven...my friend tripped and fell. Tidy and trim more street trees and plant new ones especially where town houses are being built. There are not enough disability parking spaces and some are impractical with minimal understanding of a disabled person's needs. Some of the crossing ramps from footpath to roads are too steep and not wide enough for a wheelchair. The plan talks about DDA compliant but there is a question if the builders actually consult with people in Marion with disability. 2030 is too long as an end date for DDA compliance ...suggest bring forward by a few years.

Screen Name Redacted
4/14/2021 10:11 PM

The No.1 problem is allowing smaller blocks by subdivision and dense housing. More houses = more people = more cars and parking = traffic problems. Stop planting so many inappropriate trees that should not be higher than roof gutters (don't impact power lines or cause damage when they fall), have less aggressive root systems that cause road, footpath and kerb damage, or need constant maintenance with trimming and fallen leaves. Continue to improve

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

footpaths to stop people walking or riding gophers on roads. Stop the dense housing where homes with 2,3 or more cars need to park on the streets. Attempt to have more kerb cut-outs at bus stops to allow better flow of traffic. Have less bus stops (not less buses). This makes the time travel shorter and stopping less frequent. Have kerbs with gradual slopes from the path to the road as in some states and O/seas and allow parked cars to have two wheels on the verge (not footpath). This widens the road space to allow cars to pass easier in opposite directions. Obviously not suitable for ALL streets, but can be considered where appropriate.

Screen Name Redacted

4/15/2021 07:21 PM

Pay as you go bikes and E scooters like in the city

Screen Name Redacted

4/15/2021 10:37 PM

Agree with the plan. Could you also consider undergrounding power lines to allow more and higher tree planting for shade? This is costly but has decreased ongoing costs from pruning and lower risk of blackouts from collapsed tress/powerlines. Also create more rainwater/stormwater detention to reduce localised flooding. This is very evident in the northern area (Glandore, Edwardstown, Plympton, to name a few) and discourages walking and cycling during rainy days.

Screen Name Redacted

4/19/2021 06:50 AM

-require residential new builds to include adequate room for realistic expected resident car parking. Streets are becoming choked with parked cars. Garages often appear not large enough to house modern cars. - Improve cycle ways with improved signage; marked 'bike lanes'; dedicated cycle ways (eg. Railway Terrace); - support

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

	<p>increased 'green spaces' within council area. Encourage 'green verges' via supporting residents with information (suitable plant lists / benefits / 'technical info / etc), materials (mulch), promoting benefits. Consider 'rain gardens' to improve streetscapes / reduce heat islands / reduce storm-water runoff / traffic calming device. -improved infrastructure for electric vehicles (car & e-bike) - dedicated parking / charging stations. -consideration of needs of cyclists / pedestrians to be taken into account for new developments. eg:Westfield Marion is often not safe/easy to access for pedestrians or cyclists. -additional public green spaces / greening of existing public spaces. -consider small 'local' feeder buses to provide transport from residences to public transport hubs. -encourage walking / cycling to schools - promotion & improved infrastructure / safer streets.</p>
<p>Screen Name Redacted</p> <p>4/23/2021 02:36 PM</p>	<p>Promoting shaded cycling lanes that are also safe. This encourages people of the Marion community to adopt greener modes of transportation. Maybe barricading the cycling lane to promote safety for cyclists. The use of planting trees along cycling paths can also be an opportunity to retain stormwater runoff. Installing more electric vehicle charging stations to encourage an uptake of hybrid vehicles to reduce emissions.</p>
<p>Screen Name Redacted</p> <p>4/28/2021 09:51 AM</p>	<p>Widen walking/bike pathways eg with a pram and a dog I take up more than the small side of a walkway and am always beeped by cyclists</p>
<p>Screen Name Redacted</p> <p>4/28/2021 11:32 AM</p>	<p>It should be safe and convenient for kids to cycle to schools, reducing obesity and traffic. Current cycling</p>

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

amenities are pathetic. Even pedestrian crossing lights take far longer than other countries to operate. Effective cycle paths that improve access for cyclists, parking for cyclists and safety for cyclists as part of a holistic transport scheme integrating public transport and last mile services which is environmentally sustainable must be vastly improved. More pedestrianised areas for improved quality of community life for residents and fast bypass arrangements for heavy through traffic

Screen Name Redacted

4/28/2021 09:32 PM

You talk about more people using public transport and Park n Ride yet you make all the streets around the train stations No Parking - which one do you want? Something must be done about traffic bottlenecks at tram crossings (Morphett Rd/Anzac Hwy, Marion Rd) - tram must go over these intersections

Screen Name Redacted

4/28/2021 11:06 PM

more public transport but not just the models we have now. use technology to hook commuters up. remember when we had ride sharing initiatives during the oil crisis. post Covid we should have less single user cars on the road. get the trucks off Brighton road, fix Majors and start of Lonsdale bumps

Screen Name Redacted

4/29/2021 09:58 AM

The Marino Greenway is terrific. It would be good to have an off road cycle link between Hallett Cove and O'Sullivan's Beach

Screen Name Redacted

4/29/2021 12:14 PM

Here's a wild thought. What if citizens were encouraged to use free council transport whenever possible instead of their own cars & in return receive a reduction in their rates?

Screen Name Redacted

4/29/2021 02:16 PM

I believe that a pedestrian crosswalk near The Drake shopping centre is way overdue and 100% necessary.

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

Screen Name Redacted

4/29/2021 05:56 PM

The perfect position to help the local elderly, mums with prams and children would be between Clifford and Wood Street. The amount of traffic on Marion road will soon see a fatal for a pedestrian trying to cross if something isn't done soon.

Map and understand existing networks; develop and/or access models of current and projected flow; liaise with adjoining Councils and relevant Government Departments; conduct analysis of possible future scenarios. That is, this requires a rigorous, thorough process that will require expert input, research and consultation

Optional question (23 response(s), 0 skipped)

Question type: Essay Question

Q2 What thoughts do you have on our Draft Transport Plan?

Screen Name Redacted

4/12/2021 12:16 PM

Looks like helpful priorities.

Screen Name Redacted

4/13/2021 10:49 PM

I like to see that marion is putting thought into the heat island effect and the forward thinking for electric vehicles.

Screen Name Redacted

4/14/2021 10:31 AM

It is exactly as you call it is a DRAFT PLAN I would like to see more details - especially of roads that people will be encouraged to use to access public transport

Screen Name Redacted

4/14/2021 10:31 AM

There is little mention of using volunteers to assist in brightening the area up. Currently areas exist which visitors would find unattractive - eg pedestrian. underpass from sports ground that is under Marion control. Acronyms are used without defining. You allude to other councils using Marion infrastructure. with increased

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

	residential areas in Onkaparing region Lonsdale Rd will become busier & this impacts on access & egress.
Screen Name Redacted 4/14/2021 11:15 AM	Unless there are major changes to the roads, the rest all seems pointless.... eg it will be easier to fix the roads then get people to ride-share in Adelaide.
Screen Name Redacted 4/14/2021 01:41 PM	good content and hopefully it will all come to fruition.
Screen Name Redacted 4/14/2021 03:34 PM	Nothing to include
Screen Name Redacted 4/14/2021 04:30 PM	There is a lot to do on this plan. It will be interesting to see how much is actually completed.
Screen Name Redacted 4/14/2021 07:07 PM	Nice overarching principles... Make it happen and not just in the southern suburbs or Marion Shopping Centre precinct.
Screen Name Redacted 4/14/2021 08:42 PM	Good to see increase in EV charging stations. I like the timeline on the action plan...supports accountability. I like the focus on upgrading old playgrounds.
Screen Name Redacted 4/14/2021 10:11 PM	A lot of it is good but blanket statements on certain issues need to be developed further. ie Parking near schools and school buses. Schools should have their own one way drive through path where cars can pull in to pick up their children and not allowed to stop for any other reason, then drive through to the street. Same thing for buses. Seaview school is a prime example. They have the area to have an inlet going into the school from a side street into the school ground (probably along the fence line for a short distance), pick up their children and drive through to Seacombe Road. This

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

	would reduce congestion near the school crossing and make it safer to cross the road. Trees to keep the temperature down is ok, but please plant the right trees.
Screen Name Redacted 4/15/2021 10:37 PM	It's good.
Screen Name Redacted 4/19/2021 06:50 AM	Plan appears to be more a statement of 'general intended outcomes' but lacking in specifics.
Screen Name Redacted 4/28/2021 11:32 AM	Australia is car obsessed and it is killing us. Both through lack of exercise when commuting and as kids and through absence of safe continuous routes excepting for cars resulting in injury and death. The plan should address how far behind world standards we are.
Screen Name Redacted 4/28/2021 11:06 PM	the plan is very broad, no commitment to electric vehicles (charging stations) parking congestion on smaller residential streets, 40 kph in residential areas.
Screen Name Redacted 4/29/2021 09:58 AM	The draft plan looks good, speaking as a cyclist, electric owner and public transport user.
Screen Name Redacted 4/29/2021 12:14 PM	I think overall it is great. The greener & more community & family orientated the better for everyone.
Screen Name Redacted 4/29/2021 02:16 PM	I think it's fairly innovative but pedestrians need to be given a bit more thought.
Screen Name Redacted 4/29/2021 05:56 PM	Congratulations on the work so far! However the plan doesn't seem to suggest that it will integrate with initiatives undertaken by other levels of Government, nor does it suggest that Marion will be particularly proactive in influencing those other agencies. Of greater concern is a sparsity of specifics, particularly as they relate to outcomes expected

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

and changes desired. Of particular relevance to us is : 1/ Outcome 1, which should surely be to the effect "Encourage and support increased use of Public Transport" with "public transport areas as welcoming people places" being one of several actions 2/ Outcome 14 seems a sparse and narrow response to "Partners and Collaboration", where are actions re consulting directly with the community, working with other Councils and the State? 3/ Outcome 5 should surely have as its first action something to the effect "identify issues and possible solutions" 4/ Outcome 8 we assume refers mainly to private cars. Why not make that explicit? 5/ Outcomes 9,10,11,12, 13 are really generic "motherhood" statements that should apply to all of Council's plans, and are not particularly relevant to transport only 6/ Specific concerns within the 5049 community are not mentioned eg congestion on Brighton Road, access to public transport (including stations) in Marino and Seacliff Park; parking at transport hubs; on-street residential parking; road traffic from suburbs to the south funneling down Brighton and Marion Roads (where is there reference to additional entrances to the Southern Expressway eg at Majors Road?). We expect other communities could identify their local issues which deserve a reference in this plan

Optional question (19 response(s), 4 skipped)

Question type: Essay Question

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

Q3 We have priorities listed in the Draft Transport Plan and want to know what is most important to you (1 being most important, 10 being least important)

OPTIONS	AVG. RANK
We have an efficient and safe road network	3.90
We have alternative transport options	4.29
We have public transport areas that welcome people	4.81
We have schools and community facilities that encourage active travel	5.18
We have business districts that are attractive and accessible	5.33
We have cooler urban environments	5.45
We support zero-emissions transport initiatives	5.48
We have attractive streetscaping	5.52
We have fewer non essential vehicles within the council area	6.76
We use technology in our transport network	7.10

Optional question (22 response(s), 1 skipped)
Question type: Ranking Question

Q4 Do you have any other questions or feedback?

Screen Name Redacted

4/12/2021 12:16 PM

Screen Name Redacted

4/13/2021 10:49 PM

I would love to see trees planted in streets that don't currently have them. In my street of baker avenue, there are only 5 trees which leaves most of the street without a tree in front of their house. I would like to see the council planting trees or encouraging residence in the street

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

Screen Name Redacted

4/14/2021 10:31 AM

to plant trees and receive a rebates
for such actions.

Not now

Screen Name Redacted

4/14/2021 10:31 AM

as society ages there will be an increased percentage of those living with people with a disability & all policy changes need to be mindful of decisions deemed to be appropriate but negatively impact older persons of those with a disability. In 2013 i wrote a submission which the LGA applauded as to suggestions & was also sent to all council mayors but little has changed from the recommendations. We also need counselors who actually get out & meet consumers to discuss issues & concerns & have a mindset as to disability needs (1/4 is said to live with such). I undertook a review of all infrastructure & pedestrian pathways (Hallett Cove) as a vision impaired person under the supervision of Carl Lundborg but only some has been attended to. Happy to be contacted Dr David Squirrell Pres Blind Citz Aust & Vice Pres National DeafBlind Aust.

