

His Worship the Mayor  
Councillors  
**CITY OF MARION**



**NOTICE OF  
GENERAL COUNCIL MEETING**

Notice is hereby given pursuant to the provisions under Section 83 of the Local Government Act 1999 that a General Council meeting will be held

**Tuesday 24 February 2015**

**Commencing at 7.00 p.m.**

**In the Council Chamber**

**Council Administration Centre**

**245 Sturt Road, Sturt**

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 and interested members of this community are welcome to attend. Access to the Council Chamber is via the main entrance to the Administration building on Sturt Road, Sturt.

A handwritten signature in blue ink, appearing to read "Mark Searle", with a long horizontal stroke extending to the right.

Mark Searle  
**CHIEF EXECUTIVE OFFICER**

19 February 2015

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**CITY OF MARION  
GENERAL COUNCIL AGENDA  
FOR MEETING TO BE HELD ON  
TUESDAY 24 FEBRUARY 2015  
COMMENCING AT 7.00PM**

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**1. OPEN MEETING**

**2. KAURNA ACKNOWLEDGEMENT**

*We would like to begin by acknowledging 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'S DECLARATION OF INTEREST (if any)**

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Nil

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**Marion City Band**

Veronica Boulton

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**20. MEETING CLOSURE**

Council shall conclude on or before 10.00pm unless there is a specific motion adopted at the meeting to continue beyond that time.

**MINUTES OF THE GENERAL COUNCIL MEETING  
HELD AT ADMINISTRATION CENTRE  
245 STURT ROAD, STURT  
ON TUESDAY 27 JANUARY 2015**



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**PRESENT**

His Worship the Mayor Kris Hanna

**Councillors**

**Coastal Ward**

Ian Crossland  
Tim Gard

**Mullawirra Ward**

Jerome Appleby  
Jason Velsikou

**Southern Hills**

Janet Byram  
Nick Westwood

**Warracowie Ward**

Bruce Hull  
Nathan Prior

**Warriparinga Ward**

Luke Hutchinson  
Raelene Telfer

**Woodlands Ward**

Nick Kerry  
Tim Pfeiffer

**In Attendance**

Mr Mark Searle  
Ms Kathy Jarrett  
Ms Heather Montgomerie  
Mr Vincent Mifsud  
Ms Kate McKenzie  
Ms Victoria Moritz

Chief Executive Officer  
Director  
Director  
Director  
Manager Governance  
Governance Officer

**COMMENCEMENT**

The meeting commenced at 7.01pm.

**KAURNA ACKNOWLEDGEMENT**

*We would like to begin by acknowledging the Kurna people, the traditional custodians of this land and pay our respects to their elders past and present.*

**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.

## MEMBERS DECLARATION OF INTEREST

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

- Councillors Hull and Hutchinson identified a conflict of interest which has been recorded in the minutes at the following relevant agenda item for reference:
  - *Final Outcome regarding Code of Conduct Complaint, Report Reference: GC270115M02*
  - *Nominations Sought for the Development Assessment Commission, Report Reference: GC270115R11*

## CONFIRMATION OF MINUTES

**Moved Councillor Pfeiffer, Seconded Councillor Kerry** that the minutes of the General Council meeting held on 9 December 2014 be taken as read and confirmed.

**Carried Unanimously**

## COMMUNICATION - HIS WORSHIP THE MAYOR

### Report on Mayoral Activities for November and December 2014 and January 2015

His Worship the Mayor, Kris Hanna submitted a report on meetings and functions attended by himself during November and December 2014 and January 2015.

Date	Event	Comment
25 November 2014	Attended the White Ribbon Breakfast Adelaide Convention Centre	
27 November	Hosted the Mayor's End of Year Business Function Glandore Community Centre	
27 November	Attended a Celebration of new BBQ and Playspace Clovelly Park Memorial Community Centre	
28 November	Attended Christmas in the Garden - celebration with local volunteers Kingston House, Kingston Park	
28 November	Made welcome speech at the Keep Australia Beautiful Sustainable Cities Awards Dinner Tonsley TAFE	
29 November	Attended the Warradale Meals on Wheels 2014 Volunteers Awards Presentation and Christmas Party Meals on Wheels Reserve, Warradale	
30 November	Launched the 13th Annual City of Marion Community Exhibition Gallery M, Marion Cultural Centre	