Screen Name Redacted

4/14/2021 11:15 AM

I've made streetscaping a priority as I truly don't believe things will be improved transport wise in the area until major work is done on the larger, congested roads. At least while I'm sitting for long periods in traffic I'll have something nice to look at. Can you please let your residents know what is happening with the vacant blocks by Castle Plaza...why not use these areas as transport hubs, pay and ride locations? Please note too that the bike path along Railway Terrace may have been fine in theory but for day-to-day car users it actually means we are now waiting

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

behind parked cars for traffic to flow through. It has turned Railway Terrace into a one-way street and the gap between passing cars is so narrow I'm just waiting for my side mirror to be hit. You can't even turn onto Railway Terrace without spooking an oncoming car with how close you are.

Screen Name Redacted

4/14/2021 03:34 PM

Nothing further

Screen Name Redacted

4/14/2021 04:30 PM

It is pleasing to see some work has progressed on the curb ramps around the southern area of Oaklands Park which will make it safer for people pushing prams, using wheelchairs or mobility scooters.

Screen Name Redacted

4/14/2021 07:07 PM

No consideration of the ruined street scapes caused by urban infill with insufficient parking leading to streets becoming car parks.

Screen Name Redacted

4/14/2021 08:42 PM

1. Remove fake grass down centre island of Brighton Road. It's falling apart, unattractive and traps heat. 2. Improve signage for play and park areas eg name of park, Indigenous name, list of birds, animals and plants you might see as native to the area. Holdfast Bay has done this very well along the new boardwalk at Somerton.

Screen Name Redacted

4/14/2021 10:11 PM

We need to be pro-active and not reactive. The other way around causes double the cost. We should consider what we are doing or about to do may affect the future. It's great to do this planning but not to something that causes another problem. The biggest mistake made in the last 20 years was to allow subdivision and medium to high density living. This must stop now before it's too late. I hope this Plan

We want your thoughts | Draft Transport Plan : Survey Report for 08 April 2021 to 30 April 2021

Screen Name Redacted

4/28/2021 11:06 PM

has much more open discussion with public opinion and regular updates. It's no good the Council making a decision, acting on it, then get public outcry and more issues and costs.

Seriously consider the blocking of Cove Road to traffic from Marino. Scholefield, Newlands, Jervois and the Cove roads have traffic going along to Hallett Cove which should be using LONSDALE ROAD. Block Cove at the Hallett Cove station or at the Westcliff court area. let this quiet area enjoy its amenity rather than have a constant flow of traffic. at the least allow only flow in one direction north to south.

Screen Name Redacted

4/29/2021 12:14 PM

Well done.

Screen Name Redacted

4/29/2021 05:56 PM

We applaud Council on beginning this process. Associations such as ours have much to offer. We represent over 800 members, have regular contact with almost 2,500 household, and through our Committee and sub-group structure, access much expertise. We are very keen to be involved in on-going consultation

Optional question (12 response(s), 11 skipped)

Question type: Essay Question

DRAFT TRANSPORT PLAN



2021 - 2026

Acknowledgement of Traditional Owners

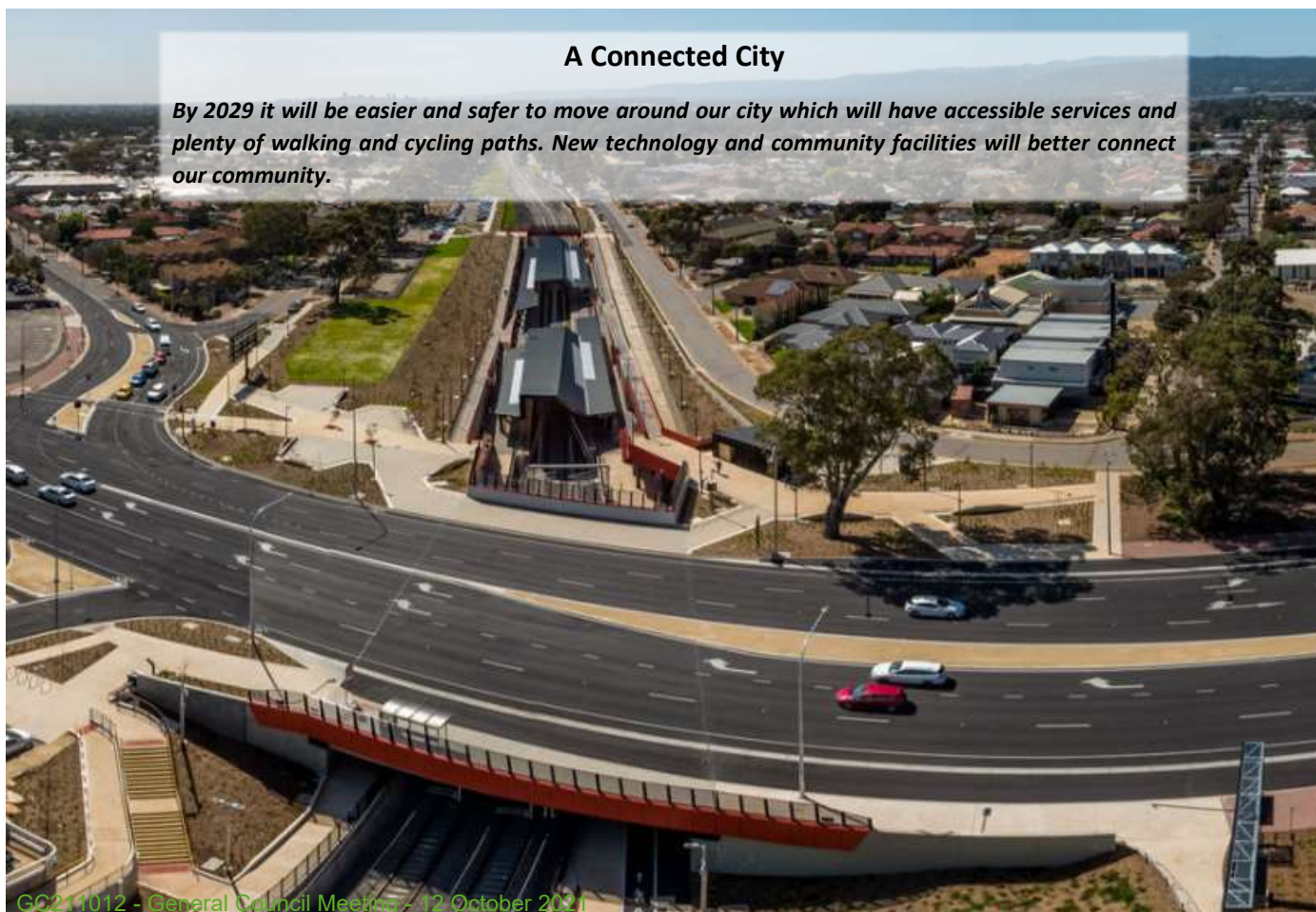
The City of Marion respectfully acknowledges the Traditional Owners of the land, Kurna people and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders past, present and emerging.

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A Connected City

By 2029 it will be easier and safer to move around our city which will have accessible services and plenty of walking and cycling paths. New technology and community facilities will better connect our community.



Message from the Mayor

It is expected the City of Marion's population will reach 100,000 before 2030.

Thinking about our growing population and their changing needs, Marion Council has reviewed our transport network.

This plan outlines how we can help people reach key destinations such as libraries and neighbourhood centres, railway stations, tram stops and business precincts.

It takes account of infrastructure for pedestrians, cyclists and scooter users. We will plant trees to enhance the appearance of streets and provide shade. We can also install bike lockers, drinking fountains and phone charging stations.

Council is always ready to work with the State Government on transport issues, especially on major projects such as the proposed South Road tunnel. We can also advocate for better public transport.

Yours faithfully



Kris Hanna
Mayor, City of Marion



Introduction

The purpose of the City of Marion Transport Plan is to develop an overarching and consolidated approach towards the management of transport and its impact on the local community, businesses and the environment. The Plan outlines the Council's desired transport and movement outcomes for the city, and the strategies and actions to achieve these over the next five years.

The Plan's key priority is to create a safe and efficient transport network by improving conditions for all road users (particularly pedestrians, cyclists and those using public transport) while also exploring future transportation modes. It strives to achieve the right balance for accommodating these priority users, while also addressing the need for parking, car accessibility and movability.

The Transport Plan will contribute to the outcomes of the City of Marion's community vision, in particular the themes of a liveable, connected and a prosperous city.

Background of the City of Marion

The City of Marion is a metropolitan council area located south-west of Adelaide CBD. The Council is diverse across its geography with an older area in the northern portion of the Council being generally developed as residential areas in the 1940s, the 50s & 60s, and the newer areas in the south being established from the 1970s onwards (and still occurring today).

Large sections of the older areas are experiencing significant growth in traffic through the combination of increasing urban consolidation through in-fill developments, large scale developments such as the Tonsley Innovation Precinct, and other major transport destinations such as the Marion Regional Centre and Edwardstown Industrial Precinct.

Also, the road network is witnessing an increase of competing demands such as the movement of people and goods, alternative modes and access to property, and on-street parking. With the high demand for vehicular traffic, and increased density emerging new transport options and increasing pressure to develop active travel options, these are presenting complex challenges to design and build.

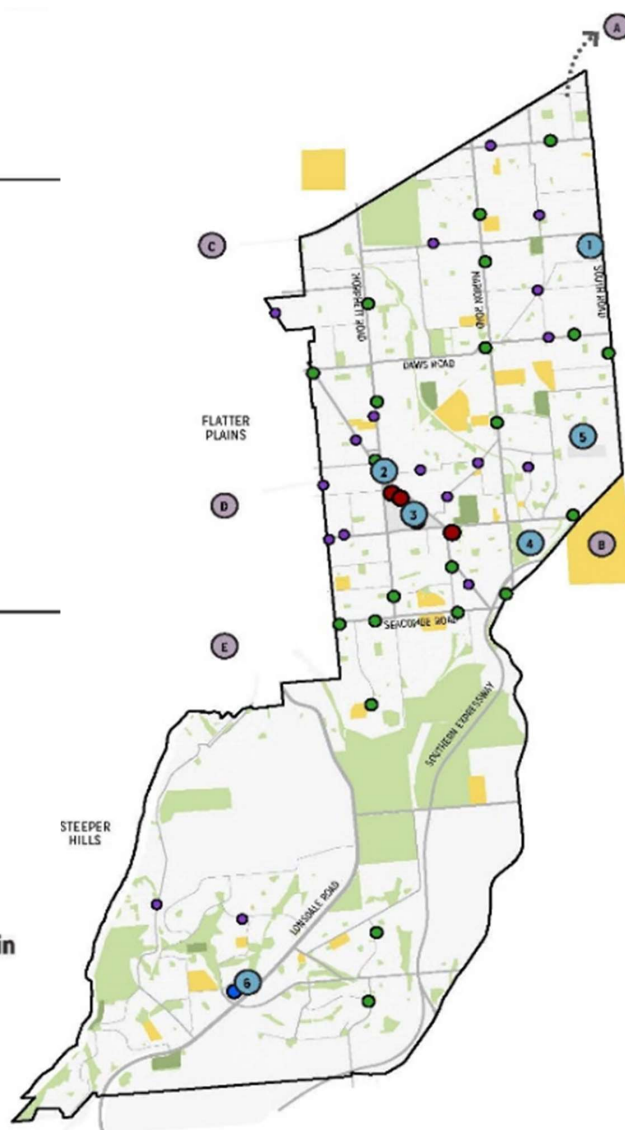


North

- Older suburbs
- Grid-pattern
- Flatter topography
- Set-back from coast
- Some mixed use development
- Less open space and reserves
- Few large street trees, some in reserves
- Integration of industry (South Road)

South

- Newer suburbs
- Curved layout with cul-de-sacs
- Hillier topography
- Adjacent to coast
- Views to coast
- Nearly all residential land use
- More open space reserves
- Few large street trees, some large copses in reserves
- Views



Destinations

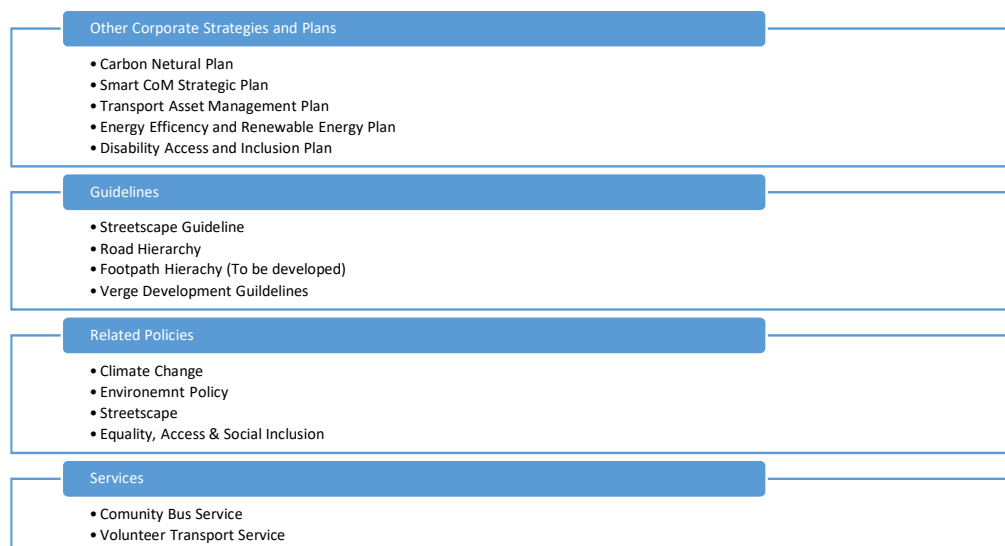
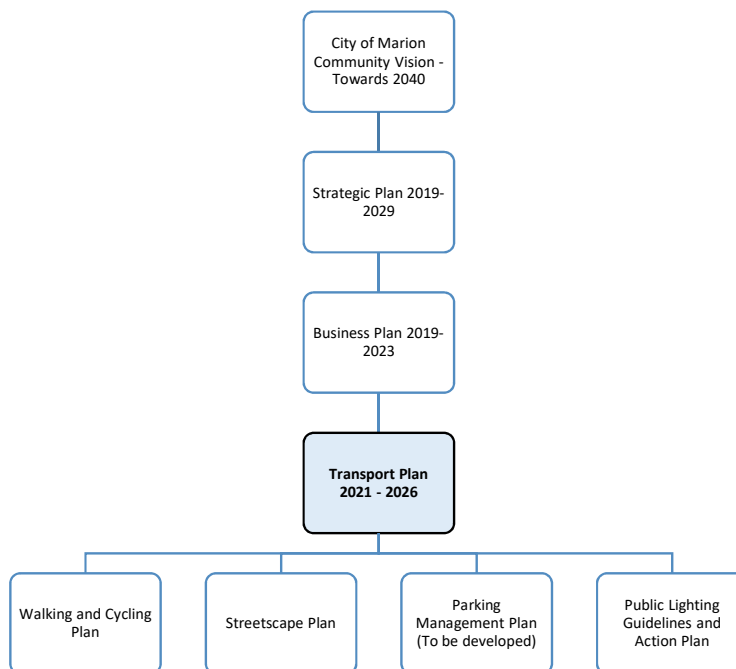
Key destinations within the City of Marion include:

- | | |
|--|---|
| ① Castle Plaza Shopping Centre | Ⓐ Adelaide CBD |
| ② Marion Aquatic Centre and Marion Culture Centre (MCC) | Ⓑ Flinders University and Flinders Medical Centre |
| ③ Westfield Marion and Civic Centre | Ⓒ Glenelg Beach + Jetty Road Shopping Precinct |
| ④ Warriparinga Living, Kaurna Cultural Centre and Wetland, Marion Holiday Park | Ⓓ Brighton Beach and Jetty |
| ⑤ Tonsley Park Redevelopment | Ⓔ Seacliff Beach and Brighton Caravan Park |
| ⑥ Hallett Cove Shopping Centre and Civic Centre | ■ Major centres |
| ● Neighbourhood destinations | ■ Schools and child care facilities |
| ● Local centres | ■ Key reserves / open spaces |
| | ■ Key sport and recreation and |

Figure 1: The City of Marion's Destinations and Contrast

Strategic Framework

To ensure the delivery of the Community Vision – Towards 2040 the City of Marion has a Strategic Management Framework in place. This is a suite of plans to provide a strategic direction and operational focus to achieve the goals and outcomes.

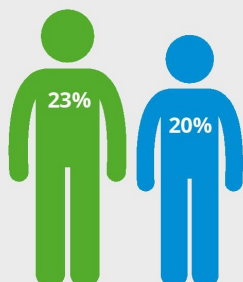


The City of Marion Transport Plan sets the outcomes and actions for the next 5 years. It outlines a set of initiatives, aimed to be safe and efficient and achieve our Connected Community Vision.

CITY OF MARION

Population

Projected growth
(2016 to 2036)



City of Marion
(from 86,618 to 106,338)

Greater Adelaide
(from 1,295,714 to 1,554,857)

Median age

39

City of Marion

40

Greater Adelaide

Older residents
(aged 65 and over)

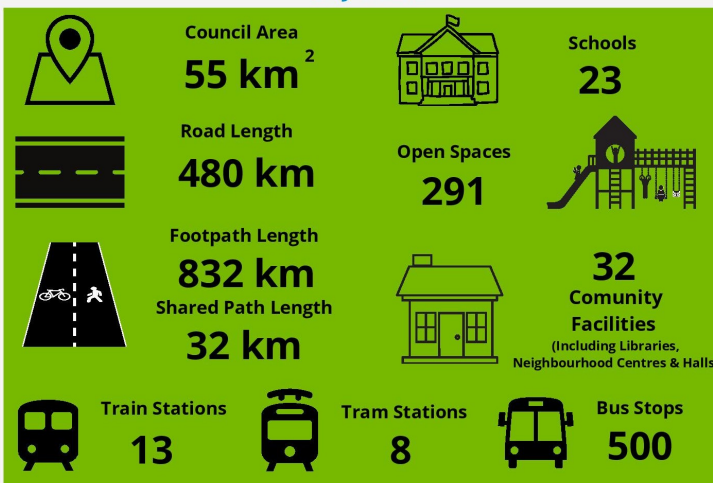
17.3%

City of Marion

17.2%

Greater Adelaide

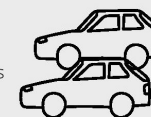
Key Stats



Households & Development

49%

of City of Marion households own 2 or more vehicles



15.6%

of households earn an income of \$2,500 or more per week

Construction growth
(on dwellings constructed between FY2016/17 and FY2018/19)

12%

increase

City of Marion
(from 757 to 850)

Employment



Local Businesses in the City of Marion

5,204



Local Jobs in the City of Marion

25,183

\$3.6 Billion
The City of Marion's Gross Regional Product

Journey to work
(mode)



(Public Transport)

(Car)

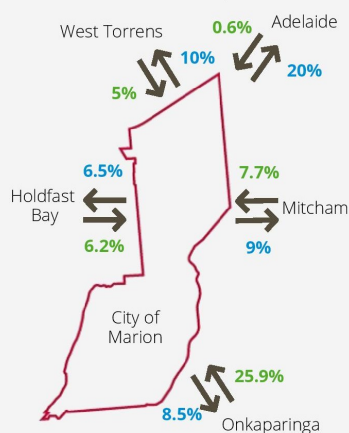
(Cycling)

(Walking)

City of Marion **10.9%** **64.7%** **0.9%** **1.3%**

Greater Adelaide **8.5%** **64.7%** **1.1%** **2.1%**

Journey to work
(Residents place of work / Workers place of residence)



Trends

Safety



40% Increase

In crashes involving pedestrians within the City of Marion from 2017 to 2019

■ Minor Injuries ■ Serious Injuries



6 Fatalities within the road network in City of Marion in the last 3 years

Future of Transport



45% Increase

In electric vehicle car sales in Adelaide between July 2019 to July 2020



3 EV Charging Stations in the City of Marion

Data sources: ABS Census 2016, Office of the Valuer-General and City of Marion Development Services Team

Principles for a Changing Transport System



Destination Centred

A transport system that supports the activation of destinations including community facilities, shops, schools, business precincts, transport hubs.



The development of transport infrastructure to facilitate the movement of people and goods to destinations is a key factor in the success of a place to do business, visit and live. Key destinations need to be welcoming, efficient and safe to ensure the use of infrastructure and services provided.

Collaborating with the State Government (Public Transport, Education and Infrastructure departments), businesses and local community within Marion are crucial to ensure key destinations are designed 'fit for purpose' and utilised effectively. With a key focus for designing for pedestrians, cyclists and those using public transport while also considering emerging transportation modes and the need for parking and movability.

The key outcomes and actions that would deliver a destination centred transport system are:

Outcome 1	Public Transport areas as welcoming people places
Action 1.1	Plan and upgrade key movement links to 13 railway stations and 8 tram stops. Including reviewing parking demand and identifying 'Park and Ride' solutions
Action 1.2	Facilitate complementary land use and deliver high-quality design of public spaces (including greening) around railway stations to encourage connectivity with, and use of public transport
Action 1.3	Advocate for upgrades of stations/platform areas
Action 1.4	Identify and upgrade infrastructure around highly utilised bus stops (e.g. Seaview High School bus zone on Seacombe Road)
Action 1.5	Advocate for improved public transport and/or park and ride facilities throughout the City of Marion at underserved locations (e.g. Laffers Triangle from the south to Flinders/Tonsley/Westfield Precinct and onwards to CBD by public transport)
Outcome 2	Attractive & Accessible Business Districts
Action 2.1	Review and upgrade the Transport Network within the Edwardstown Industrial precinct
Outcome 3	Schools and other Community Facilities that encourage active travel
Action 3.1	Work with Schools & DIT to identify opportunities for improvements in local streets near schools (e.g. car parking, drop off/pick up, wide footpaths)
Action 3.2	Install amenities that support the destination zones (e.g. bike lockers, drinking fountains, device charging locations, etc.)
Note some actions listed above will require community consultation before adopting/endorsing	



OAKLANDS CROSSING

Oaklands Train Station is an example of how the transport network supports a highly utilised destination. The accessible walking and cycling connections separated from the road network have provided a safer environment. This includes enhancing the area through trees and vegetation planting to make a cooler and more attractive place.

Integrated and Effective

A transport system that integrates and improves the attraction of different modes of transport to support seamless travel linking people with destinations.



The efficient movement of people and goods is critical to the function of our city. Economic growth and productivity are powered by efficient transport.

Promoting and encouraging 'First/Last mile' transport options such as walking, bikes, e-scooters, public transport and pooled ride-sharing services are key to an effective transport system. Fifty percent of commuters in capital cities live within 10 km of their workplace (25-30% within 5 km), yet driving a car is still the primary option. Prioritising alternatives to private cars will allow more room for amenities such as street furniture, wide paths and trees.

The key outcomes and actions that would create an integrated and effective transport system are:

Outcome 4	Encourage Alternative Transport Modes
Action 4.1	Implement the walking and cycling guidelines (including a cycle link as a continuation of Morphett Road to southern Marion)
Action 4.2	Support businesses to encourage ride-sharing or vehicle sharing partnership opportunities
Action 4.3	Explore E-Bike and/or E-Scooters services (e.g. Tonsley Precinct)
Action 4.4	Encourage public transport options (e.g. social media, website, etc.)
Outcome 5	Efficient Road Network
Action 5.1	Develop the Parking Management Plan
Action 5.2	Work with developers (where appropriate) to achieve the best possible outcomes to parking and accessibility
Action 5.3	Undertake an annual proactive monitoring program of Traffic Data of the local road network to ensure network is operating as designed
Outcome 6	Well Planned Transport Network
Action 6.1	Implement the Tonsley-Flinders Integrated Traffic and Parking Strategy
Action 6.2	Explore opportunities through State Government for major projects to implement facilities that can improve the transport network (e.g. East-West connections for the proposed North-South Corridor project)
Action 6.3	Advocate for opportunities through State Government to improve the transport network within the City of Marion (e.g. Majors Road, Diagonal Road Pedestrian Crossing, Warracowie Way & Tram Crossings)
Note some actions listed above will require community consultation before adopting/endorsing	



RAILWAY TERRACE, EDWARDSTOWN

Railway Terrace streetscape is an example of how a road can be redesigned to cater for multiple transport modes while also creating a safe and green environment. This includes bi-directional separated bike path, indented parking bays and footpaths.

Sustainable and Safe

A transport system that supports a shift to sustainable modes of travel, water sensitive urban design, and prioritises safety through traffic management and safe crossings for all users regardless of ability.



Cities which support convenient, comfortable and safe transport have healthier populations and a more equitable society. Streets designed for people ultimately attract investment and promote economic growth.

The National Road Safety Strategy Action Plan has identified a priority action to reduce speed limits to 40km/h or lower in pedestrian and cyclist places. Road users who are not protected by a vehicle are extremely vulnerable in collisions. The risk of death or serious injury increases significantly over impact speeds of 30 km/h. The City of Marion area has seen an increase in car crashes involving pedestrians by 40% in 2017 to 2019 (2017 – 17, 2019 – 24).

The key outcomes that would create a sustainable and safe transport system are:

Outcome 7	Safe Transport Networks
Action 7.1	Deliver footpath widening in high priority locations across the footpath network
Action 7.2	Identify problem areas and create program for all crossings and kerb ramps to be DDA Compliant by 2030
Action 7.3	Minimise footpath obstructions and encroachments to free up more space for walking (e.g. reduce sign pollution and other obstructions)
Action 7.4	Apply for Black Spot grant funding where available
Action 7.5	Deliver and complete the DDA Bus stops and shelter compliance program by December 2022
Outcome 8	Fewer non-essential vehicles within the Council Area
Action 8.1	Identify gaps in public transport service levels and advocate for solutions to enable mobility in Marion
Note some actions listed above will require community consultation before adopting/endorsing	



STURT RIVER LINEAR PARK

The Sturt River Linear Park is a shared use trail that meanders along the Sturt River, past historic buildings, significant fauna and environmental sites, as well as important local features within the City of Marion. It provides a safe walking and cycling connection through the city which connects to local parks and wetlands.

Smart and Future Focused

A transport system that is adaptive and flexible, responding to technological change, evidence-based data, and emerging trends.



As our population increases, and transport, parking and movement challenges become more complex there are real opportunities for technology and data to provide innovative solutions for our communities changing needs. Our streets, public places and road network must be adapted to meet the travel demands of the future while ensuring we continue to put people first in an innovative, liveable, prosperous and connected Marion.

Smart Places are the neighbourhoods we live, work and learn in, parks and facilities we gather in and places we recreate in. They harness information, technology and infrastructure to support our community to flourish.

The key outcomes that would create a smart and future-focused transport system are:

Outcome 9	Utilising Technology to provide transport network benefit
Action 9.1	Explore Smart City technology to gather data to support decision-making relating to infrastructure and services, for apps to access real-time GPS multimodal travel choice/travel time/route and pickup decision making by users for wayfinding and real-time signage
Action 9.2	Install Smart Parking Sensors in key destination and problem areas where demand is appropriate
Action 9.3	Identify and install wayfinding and digital interactive screens at key locations within the city
Outcome 10	Support Zero-Emission Transport Initiatives
Action 10.1	Work with private suppliers to install electric vehicle charging stations throughout the city to support the growing use of electric modes of transport
Action 10.2	Transition Council's Fleet to a renewable energy fuel source in accordance with the Carbon Neutral Plan
Outcome 11	Sustainable Infrastructure
Action 11.1	Encourage the use of recycled materials for transport infrastructure to support a circular economy
Note some actions listed above will require community consultation before adopting/endorsing	



TONSLEY AUTOMOUS VEHICLE

South Australia is recognised as a national leader in future transportation systems and technologies with the State Government leading the nation in creating a legislative framework to support autonomous vehicle technology. Tonsley has been the testing grounds for the driverless vehicle that aims to assist in the development of a market-ready autonomous delivery vehicle.

Amenity and Character

A transport system where streetscapes provide amenity through contributing to the character of neighbourhoods and business precincts



Attractive streets foster vibrant communities, contribute to robust economies and healthy environments, and reinforce walking and cycling and social activity. Well designed and used streets are important in defining 'Sense of Place' and local character.

The City of Marion's approach to streetscape design focuses on a balanced view embracing people, environment and place. Vehicle movements are no longer considered the only function of streets and understanding the multitude of functions, providing civic and community destinations, facilitating activity, enhancing local walking and cycling movement and contributing to the local environment.

The key outcomes that would create amenity and character within the transport system are:

Outcome 12	Attractive Streetscaping
Action 12.1	Delivery of the 15 year Streetscape program
Action 12.2	Install amenities that support the use of active transport modes where appropriate (e.g. bike lockers, drinking fountains, park benches, etc.)
Action 12.3	Identify and provide interactive infrastructure (e.g. education paths & games within paving) that promotes active travel
Outcome 13	Cooler Urban Environment
Action 13.1	Delivery of the 10 year Treescaping program
Action 13.2	Lower the urban heat within transport corridors through tree planting and green infrastructure
Action 13.3	Implement WSUD treatments along streets where appropriate
Note some actions listed above will require community consultation before adopting/endorsing	



COVE CIVIC CENTRE

The Cove Civic Centre is located on Ragamuffin Drive, Hallett Cove which is a shared urban space for pedestrians, cyclists and drivers. The site represents an example of how infrastructure and the environment can blend together to promote visibility and connectedness.

Partners and Collaboration



A transport system that is developed based on collaborative partnerships with regional, state and national governments and the private and education sector.

We are wise with more minds, through experience, sharing of resources, and funding. We value partnerships with government, businesses, community and researchers to collaboratively solve problems and identify opportunities.

Working in partnership with other road authorities, transport providers, businesses and other stakeholders is important to the operations of an efficient transport network. To achieve the actions and initiatives sought out in this plan for a future transport network requires the collaboration of multiple stakeholders.

The key to change and transition to a future transport network is to involve the community at every stage to promote the social, environmental and financial benefits for the community.

The key outcomes that would encourage partners and collaborations within the transport system and transport initiatives are:

Outcome 14	Great Relationships
Action 14.1	Work with Local Schools to provide information to improve awareness of road safety and traffic laws



Way2Go PROGRAM

The new shared pathway connections to Woodend Primary School, Sheidow Park was managed by Marion and funded by the State Government and was completed in 2019 through the Way2Go Program.

The joint initiative promotes and encourages students to actively travel to and from school all year round.

Grouped Action Plan

Principle	Outcome / Action		Comments / Funding	2021/22	2022/23	2023/24	2024/25	2025/26
Destination Centred	1	Public Transport areas as welcoming people places						
	1.1	Plan and upgrade key movement links to 13 railway stations and 8 tram stops. Including reviewing parking demand and identifying 'Park and Ride' solutions	Sites to be individually selected, scoped and cost estimations reviewed					
	1.2	Facilitate complementary land use and deliver high-quality design of public spaces (including greening) around railway stations to encourage connectivity with, and use of public transport	Sites to be individually selected, scoped and cost estimations reviewed					
	1.3	Advocate for upgrades of stations/platform areas	Within existing resources					
	1.4	Identify and upgrade infrastructure around highly utilised bus stops (e.g. Seaview High School bus zone on Seacombe Road)	Sites to be individually selected, scoped and cost estimations reviewed					
	1.5	Advocate for improved public transport and/or park and ride facilities throughout the City of Marion at underserved locations (e.g. Laffers Triangle from the south to Flinders/Tonsley/Westfield Precinct and onwards to CBD by public transport)	Within existing resources					
	2	Attractive & Accessible Business Districts						
	2.1	Review and upgrade the Transport Network within the Edwardstown Industrial precinct	Within Existing Resources to review. Project to be scoped and cost estimations reviewed					
	3	Schools and other Community Facilities that encourage active travel						
	3.1	Work with Schools & DIT to identify opportunities for improvements in local streets near schools (e.g. car parking, drop off/pick up, wide footpaths)	Sites to be individually selected, scoped and cost estimations reviewed					
Integrated and Effective	3.2	Install amenities that support the destination zones (e.g. bike lockers, drinking fountains, device charging locations, etc.)	Future destination sites to be reviewed when upgrading for the opportunity to install amenities	Ongoing				
	4	Encourage Alternative Transport Modes						
	4.1	Implement the walking and cycling guidelines (including a cycle link as a continuation of Morphett Road to southern Marion)	Subject to project scope					
	4.2	Support businesses to encourage ride-sharing or vehicle sharing partnership opportunities	Within Existing Resources					
	4.3	Explore E-Bike and/or E-Scooters services (e.g. Tonsley Precinct)	Within Existing Resources					
	4.4	Encourage public transport options (e.g. social media, website, etc.)	Within Existing Resources					
	5	Efficient Road Network						
	5.1	Develop the Parking Management Plan	Within Existing Resources					
	5.2	Work with developers (where appropriate) to achieve the best possible outcomes to parking and accessibility	Within Existing Resources - Ongoing	Ongoing				
	5.3	Undertake an annual proactive monitoring program of traffic data of the local road network to ensure network is operating as designed	Within Existing Budget (\$20,000 /year)					
	6	Well Planned Transport Network						
	6.1	Implement the Tonsley-Flinders Integrated Traffic and Parking Strategy	Subject to project scope					
	6.2	Explore opportunities through State Government for major projects to implement facilities that can improve the transport network (e.g. East-West connections for the proposed North-South Corridor project)	Within Existing Resources					
	6.3	Advocate for opportunities through State Government to improve the transport network within the City of Marion (e.g. Majors Road, Diagonal Road Pedestrian Crossing, Warracowie Way & Tram Crossings)	Within Existing Resources					

Principle	Outcome / Action		Comments / Funding	2021/22	2022/23	2023/24	2024/25	2025/26
Sustainable and Safe	7	Safe Transport Networks						
	7.1	Deliver footpath widening in high priority locations across the footpath network	Within Existing Budget					
	7.2	Identify problem areas and create program for all crossings and kerb ramps to be DDA Compliant by 2030	Within Existing Budget					
	7.3	Minimise footpath obstructions and encroachments to free up more space for walking (e.g. reduce sign pollution and other obstructions)	Within Existing Budget					
	7.4	Apply for Black Spot grant funding where available	Sites to be individually selected, scoped and cost estimations reviewed					
	7.5	Deliver and complete the DDA Bus stops and shelter compliance program by December 2022	Within Existing Budget					
	8	Fewer non-essential vehicles within the Council Area						
	8.1	Identify gaps in public transport service levels and advocate for solutions to enable mobility in Marion	Within Existing Resources					
Smart and Future Focused	9	Utilising Technology to provide transport network benefit						
	9.1	Explore Smart City technology to gather data to support decision-making relating to infrastructure and services, for apps to access real-time GPS multimodal travel choice/travel time/route and pickup decision making by users for wayfinding and real-time signage	Within Existing Resources - Individual technologies will be identified and cost estimated at future upgrade projects					
	9.2	Install Smart Parking Sensors in key destination and problem areas where demand is appropriate	Sites to be individually selected, scoped and cost estimations reviewed					
	9.3	Identify and install wayfinding and digital interactive screens at key locations within the city	Sites to be individually selected, scoped and cost estimations reviewed					
	10	Support Zero-Emission Transport Initiatives						
	10.1	Work with private suppliers to install electric vehicle charging stations throughout the city to support the growing use of electric modes of transport	Within Existing Resources					
	10.2	Transition Council's Fleet to a renewable energy fuel source in accordance with the Carbon Neutral Plan	Within Existing Resources					
	11	Sustainable Infrastructure						
	11.1	Encourage the use of recycled materials for transport infrastructure to support a circular economy	Within Existing Budgets					

Principle	Outcome / Action	Comments / Funding	2021/22	2022/23	2023/24	2024/25	2025/26
Amenity and Character	12 Attractive Streetscaping						
	12.1 Delivery of the 15 year Streetscape program	Within Existing Budget (\$2.2 million /year)					
	12.2 Install amenities that support the use of active transport modes where appropriate (e.g. bike lockers, drinking fountains, park benches, etc.)	Sites to be individually selected and reviewed for cost estimations	Ongoing				
	12.3 Identify and provide interactive infrastructure (e.g. education paths & games within paving) that promotes active travel	Sites to be individually selected and reviewed for cost estimations					
	13 Cooler Urban Environment						
	13.1 Deliver the 10 year Treescaping program	Within Existing Budget (\$400,000 /year)					
	13.2 Lower the urban heat within transport corridors through tree planting and green infrastructure	Within Existing Resources					
	13.3 Implement WSUD treatments along streets where appropriate	Sites to be individually selected, scoped and cost estimations reviewed					
Partners and Collaboration	14 Great Relationships						
	14.1 Work with Local Schools to provide information to improve awareness of road safety and traffic laws	Within Existing Resources					

11.6 Sam Willoughby BMX Track and the Southern Soccer Opening Events

Report Reference	GC211012R11.6
Originating Officer	Public Relations Officer – Pia Vogrin
Corporate Manager	Manager Customer Experience - Megan Bradman
General Manager	General Manager Corporate Services - Sorana Dinmore

REPORT HISTORY

Report Reference	Report Title
GC200310R06	SWBMX Facility - Prudential Report

REPORT OBJECTIVE

The purpose of this report is to seek Council endorsement to explore opening event activations at the new \$13.5 million sporting facilities on Majors Road. The facilities include the Sam Willoughby BMX Track and the Southern Soccer complex.

EXECUTIVE SUMMARY

The Sam Willoughby BMX Track is scheduled for opening in January 2022 and the Southern Soccer complex is on track for opening in March 2022. These present opportunities to showcase the City of Marion through major opening activations at each site.

Free community events attracting several thousand people would promote the City of Marion as a place where people want to live, work and play. These events would build community relationships and increase club member capacity to be able to host future sporting activations at the sites.

The City of Marion is currently in discussions with peak sporting bodies about staging two possible high-profile events. It is proposed that these events could be supported by the reallocation of funding of \$59,000 that was previously set aside for the postponed Concert at the Cove and subsequently re-allocated to the 2021/2022 annual budget (GC201013R12).

The purpose of this report is to seek Council endorsement to undertake further work, within agreed funding parameters, on opening event activations for these new \$13.5 million sporting facilities.

RECOMMENDATION

That Council:

- 1. Notes this report.**
- 2. Agrees to re-allocate the \$59,000 Concert at the Cove budget set aside as part of 2021/2022 annual business plan to support staging of opening activations at the Sam Willoughby BMX stadium**
- 3. Notes that at the General Council meeting on 26 October 2021, Council will receive a full budget and run sheet for a proposed opening event for the Sam Willoughby BMX Track.**
- 4. Endorses a Council led major opening event at the Southern Soccer facility in March 2022.**

5. Notes that at the General Council meeting on 14 December 2021, Council will receive a report detailing a full budget and a run sheet for a proposed March 2022 Southern Soccer complex opening.

GENERAL ANALYSIS

At its 10 March 2020 meeting, Council considered the Prudential report and to proceed to detailed design and documentation for the Sam Willoughby BMX Track and the Southern Soccer complex (GC200310).

At its 26 February 2019 meeting, Council endorsed a budget allocation for low-cost local celebrations (GC190226M02).

At its 13 October 2020 meeting, Council resolved to postpone Concert at the Cove and to allocate the funding of \$59,000 to the 2021/2022 annual budget (GC201013R12).

The City of Marion is currently in discussions with peak sporting bodies about staging two signature events which would be a drawcard for opening activations at each site.

It is submitted that major opening activations at each site would showcase the City of Marion nationally and state-wide as home to a Union Cycliste Internationale (UCI) accredited BMX facility and a new Southern Soccer facility. Free community events attracting more than 3000 people would enhance stakeholder relationships with all tiers of Government, build community relationships and grow club member capacity to be able to host sporting activations at the sites.

Opening activations would support the following strategic objectives of the City of Marion:

Liveable	by celebrating the achievement of the successful delivery of major projects for the local community and building sporting facilities which can be used by peak bodies to stage competitions.
Valuing Nature	by showcasing our connection to the outdoors and healthy recreational pursuits.
Prosperous	by successfully attracting funding to building projects, and by building trust and respected relationships with key stakeholders for future projects.
Connected	by building quality, easily accessible sporting facilities for the community, including local, state, national and international.

DISCUSSION

An inaugural two-day national BMX competition hosted by AusCycling and supported by Events SA is proposed during the Santos Festival of Cycling in January 2022. This new BMX based event will kick start the national BMX competition with the aim of being an annual event and, subject to the lifting of travel restrictions, aim to attract international riders.

The Southern Soccer facility opening activation would be supported by Football Federation SA and could include a drawcard soccer game which could include a televised league game, player meet and greet, come and try activations, food and festival atmosphere.

Opening activation events at both the BMX Track and Southern Soccer facility would be family-friendly, sport / recreation focused, with a festival atmosphere. These would include a signature event, come and try sport-based activities, a demonstration by local clubs, meet and greet celebrities, sports stars, food and music.

As part of the opening activations an official program would include VIP speeches, Welcome to Country, and ribbon cutting/ plaque acknowledgement.

The event opening activations would be scalable and flexible to accommodate for changes to COVID-19 directions, care-taker periods, and delays in construction. Possible options under consideration include:

Sam Willoughby BMX Track opening activation – January 2022

Saturday night 22 January 5pm to 9pm – 3000 attendees

The four-hour opening event would feature drawcard BMX racing, competition racing, demonstrations, come and try, local bands and DJs, catering and refreshments.

The City of Marion is in discussion with Events SA and AusCycling who are planning a two-day national BMX competition which would be held at the new facility during the Santos Festival of Cycling 2022. This proposed competition would coincide with the opening of the facility and seek to be an annual event which would kick-start the BMX competition circuit.

It is anticipated 500+ riders would register to participate, ranging from young riders to adults and include Olympic level riders. The family-friendly event would also attract families who travel with participants and also attend to watch.

AusCycling and local clubs Hallett Cove Happy Valley BMX would manage the competitions.

In the inaugural year and coinciding with the opening of the major Council sporting facility and UCI accredited track, Council would work with key stakeholders to showcase the site.

Sporting champion and local resident Sam Willoughby would be approached to show his support for the venue with either video messages or in-person attendance at the event. The event also has the potential to attract attendance and participation from other BMX Olympic riders.

Southern Soccer Facility opening – March 2022

This event is proposed for a Sunday from 10am to 2pm. However the four hours could be extended based on number of games. It is expected this event would attract between 1000 to 2000 attendees. The event program could feature a signature soccer game with A League players. Depending on the timing of the year, the game could be broadcast.

Additional games would feature Cove women and men's games and youth games. Activities would include hosting of come and try, food and refreshments and music. There will also be an autograph signing area with guest appearances by A League players (where possible based on fixture).

The City of Marion is also in discussions with Football Federation South Australia (FFSA) to assist with the opening activations which would also include a mini 'Taste of the Region' showcasing of foods and wine.

Risk Management

A full risk management plan and a COVID Management Plan will be developed based on the events that will be delivered. Maximum crowd numbers of 3000 are expected for opening events. Capacity of under 1000 persons will require a COVID Safe Management Plan. Crowds of over 1000 will require collaboration with SA Health and relevant approvals, with any activities to be managed under strict adherence to the SA Health directives.

Current budget allocation

It is recommended that Concert at the Cove budget allocation of \$59,000 is re-directed to stage the opening event for the BMX facility and a separate report and budget request will be submitted for a Southern Soccer facility opening.

Other funding sources

Additional funding cash and in-kind will be attempted to be sourced from Events SA, Tour Down Under, key stakeholder groups and Onkaparinga Council. A ticket sale percentage deal could be explored.

Protocol

Council will lead and manage the official program as part of the two opening activations. The official opening will include a traditional Welcome to Country, messages from the Mayor, key funding stakeholders, VIPs appropriate to the two facilities, and community representatives as required.

Onsite activations

Event and site appropriate activations will be added to provide roving entertainment, inform and engage the community in sporting and recreational activities, showcase the City of Marion, and create a high energy festival atmosphere. These elements could include local DJs and bands, come and try BMX/ cycling, soccer, meet sporting celebrities, and roving entertainers.

Community engagement

An outreach program to engage local schools and sporting clubs will be conducted via a 'make a supporter banner'. In line with the sporting theme, school children and sporting groups will be invited to decorate a banner which could be on display at the venue. Competitions will be conducted to generate interest in the opening activations and enhance publicity opportunities.

Cultural and Environmental program

Both opening activations would include traditional Kaurna welcomes. This would include a smoking ceremony, digeridoo performance, and dance.

Displays and information highlighting Glenthorne Farm and the natural environment would be present at each location. Both activations would be run as Green Events, support Council's single use plastic ban and Zero Waste initiatives.

Catering and alcohol

Catering options could include a combination of food trucks and low-cost family-friendly community barbecues. Community barbecues would offer an income generating stream for the clubs.

A temporary liquor licence is under consideration that would allow for pop-up bars and a partnership with local winery Patritti.

Corporate areas

A 50-person VIP area could be provided at each event. A selection of corporate sites with a marquee, furniture, catering and refreshments will be considered as part of the events. These sites could be offered to local businesses via a sponsorship package.

Ticketing

Where possible, the opening events would be free to attend. Entry fees for competitions will be administered by the peak body.

Promotion

A comprehensive communications plan will be developed for each opening including leveraging opportunities with event partners. The communications plan will include digital channels, print,

advertising, and publicity. Each location provides unique opportunities to create and attract local, national, and international media coverage.

Conclusion

The information provided supports Council's consideration for staging community events to celebrate the completion of major Council projects.

OTHER CONSIDERATIONS

Council needs to be aware of a number of other issues associated with the event:

- The 2022 Tour Down Under has been cancelled. The event will be replaced with The Santos Festival of Cycling which will be held from Jan 21-29. The program will include cycling races and experiences across a variety of disciplines and ancillary events.
- Changes in COVID-19 directions can change rapidly impacting the events format, attendance capacities, and continuity.
- Managing obligations connected to COVID-19 directions will require additional resources including staffing as COVID-19 marshals and check-in points, cleaners, and equipment which will be presented in the budgets.
- Political sensitivities and relationships with Department of Environment and Water and Sport and Recreation.
- Delays in construction due to COVID could impact the completion date of the soccer facility - This will result in separate opening activations.
- Opening activations could be impacted by caretaker periods. A suggested contingency would include conducting door-stop style ribbon cutting ceremonies at each venue.
- Event abandonment and cancellation insurance will be obtained to cover extreme weather and or fire and smoke.

ATTACHMENTS

Nil

11.7 Local Government Reform - Section 90A Information or Briefing Sessions

Report Reference	GC211012R11.7
Originating Officer	Unit Manager Governance and Council Support – Victoria Moritz
Corporate Manager	Acting Manager Office of the Chief Executive - Sherie Walczak
General Manager	Chief Executive Officer - Tony Harrison

REPORT OBJECTIVE

The purpose of this report is to provide an update in relation to Section 52 of the *Statutes Amendment (Local Government Review) Act 2021*, which inserts section 90A of the Local Government Act relating to Information or Briefing Sessions (previously Informal Gatherings). The report recommends that Council rescind the Informal Gatherings Policy which is no longer required.

EXECUTIVE SUMMARY

Previously, Section 90(8) of the *Local Government Act 1999* set out requirements relating to 'informal gatherings and discussions' which required councils to adopt a formal policy. The *Statutes Amendment (Local Government Review) Act 2021* (the Review Act) deletes section 90(8) to (8e) inclusive and inserts a new Section 90A – Information or briefing sessions.

The same intention applies as it did to the previously prescribed 'informal gatherings' where sessions must not deal with a matter in a way that obtains, or effectively obtains, a decision on a matter outside of a formally constituted council or council committee meeting.

RECOMMENDATION

That Council:

- 1. Rescinds the *Informal Gatherings Policy* (Attachment 1)**
- 2. Notes the addition of Section 90A – Information or briefings sessions in the *Statutes Amendment (Local Government Review) Act 2021***

DISCUSSION

Open and transparent meetings of Council underpin representative democracy and ensure public confidence in the decision-making processes.

Information and briefing sessions, where appropriate, provide a valuable opportunity to enhance the decision-making processes by providing opportunities for Elected Members to become better informed on issues and seek further clarification.

Informal sessions are to be used solely for the purpose of generating ideas, sharing information and seeking further information.

The Review Act deletes section 90(8) to (8e) inclusive and inserts a new Section 90A – Information or briefing sessions, removing the requirement for Council to have a policy that complies with those regulations. Councils current Informal Gatherings Policy has been included as **Attachment 1** for Council to consider rescinding.

The changes to the Act do not substantially affect the way in which Council currently manages its Informal Gatherings (now to be called Information or briefing sessions) and the impact will be minimal.

Section 90A(3) imposes an obligation to conduct information or briefing sessions in a place open to the public when a matter that is, or is intended to be, on the agenda for a formal meeting of Council is to be discussed.

Section 90A(4) provides that an information or briefing session may be closed to the public to allow attendees to receive, discuss or consider any information or matter listed in section 90(3) of the Local Government Act. This decision can either be made by the council at a council meeting held prior to the information or briefing session or by the CEO before or at the session.

to enable an efficient process, it is proposed that the CEO will make any such order within the ambit of Section 90(3) in writing at the time the agenda is distributed. The order will be included on the item and will also be made available along with the other prescribed details on a register published on the website prior to the meeting. If required, the register can be updated following the meeting.

There is no obligation for councils to make documents, provided to council members at information or briefing sessions, available to the public. In addition, documents presented for information or briefing sessions that are closed to the public because they comprise information or a matter listed in section 90(3) are confidential at law. As a result of the changes resulting from the LG Reform, Council will be required to update its Code of Practice for Access to Meetings and Documents. It will be recommended the above point be included when reviewing the Code of Practice.

Through the LG Equip platform, the Local Government Association has provided additional information provided as **Attachment 2**.

ATTACHMENTS

1. Informal Gatherings Policy [**11.7.1** - 8 pages]
2. LGA Information Sheet - Section 90A Information or briefings sessions [**11.7.2** - 7 pages]

Informal Gatherings Policy



1. RATIONALE

Open and transparent meetings of Council underpin representative democracy and ensure public confidence in council's decision-making processes. Informal gatherings, where appropriate, provide a valuable opportunity to enhance the decision-making processes by providing opportunities for council members to become better informed on issues and seek further clarification.

2. POLICY STATEMENT

This Policy provides for council members to have sufficient opportunity to conduct planning sessions, to receive informal briefings and educational sessions, and convene other informal gatherings without prejudicing the requirements for openness and transparency as required by the Local Government Act 1999 (the Act).

Section 90(8) of the Act allows informal gatherings to be held provided that the discussion does not lead to a decision, or effectively obtain a decision, on a matter that would ordinarily be dealt with at a meeting of Council. This policy reflects the intention of the legislation for informal gatherings to be used for briefing, planning and educational sessions and is aimed at avoiding any perception that informal gatherings will be used to build consensus for council agenda items.

3. OBJECTIVES

"Informal gatherings" are gatherings of some or all Council Members to discuss council business that are arranged by the council (either by the CEO or by the elected council) other than proceedings which are subject to formal notification and minuting e.g. General Council and Committee Meetings. Section 90(8) of the Act provides a list of examples of informal gatherings:

- Planning sessions associated with the development of policies or strategies
- Briefing or training sessions
- Workshops
- Social gatherings to encourage informal communication between members or between members and staff.

Informal gatherings will be used solely for the purpose of generating ideas, sharing information and seeking further information on issues. Staff may receive guidance from informal gatherings as to what topics and information is to be presented to formal meetings but informal gatherings are not to be used for building consensus positions, or making council decisions in any way.

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Authorisation Date: 27 April 2020
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Informal Gatherings Policy



4. POLICY SCOPE AND IMPLEMENTATION

This policy applies to informal gatherings of the Council or a Council committee, including designated informal gatherings or discussions.

The Local Government (General) Regulations 2013 defines 'designated informal gathering or discussion' as:

an event organised and conducted by or on behalf of the council or chief executive officer to which members of the council or council committee (as the case may be) have been invited and that involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the council or council committee.

An informal gathering which does not involve discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the Council or Council committee, is not a 'designated informal gathering or discussion'.

General Business of the Council

Informal gatherings of Council Members, or Council Members and Council staff are, by their nature, a non-compulsory meeting of the council. All council members are however encouraged to attend these sessions. Attendance will be noted and included in the annual report.

Informal gatherings will not be used for making council decisions or to stifle debate on issues that may subsequently be dealt with by the council at a formal meeting.

Timing of, and Access to, Informal Gatherings of Council

For all designated informal gatherings or discussions, the following information will be published on the Council's website:

- (i) the place, date and time at which the designated informal gathering or discussion will be held;
- (ii) the matter that is to be discussed at the designated informal gathering or discussion;
- (iii) whether or not the designated informal gathering or discussion is to be held at a place open to the public.

Where a confidential informal discussion declaration applies to a designated informal gathering or discussion, the reason for the designated informal gathering or discussion being held entirely or partially in confidence must be published on the Council's website. The declaration must be made prior to the commencement of the designated informal gathering or discussion by the Council or Chief Executive Officer.

For all designated informal gatherings public access will be determined on a case by case basis. The council is aware of the need to balance openness and transparency with opportunities for private discussions between council members and council members and staff to progress Council business.

The Council or Chief Executive Officer may declare a designated informal gathering or discussion to be a 'confidential informal discussion' where the designated informal gathering or

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discussion is either:

- (i) a planning session of a general or strategic nature; or
- (ii) is a briefing session relating to information or a matter of a confidential nature within the ambit of section 90(3) of the Local Government Act (see attachment).

An informal gathering or discussion of the Council or a Council committee which is not a designated gathering or discussion will not be open to the public, unless otherwise determined by the Council or Chief Executive Officer.

Procedures applying to designated informal gatherings or discussions

Informal gatherings may nominate the Mayor, any other Council Member or any staff member to chair the gathering. Informal gatherings will be chaired informally.

Both the CEO and the person chairing the meeting are responsible for ensuring informal gatherings are conducted in accordance with the Act.

If a designated informal gathering or discussion has been declared to be a 'confidential informal discussion', then the designated informal gathering or discussion may be attended by Council members, relevant staff as required and any other person invited to attend by the Council or the Chief Executive Officer.

If a confidential informal discussion declaration has been made in respect of only some of the matters to be discussed at a designated informal gathering or discussion, then the informal gathering or discussion will only be closed to the public while these confidential matters are considered. The designated informal gathering or discussion will be open to the public for any non-confidential items that are considered.

The Code of Conduct for Council Members applies for informal gatherings and breaches of the Code during or associated with informal gathering will be dealt with under the Council Members Code of Conduct Procedure For Investigating Complaints.

Documentation relating to informal gatherings

Information / draft documentation may be provided to Council Members to accompany the discussion. Such documents are considered internal working documents of council, and therefore any requests for copies of the documentation will be considered on a case by case basis.

Informal gatherings will not involve a formal minute taking process.

Interpretation

This Policy must be enacted in conjunction with any legislative change or regulations.

AVAILABILITY OF THE POLICY

The public may inspect a copy of this Policy, without charge, at the Council offices during office hours.

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A copy of the Policy will be made available on the Council Website (www.marion.sa.gov.au).

Further enquiries about the Policy should be directed to the Manager Corporate Governance or by telephoning Council on 8375 6600.

5. REFERENCES

Local Government Act 1999

Local Government (Accountability and Governance) Amendment Bill 2015

Code of Practice – Access to Council Meetings and Documents

Code of Conduct for Council Members

6. REVIEW AND EVALUATION

This Policy will be reviewed within 12 months after a General Election and as required.

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Informal Gatherings Policy



Attachment 1

Information and matters within the ambit of section 90(3), Local Government Act

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- (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;
- (c) information the disclosure of which would reveal a trade secret;
- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which:
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
- (e) matters affecting the security of the Council, members or employees of the Council, or Council property, or the safety of any person;
- (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (g) matters that must be considered in confidence in order to ensure that the Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (h) legal advice;
- (i) information relating to actual litigation, or litigation that the Council or Council committee believes on reasonable grounds will take place, involving the Council or an employee of the Council;
- (j) information the disclosure of which:
 - (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); and

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Informal Gatherings Policy



- (ii) would, on balance, be contrary to the public interest;
- (k) tenders for the supply of goods, the provision of services or the carrying out of works;
- (l) information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Development Plan Amendment proposal relating to the amendment is released for public consultation under that Act;
- (m) information relevant to the review of a determination of a Council under the Freedom of Information Act 1991.

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Category: Public
Owner: Manager Corporate Governance
Authorisation Date: 27 April 2020
Review Date: November 2023

Informal Gatherings Policy



Attachment 2

Public Health Emergency: Electronic Participation in Council Meetings

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999* (**Notice No 1**) varying or suspending the operation of the specified provisions of the Local Government Act 1999 as set out in Schedule 1 to Notice No 1. Notice No 1 commenced operation on 31 March 2020.

For the period Notice No 1 has effect (as provided for in Notice No 1), this Informal Gatherings Policy is altered as set out below and those alterations have effect notwithstanding any other provision in this Informal Gatherings Policy to the contrary.

The alterations to this Informal Gatherings Policy are made consistent with Notice No 1 and the Council's Code of Practice for Access to Meetings and Code of Practice for Meeting Procedures.

For the avoidance of doubt, save for the alterations to the Informal Gatherings Policy as set out below, this Informal Gatherings Policy otherwise applies to all meetings of the Council.

Definitions

electronic means includes a telephone, computer or other electronic device used for communication.

Attendance at Informal Gatherings

Members of the Council may participate in an informal gathering of the Council by electronic means.

A member of the Council participating in an informal gathering by electronic means is taken to be present at the informal gathering provided that the member:

- (a) can hear all other members present at the informal gathering; and
- (b) can be heard by all other members present at the informal gathering.

Form of Participation by Electronic Means

Where:

- (a) a Council member is to participate in a Council informal gathering by electronic means; and

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- (b) the electronic means has the functionality to allow the Council member to participate in the informal gathering by being heard but not seen or by being both seen and heard; and
- (c) the electronic means of the Council has the functionality to allow the council member to be heard but not seen or to be both seen and heard,

the member must participate by being both seen and heard.

Public Access to Designated Informal Gatherings

During the period within which Notice No. 1 applies, public access to designated informal gatherings may be provided in accordance with Sections 90(1a) and 90(1b) of the *Local Government Act 1999* however minutes will not be recorded.

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Section 90A - Information or briefing sessions (previously informal gatherings)

This information sheet relates to the commencement of section 52 of the Statutes Amendment (Local Government Review) Act 2021, inserting section 90A of the Local Government Act 1999. The changes commenced on 20 September 2021.

1. Background

Section 90(8) of the *Local Government Act 1999* (the Local Government Act) previously set out requirements relating to 'informal gatherings and discussions'. Those requirements were thought to be overly prescriptive, confusing and impacting the ability of council members to discuss matters between themselves without fear of being in breach of the legislative requirements.

The *Statutes Amendment (Local Government Review) Act 2021* (the Review Act) deletes section 90(8) to (8e) inclusive and inserts a new section 90A—Information or briefing sessions. The lengthy regulations relating to 'designated informal gatherings' are removed, along with the requirement for councils to have a policy that complies with those regulations.

Regulation 8AB of the *Local Government (General) Regulations 2013* (the General Regulations) is amended to revoke the previous requirements and will insert requirements for information to be published after an information or briefing session has been held for the purposes of the new section 90A(7)(b).

2. Summary of section 90A—Information or briefing sessions

Information and briefing sessions provide a valuable opportunity to enhance council decision-making processes by providing opportunities for council members to become better informed on issues and seek further clarification prior to making decisions at formally constituted council meetings.

The new section 90A provides that the council or the chief executive officer (CEO) may arrange for the holding of an information or briefing session. To constitute an information or briefing session under the Local Government Act more than one (1) member of the council or council committee must be invited to attend or be involved in the session. The session must be convened for the purposes of providing information or a briefing to attendees (s.90A(1)).

Consistent with the previous 'informal gathering' requirements the new section 90A(2) prohibits a matter from being dealt with at an information or briefing session in such a way as to obtain, or effectively obtain, a decision on the matter outside a formal council or committee meeting.

Open and transparent council meetings and council committee meetings underpin representative democracy and ensure public confidence in council's decision-making processes. Consistent with previous requirements, section 90A(3) imposes an obligation to conduct information or briefing sessions in a place open to the public when a matter that is, or is intended to be, on the agenda for a formal meeting of the council is to be discussed.

Section 90A(4) provides that an information or briefing session may be closed to the public to allow attendees to receive, discuss or consider any information or matter listed in section 90(3) of the Local

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Government Act. This decision can either be made by the council at a council meeting held prior to the information or briefing session or by the CEO before or at the session.

As with the application of section 90(3) to council or committee meeting agenda items, the relevant considerations for each of the relevant subsections in section 90(3) must be taken into account when determining to close the information or briefing session to the public and making an order to that effect.

Section 90A(5) provides that when an order is made to close an information or briefing session to the public, as soon as reasonably practicable after the making of the order a record should be made of:

- The grounds on which the order was made; and
- The basis on which the information falls within the ambit of each ground of section 90(3) on which the order was made; and
- If relevant, the reasons that receipt, consideration or discussion of the information publicly would be contrary to the public interest

Where an order is made to close an information or briefing session, a person who enters or remains in a room knowing that the order is in place will be guilty of an offence and liable to a penalty not exceeding \$500. This provision does not apply to a member of the council or a person permitted to be in the room by the council or CEO in accordance with the order made to close the information or briefing session.

Information or briefing sessions will be taken to be conducted in a place open to the public even if one or more council members participate in the session by telephone or other electronic means in accordance with any procedures prescribed by the regulations or determined by the council (provided that members of the public can hear the discussion between all council members) (s 90(7a)). A sample procedure is provided later in this information sheet.

Section 90A(7) provides that a council or CEO must comply with any requirements of the regulations relating to the publication of prescribed information as soon as practicable after:

- Resolving or determining to hold an information or briefing session;
- The holding of an information or briefing session.

Regulation 4 of the *Local Government (General) (Review) Variation Regulations 2021* revokes the previous requirements set out in Regulation 8AB of the General Regulations, and for the purposes of new section 90A(7)(b) inserts a requirement for the following information to be published on a website determined by the CEO as soon as practicable after the holding of an information or briefing session:

- The place, date and time of the session;
- The matter discussed at the session;
- Whether or not the session was open to the public.

There are currently no regulations requiring the publication of information before the holding of an information or briefing session. However, councils may, in their discretion, publish information before the information or briefing session (in addition to publishing the required information after the information or briefing session is held) as a means of facilitating greater transparency and attendance at information and briefing sessions by members of the public.

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3. Holding an electronic information or briefing session

Section 90(7a) of the Local Government Act applies to information or briefing sessions as if they were a meeting of a council committee. Accordingly, a council may adopt a procedure for the holding of information or briefing sessions by telephone or other electronic means, provided that members of the public can hear the discussion between all participants at the information or briefing session.

A model procedure for the holding of an electronic information or briefing session is provided below. This procedure could be incorporated in a council's Code of Practice for Access to Meetings and Documents or adopted as a stand-alone procedure for the holding of an electronic information or briefing session.

Model procedure for the holding of an electronic information or briefing session

Attendance at Information or Briefing Sessions Electronically

Members of the Council or a Council Committee may participate in an information or briefing session by electronic means (an *electronic information or briefing session*).

A member of the Council or Council Committee participating in electronic information or briefing session is taken to be present at the information or briefing session provided that the member:

- (a) can hear all other members present at the information or briefing session; and
- (b) can be heard by all other members present at the information or briefing session.

Form of Participation by Electronic Means

Where:

- (a) a Council or Committee member is to participate in an information or briefing session by electronic means; and
- (b) the electronic means has the functionality to allow the member to participate in electronic information or briefing session by being heard but not seen or by being both seen and heard; and
- (c) the electronic means of the Council has the functionality to allow the council member to be heard but not seen or to be both seen and heard, the member must participate by being both seen and heard.

Public Access to Electronic Information or Briefing Session

Council will make available to the public a live stream of any electronic information or briefing session which must be conducted in a place open to the public so that members of the public can hear the discussions between all persons participating in the information or briefing session.

The live stream will be published on a website determined by the chief executive officer, provided that this requirement will not apply to any part of the electronic information or briefing session that has been closed to the public.

Definitions

electronic means includes a telephone, computer or other electronic device used for communication.

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4. When does section 90A apply?

Section 90A applies to sessions held or arranged by the council or the CEO of a council:

- to which more than one (1) member of the council or a council committee is invited; and
- the purpose of which is to provide information or a briefing to attendees

Section 90A does not apply to formal meetings of a council or council committee held under Chapter 6 of the Local Government Act, nor does it apply to (for example):

- a meeting scheduled between a Mayor and a council member to discuss a constituent concern;
- a training session for all council members on meeting procedures;
- a 'walk through' of the council agenda attended by the Mayor, CEO and Governance Manager prior to the council meeting;
- a selection panel discussion to short list candidates for the position of independent member on the Audit and Risk Committee, and
- two Ward Councillors meeting for coffee to discuss ward related issues.

5. What rules apply to an 'information or briefing session'?

- An 'information or briefing session' must not deal with a matter in a way that obtains, or effectively obtains, a decision on a matter outside of a formally constituted council or council committee meeting (s 90A(2)).
- If the matter to be discussed at an information or briefing session will, or is intended to be, on the agenda for a formal council or committee meeting, the information or briefing session must be open to the public (noting there are grounds that may allow the council or CEO to determine to close the information or briefing session to the public – refer below) (s 90A(3)).
- As soon as practicable after the holding of an information or briefing session information relating to:
 - The place, date and time of the session;
 - The matter discussed at the session; and
 - Whether or not the session was open to the public
 must be published on a website determined by the CEO (r 8AB, the General Regulations).
- If an order is made to close an information or briefing session to the public, a record must be made of:
 - The grounds on which the order was made;
 - The basis on which the information falls within the ambit of each ground on which the order was made; and
 - If relevant, the reasons that receipt, consideration or discussion of the information in public would be contrary to the public interest (s 90A(5)).
- If a person has been lawfully excluded from an information or briefing session, it is an offence for them to remain (s 90(5)). This prohibition does not apply to council members, council committee members or people specifically permitted to remain (s 90(6)).
- A prescribed matter cannot be dealt with at an information or briefing session (s 90A(6)(b)). Note: at the time of release of this information sheet no matters had been prescribed pursuant to this section.

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- If the council has adopted procedures that allow council or committee members to participate in the information or briefing session via telephone or other electronic means, the meeting will still be regarded as open to the public, provided the members of the public can hear the discussion between all members present (s 90(7a)).
- A reference to a meeting or meetings in sections 94 and 95 of the Local Government Act includes a reference to an information or briefing session or session.

6. Closing an information or briefing session to the public

Information and briefing sessions must be open to the public during any period they are to consider a matter that is or is intended to be on the agenda for a meeting of the council or council committee. However, the council or CEO can order that an information or briefing session be closed to the public where the council or CEO considers it necessary or appropriate to close the session to the public in order to receive, discuss or consider in confidence any information or matter listed in section 90(3) of the Local Government Act.

In such a case, the council or CEO should:

- 1) before making a decision, take into account the relevant considerations set out in section 90(3);
- 2) Make an order (either by resolution, or if it is the CEO, in writing) pursuant to section 90A(4);
- 3) Either contemporaneously with making the order or as soon as reasonably practicable after making the order, make a record of:
 - a. the grounds on which the order was made; and
 - b. the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made; and
 - c. if relevant, the reasons that receipt, consideration or discussion of the information or matter publicly at the information or briefing session would be contrary to the public interest.

Model order for closing an information or briefing session to the public

Pursuant to Section 90A(4) and 90(3)(##) of the *Local Government Act 1999*, the [Council/CEO] orders that the information or briefing session to be held on [insert date] be closed to the public for item [insert item description/title], and members of the public be excluded from attendance with the exception of required [council name] staff and:

- [insert names/description of other persons who may remain, e.g. consultant/external advisor]

on the basis that the information to be received, discussed or considered relates to:

- [insert description and relationship with relevant 90(3) sub-section]

[if relevant – i.e. for s.90(3)(b), (d) & (j)] and the receipt, consideration or discussion of the information or matter in an information or briefing session open to the public would, on balance, be contrary to the public interest because [insert reasons].

Example order for closing an information or briefing session to the public

Pursuant to Section 90A(4) and 90(3)(b)(i) and (ii) of the *Local Government Act 1999*, the CEO orders that the briefing session held on 11 January 2022 be closed to the public for Item 1 – Waste management service level workshop, and members of the public be excluded from attendance with the exception of required ABC Council staff and:

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- Harry Granger, Waste Management Consultants Pty Ltd
- on the basis that the information to be received, discussed or considered relates to:
- Proposed service levels and requirements for consideration as part of the proposed waste services contract request for tender, disclosure of which at this time could confer a commercial advantage on persons with whom the council is conducting, or proposing to conduct, business such as a respondent to the request for tender, or to prejudice the commercial position of the council;

and the receipt, consideration or discussion of the information or matter in an information or briefing session open to the public would, on balance, be contrary to the public interest because it is in the public interest for frank and open discussions to be held in confidence about potential service levels and requirements to be included in a request for tender without disclosing that information prior to the release of any request for tender document to ensure Council obtains the best possible outcome from the tender process.

7. Record Keeping

Section 90A(5) requires that when an order is made to close an information or briefing session to the public a record of that order must be made.

Orders made by a council to close an information or briefing session will be made by resolution at a council meeting and therefore the record of that order will be captured within the minutes of the relevant council meeting.

In relation to orders made by the CEO, the order closing the session to the public may be recorded in writing and maintained in accordance with the council's record keeping system.

There is no obligation for councils to make documents provided to council members at information or briefing sessions available to the public. In addition, documents presented to information or briefing sessions that are closed to the public because they comprise information or a matter listed in section 90(3) are confidential at law. Councils wishing to make these matters clear to the public could include words to the following effect in their Code of Practice for Access to Meetings and Documents:

Information and Briefing Sessions – Document Availability

Council will publish information about information and briefing sessions in accordance with Regulation 8AB of the Local Government (General) Regulations 2013. Absent a specific decision of the Council or Chief Executive Officer to the contrary, documents presented to information or briefing sessions are not publicly available and documents presented to information or briefing sessions that are closed to the public are confidential.

8. Informal gathering policy—deleted section 90(8a)

The deletion of section 90(8a) from the Local Government Act removes the obligation on councils to have a policy on the holding of informal gatherings or discussions. Whilst the obligation has now been deleted, there may be some confusion regarding the application of an endorsed Informal Gathering Policy if it is not formally revoked. For the avoidance of doubt regarding its continued application, councils are advised to revoke an Informal Gathering Policy if previously endorsed.

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9. Extract of section 90A—Information or briefing sessions

90A—Information or briefing sessions

- (1) A council, or the chief executive officer of the council, may hold or arrange for the holding of a session (not being a formal meeting of a council or council committee required to be held under this Chapter) to which more than 1 member of the council or a council committee is invited to attend or be involved in for the purposes of providing information or a briefing to attendees (an *information or briefing session*).
- (2) A matter must not be dealt with at a council information or briefing session in such a way as to obtain, or effectively obtain, a decision on the matter outside a formal meeting of the council or a council committee.
- (3) A council information or briefing session must be conducted in a place open to the public during any period in which a matter that is, or is intended to be, on the agenda for a formal meeting of the council or a council committee is discussed at the session.
- (4) However, the council or chief executive officer may order that an information or briefing session be closed to the public to the extent (and only to the extent) that the council or chief executive officer (as the case requires) considers it to be necessary and appropriate for a matter of a kind referred to in subsection (3) to be discussed in a session closed to the public in order to receive, discuss or consider in confidence any information or matter listed in section 90(3) (after taking into account any relevant consideration under that subsection).
- (5) If an order is made under subsection (4), the council or chief executive officer (as the case requires) must, as soon as reasonably practicable after the making of the order, make a record of—
 - (a) the grounds on which the order was made; and
 - (b) the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made; and
 - (c) if relevant, the reasons that receipt, consideration or discussion of the information or matter publicly at the information or briefing session would be contrary to the public interest.
- (6) If an information or briefing session is organised or held by a council or chief executive officer of a council, the following provisions apply:
 - (a) sections 90(5), (6) and (7a) apply to the information or briefing session as if it were a meeting of the council or council committee;
 - (b) a prescribed matter cannot be dealt with at an information or briefing session; and
 - (c) a reference to a meeting or meetings in sections 94 and 95 includes a reference to an information or briefing session or sessions.
- (7) A council or the chief executive officer of the council must comply with any requirements of the regulations relating to the following:
 - (a) the publication of prescribed information as soon as practicable after resolving or determining to hold an information or briefing session;
 - (b) the publication of prescribed information as soon as practicable after the holding of an information or briefing session.

This resource has been prepared by the Local Government Association of SA (LGA) to assist councils with implementation of legislative changes arising from Local Government Reforms, incorporating advice from Norman Waterhouse, for the guidance of and use by member councils.

Last updated: 20/09/2021

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12 Corporate Reports for Information/Noting

12.1 Community Event Fund 2020/21

Report Reference	GC211012R12.1
Originating Officer	Grants Officer – Sherina Kuik
Corporate Manager	Acting Manager Community Connections – Jaimie Thwaites
General Manager	General Manager City Services - Tony Lines

REPORT HISTORY

Report Reference	Report Title
GC100418R02	Community Events Fund (Events Plan 2017-2020)
GC200526R12	Community Event Fund Annual Report 2019/2020

REPORT OBJECTIVE

To provide an annual report detailing the expenditure of the Community Event Fund.

EXECUTIVE SUMMARY

At the 10 April 2018 General Council meeting (GC100418R02), Council endorsed an allocation of \$12,000 per annum for a Community Event Fund as well as guidelines and eligibility criteria.

At the 26 May 2020 General Council meeting (GC200526R12) funding was increased from \$12,000 per annum to \$15,000 per annum, with the maximum amount available per application increased from \$1,000 to \$2,000 and the guidelines were updated accordingly.

In the 2020/2021 financial year \$8,882.40 was provided to community events.

3 funded events were affected by COVID-19 restrictions and the applications were withdrawn.

1 funded event was approved during 2020/2021 but the event was scheduled for the 2021/2022 financial year and will be captured in next year's reporting.

RECOMMENDATION

That Council:

- Notes the report.**

DISCUSSION

The objective of the Community Event Fund is to provide funding for not-for-profit organisations to stage events or festivals of any size that provide benefit to the City of Marion. Council endorsed guidelines around the type of costs this fund will cover. Some of the costs include: staging, lighting/audio equipment, security, marquees and waste management. Events must be free, inclusive and open to all to be eligible for this funding.

The process has been managed by Vibrant Communities staff via an online application and acquittal process within the existing SmartyGrants platform.

Timeline

Applications are open from 1 July to 30 June each year, unless funds are exhausted prior.

Budget allocation \$15,000 is allocated per financial year.

For the 2020/2021 financial year the Community Event funding has been allocated to:

Organisation	Event	Total Funding Allocated
Bangladesh Puja and Cultural Society of South Australia	Durga Puja - annual 2 day Hindu festival devoted to promote and maintain religious and cultural practices and share with the broader community	\$2,000
Pastel Artists of South Australia Inc	Anniversary Exhibition "Creating the Pastel Dream"	\$2,000
5049 Coastal Community Association	Neighbour Day Family Picnic & Volunteer Day	\$909
Christian Family Centre (CFC) South	Good Friday Sunset Gathering - community outdoor sunset service at Hallett Cove beachfront	\$1,973.40
The Corner Uniting Church	The Corner Christmas Movie Festival - prepared by The Corner Kids Performing Arts group to host a free public movie night event with a Christmas theme	\$2,000
TOTAL		\$8,882.40

ATTACHMENTS

Nil

12.2 Questions Taken on Notice Register

Report Reference	GC211012R12.2
Originating Officer	Governance Administration Officer – Anne Mitchell
Corporate Manager	Acting Manager Office of the Chief Executive – Sherie Walczak
General Manager	Chief Executive Officer - Tony Harrison

REPORT OBJECTIVE

To receive and note the information contained within the *Questions Taken on Notice Register* provided in Attachment 1.

EXECUTIVE SUMMARY

At the 8 May 2018 General Council meeting Council resolved that (GC080518M01):

Questions without Notice that were not answered at the same meeting will be entered into a register. This register will be tabled as an information report at the following meeting.

Under Regulation 9 of the Local Government (Procedures at Meetings) Regulations 2013 (The Regulations):

(3) A member may ask a question without notice at a meeting.

(4) The presiding member may allow the reply to a question without notice to be given at the next meeting.

(5) A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made.

RECOMMENDATION

That Council:

- 1. Notes the report 'Questions Taken on Notice Register'.**

ATTACHMENTS

1. GC211012 - QON Register [**12.2.1** - 2 pages]

Questions Taken on Notice Register



Report Reference	Meeting Date	Councillor	Responsible Officer	Question taken on notice during the meeting	Response			
GC210914R11.3 – Solar Panels for Council Owned and Leased Facilities - Expression of Interest Outcomes	14 September 2021	Mayor Kris Hanna and Cr Bruce Hull	Acting Manager City Property – Mark Hubbard	Do we export/sell energy from any of our sites back to the grid?	Yes, see below table for the last financial year for the sites that we receive invoices for.			
					FY 20/21			
					Facility	\$/kWh	Exported to grid	\$
					Cove Civic Centre	0.06	23,004.00	1265.22
					City Services	0.06	17,688.00	972.84
					Trott Park Neighbourhood Centre	0.15	14,397.34	2159.60
					Cooinda Recreation Centre	0.15	11,099.36	1664.90
					Cove Sports club	0.15	8,431.39	1264.71
					Edwardstown Sports and Community Centre	0.06	6,922.00	380.71
					Marion Cultural Centre	0.06	6,639.00	365.15
					Park Holme Community Hall	0.15	2,945.00	441.75
					Park Holme Library	0.06	2,558.00	140.69
					Glandore Community Centre - Slade	0.15	903.53	135.53
					Marion Swimming Centre Kiosk	0.06	367.27	20.20
					Living Kaurna Cultural Centre (LKCC) Unit TNCYB	0.15	90	13.50
							95,044.89 kWh	\$ 8,824.80

Questions Taken on Notice Register



GC210928R5.2 - Glandore Oval – Rose Garden	28 September 2021	Cr Ian Crossland	Acting Manager City Property – Mark Hubbard and Manager Customer Experience – Megan Bradman	What streets did the responses come from?	5 x Margaret Street, Glandore 3 x Naldeera Street, Glandore 3 x Gertrude Street, Glandore 5 x Churchill Street, Glandore 1 x King Street, Glandore 1 x Almond Grove, Glandore 2 x Victoria Street, Glandore 1 x Wellington Street, Glandore 1 x Moldavia Street, Glandore 1 x Clarke Avenue, Glandore 1 x Pleasant Avenue, Glandore 1 x Lindfield Avenue, Edwardstown 1 x Monaro Street, Walkerville 1 x McPherson Street, Clapham 1 x Rivett Avenue, Fullham Gardens 8 x Not Provided
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13 Workshop / Presentation Items - Nil**14 Motions With Notice****14.1 Rescission Motion - Code of Conduct**

Report Reference	GC211012R14.1
Council Member	Councillor – Ian Crossland

MOTION

Rescinds the following resolution of Council relating to the Code of Conduct brought against Cr HULL made on 14th September 2021:

That Council:

1. **Notes that Administration informed council of the prosecution of the former employee contrary to recent public statements and that administration are not obliged to inform elected members of the prosecution outcome (pursuant to the Local Government Act 1999) of the terminated employee (which was publicly available knowledge).**
2. **Resolves that Councillor Hull in his behaviour and commentary to the media has breached the Code of Conduct, under Part 2:
Section 2.2, Act in a way that generates community trust and confidence in the Council**
3. **Censures Councillor Hull in relation to this incident and requests a written public apology from Councillor Hull.**

If this rescission motion is successful, Council then consider one of the following options:

Option A

That Council determine that no breach of the code of conduct has occurred on the basis that Councillor Hull's behaviour in speaking with the media did not breach the Code of Conduct and that the matter be dismissed.

Or

Option B**That Council:**

1. **Resolves that Councillor Hull in his behaviour and commentary to the media has breached the Code of Conduct, under Part 2:
Section 2.2, Act in a way that generates community trust and confidence in the Council**
2. **Censures Councillor Hull in relation to this incident and take no further action.**

Or

Option C

That Council requests an independent investigation

SUPPORTING INFORMATIONComments – Councillor Crossland

This matter was considered in confidence at the Council meeting of 14th September 2021 in accordance with the Council Member Code of Conduct Procedure for investigating complaints.

During the item it was unclear exactly what was being alleged against Cr HULL and I attempted to seek clarification. On further consideration of the matter, I recommend that Council consider the following points to rescind the previous decision.

Background

Cr HULL placed a question on notice regarding the investigation in question in accordance with the meeting procedure requirements. Discussions were held with Cr HULL and the current CEO regarding the status and outcome of the investigation however, he requested that a formal response be provided to the question on notice in the Council agenda. As the police matter had concluded, the information was publicly available. Cr HULL did not breach the Code of Conduct by placing a question on notice.

Media Article

Members questioned whether or not Cr HULL should have talked to the media. Although the Mayor is the principal spokesperson of the Council, this does not prohibit other Council Members from speaking to the media. Cr HULL has confirmed that he was contacted by the media and that he answered questions. To date Cr HULL has not confirmed whether or not he was accurately quoted. Talking to the media would not constitute a breach of the Code of Conduct. Elected Members are not restricted to good news stories only and one of the key Elected Member roles is to oversee Administration and ensure proper governance.

Accuracy of comments to the media

The obligations under the Code of Conduct are that Council Members will endeavor to provide accurate information to the council and to the public at all times. When the matter was being considered, it was noted that the media often misquote or misreport on matters. Council considered whether or not the comments allegedly made were false or inaccurate and that if they were false Cr HULL had breached the code of conduct. I believe that based on the timeline of events, (see below) that Council was not briefed on these matters in a timely manner and therefore the comments, if accurately reported, were accurate and no breach of the Code of Conduct has occurred.

Timelines

Theft

1. Incident reported to City of Marion (2 April 2020)
2. Internal investigation commenced (3 April 2020)
3. Formal allegation put to staff member (27 May 20)
4. Staff member terminated (28 May 2020)
5. Matter reported to SAPOL (2 June)
6. Reimbursement occurred (4th June 2020)
7. SAPOL advised the theft matter would not be pursued (5th June 2020)

Elected Members were not informed and there was no legal reason that Elected Members could not be informed.

After an Elected Member forum, the CEO provided information regarding wrongdoing by a staff member but stated he was unable to provide further details. This could have been a reference to this incident; however, I have been unable to clarify this information (believed to be shortly after the 20th of July 2020).

Forging licensing documentation

1. SAPOL contacted the CEO re a confidential investigation (early September 2020)
2. CEO provides information to SAPOL (4th September 2020)

3. CEO meets SAPOL investigator to provide a statement and a request is made to keep the matter confidential (28th September 2020).
4. It is unknown when the individual was charged or when he first appeared in court. Elected Members were not informed
5. Members of a community sports club provided statements during the investigation.
6. Disclosure of this investigation is made by a community sports member during a General Council meeting (8th December 2020).
7. CEO sends an email to Council providing the status of matters relating to the terminated employee (14 December 2020). The email mentions a theft matter which is the first time this incident is disclosed as a theft matter. No further details were provided.
8. Previous CEO received an email from SAPOL with the February 2021 Court outcome (1 March 2021). Elected Members are not informed.

Obligation of the CEO to brief Council

The former CEO (Mr Skull) liaised with SAPOL and claims that he was asked to keep the police investigation confidential (believed to be relative to the 2nd matter). Mr Skull interpreted that this also meant that he could not tell the Council. This was not a legal requirement of the investigation and section 90(3)(f) of the *Local Government Act 1999* provides that information can be presented to Council in confidence and states “*information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial within the Local Government Act which would have accommodated notification to council*”.

The former employee was charged and once he appeared in Court the matter could not be deemed confidential however it appears that Council Members were not briefed on the matter and subsequently notified during a confidential Council Meeting by a member of a sports club on the 14th December 2020.

This demonstrates that the comments of Cr HULL were factually correct as there were numerous opportunities to provide Elected Members with timely information, however it appears that this did not occur.

If Councillor HULL believes that on factual information that Administration purposefully kept these matters from Council and beached the provisions of our own policy, he is within his rights to express his opinion. Councils’ obligation within the Act is to oversee the management and affairs of the Council and should ensure that there is no corruption and that Council policies are followed even if it is bad news.

Discussion of historic incidents during the debate

During the debate there were numerous comments made relating to previous matters which were not connected to the Code of Conduct being debated. Debates around Code of Conduct matters usually focus on the facts of the matter at hand and not historical issues. Reference to these historical matters may have unfairly influenced the decision rather than any evidence of wrongdoing by Cr HULL.

Response Received From	Acting Manager Office of the Chief Executive – Sherie Walczak
Corporate Manager	N/A
General Manager	Chief Executive Officer – Tony Harrison

STAFF COMMENTS

The Recission Motion was received in accordance with the Code of Practice Procedures at Council Meetings so that Council can now determine how it wishes to proceed.

15 Questions With Notice - Nil**16 Confidential Items****16.1 Cover Report - Public Lighting - Claim for Consultancy Fee by Trans-Tasman Energy Group**

Report Reference	GC211012F16.1
Originating Officer	Executive Officer to the Chief Executive Officer - Dana Bartlett
Corporate Manager	Acting Manager Office of the Chief Executive – Sherie Walczak
General Manager	Chief Executive Officer - Tony Harrison

REASON FOR CONFIDENTIALITY

Local Government Act (SA) 1999 S 90 (2) 3

(h) legal advice

RECOMMENDATION

That pursuant to Section 90(2) and (3) (h) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Chief Executive Officer, General Manager City Development, General Manager Corporate Services, General Manager City Services, Manager Office of the Chief Executive, Chief Financial Officer, Unit Manager Governance and Council Support and Governance Officer be excluded from the meeting as the Council receives and considers information relating to *Public Lighting Claim for consultancy fee by Trans Tasman Energy Group*, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to legal advice.

16.2 Cover Report - Confirmation of Confidential Minutes of the Special Review and Selection Committee Meeting held on 21 September 2021

Report Reference	GC211012F16.2
Originating Officer	Manager People and Culture – Jessica Lynch
Corporate Manager	N/A
General Manager	N/A

REASON FOR CONFIDENTIALITY***Local Government Act (SA) 1999 S 90 (2) 3***

(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

RECOMMENDATION

That pursuant to Section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Manager People and Culture, be excluded from the meeting as the Council receives and considers information relating to *Confirmation of Confidential Minutes of the Special Review and Selection Committee Meeting held on 21 September 2021*, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to personal affairs of the Chief Executive Officer.

16.3 Cover Report - Chief Executive Officer Probationary Review

Report Reference	GC211012F16.3
Originating Officer	Manager People and Culture – Jessica Lynch
Corporate Manager	N/A
General Manager	N/A

REASON FOR CONFIDENTIALITY***Local Government Act (SA) 1999 S 90 (2) 3***

(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

RECOMMENDATION

That pursuant to Section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Manager People and Culture, be excluded from the meeting as the Council receives and considers information relating to *Chief Executive Officer Probationary Review*, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to personal affairs of the Chief Executive Officer.

17 Motions Without Notice**18 Questions Without Notice****19 Other Business****20 Meeting Closure**

Council shall conclude on or before 9.30pm unless there is a specific motion adopted at the meeting to continue beyond that time.