30 November	Attended the Marion Church of Christ final service for John Lunnay Mitchell Park	
01 December	Met with Professor Michael Barber Flinders University, Bedford Park	
03 December	Met with Principal Seaview High School Seacombe Road, Seacombe Heights	
03 December	Spoke at the Edwardstown Regional Business Association (ERBA) end of year celebration Oaklands Wetland	
03 December	Spoke at the Glandore Christmas Carols Glandore Community Centre	
05 December	Attended the City of Onkaparinga Mayor's Christmas Business Function St Francis Winery Restaurant, Reynella	
06 December	Hosted Marion Stakes Day Morphettville Race Course, Morphettville	
06 December	Spoke at the Welcome to Australia Day Oaklands Park	
07 December	Attended the Plympton Bulldogs Family Christmas Party Plympton Sports & Rec Club, Plympton Park	
07 December	Attended the Sahra Festival Nexus Multicultural Arts Centre, Adelaide	
07 December	Attended the Friends of Glenthorne Vision Day Subcommittee meeting Darlington	
08 December	Spoke at the Community Care Volunteer Christmas Thank You Event Council Chamber, City of Marion	
08 December	Attended the Outdoor Pool Group Christmas Party Duncan Avenue, Park Holme	
10 December	Spoke at the Active Elders Christmas Luncheon Active Elders Hall, Ascot Park	
10 December	Attended the Migrant Resource Centre SA 2014 AGM and Awards Ceremony King William Street, Adelaide	
11 December	Attended the Edwardstown Meals on Wheels Christmas Breakup Party Aberfeldy Avenue, Edwardstown	
11 December	Conducted Citizenship Ceremony Marion Cultural Centre	
12 December	Attended the Vietnam Veterans' Federation SA Christmas Luncheon Addison Road, Warradale	
13 December	Attended the Rajah Street Reserve Community Christmas Party Rajah Street Reserve, Oaklands Park	

13 December	Hosted the Mayor's Christmas Drinks Club Marion, Sturt	
14 December	Attended the Friends of Glenthorne Christmas lunch Marion	
14 December	Attended the Park Holme / Plympton Park Christmas in the Park and Art Exhibition Duncan Avenue Reserve, Park Holme	
17 December	Attended the Trott Park Fencing Club come and try event Sheidow Park Primary School, Sheidow Park	
19 December	Opened a new business - Hadi Fitness Marion Road, Marion	
10 January 2015	Met with the Edwardstown Community Church Governance Team Towers Terrace, Edwardstown	
11 January	Presented the 120 metre winners sash and prize money at the 2015 Marion Gift Carnival Marion Sports and Community Club, Sturt	
19 January	Met with Superintendent Tom Rieniets, Sturt Police City of Marion	
20 January	Attended the Hallett Cove Lions meeting The Barn, Hallett Cove	
21 January	Met with representative from Minda Inc. City of Marion	
21 January	Met with representative from Gymnastics SA City of Marion	
22 January	Participated in radio segment with Coast FM Glandore Community Centre	
23 January	Attended the City of Marion Australia Day Event – Conducted a Citizenship Ceremony and presented the City of Marion Australia Day Awards Glandore Community Centre	
26 January	Spoke at the Lions Club and Rotary Club of Hallett Cove Australia Day Breakfast Heron Way, Hallett Cove	
26 January	Attended the Multifaith Service organised by Order of Australia Association Pilgrim Church, Flinders Street, Adelaide	
In addition the Mayor has met with numerous residents, local MP's and also with the CEO and Council staff regarding various issues.		

**Moved Councillor Crossland, Seconded Councillor Gard** that the report by the Mayor be received.

**Carried Unanimously**

## COMMUNICATION – DEPUTY MAYOR

### Report on Deputy Mayoral Activities for November and December 2014 and January 2015

Date	Event	Comment
11-Nov-14	Introduction Meeting for Elected Members	Attended
12-Nov-14	Darlington Road Upgrade Stakeholder Meeting	Attended
18-Nov-14	Swearing in Ceremony	Attended
22-Nov-14	Induction Weekend Saturday	Attended
23-Nov-14	Induction Weekend Sunday	Attended
25-Nov-14	General Council Meeting	Attended
26-Nov-14	Graffiti Volunteers End of Year Thank You Event	Attended / Spoke on Behalf of Council
27-Nov-14	Business Community End of Year Event	Attended
30-Nov-14	GalleryM 2014 Exhibition	Attended
2-Dec-14	Warriparinga Ward Briefing	Attended
2-Dec-14	Elected Member Forum	Attended
5-Dec-14	CEO Performance Review Committee	Attended
6-Dec-14	SAJC Marion Race Day	Attended
9-Dec-14	General Council Meeting	Attended
10-Dec-14	Active Elders Association Christmas Celebration	Attended
13-Dec-14	Mayors Christmas Function	Attended
16-Dec-14	Elected Member Forum	Attended
17-Jan-15	Elected Member Bus Tour of facilities	Attended
23-Jan-15	CEO Performance Review Committee	Attended

**Moved Councillor Crossland, Seconded Councillor Gard,** that the report by the Deputy Mayor be received.

**Carried Unanimously**

## COMMUNICATION – ELECTED MEMBERS

**Councillor Ian Crossland**  
**File No. 9.33.3.30**

Nil

**Councillor Tim Gard**  
**File No. 9.33.3.31**

Nil

**Councillor Jerome Appleby**  
**File No. 9.33.3.20**

Nil

**Councillor Jason Veliskou**  
**File No. 9.33.3.17**

Nil

**Councillor Janet Byram**  
**File No. 9.33.3.34**

Date	Event	Comment
19 Nov 14	Citizenship Ceremony – Marion Cultural Centre	Attended
21 Nov 14	Meeting with cove football club new chair	Attended
22 Nov 14	Induction Weekend	Attended
23 Nov 14	Induction Weekend	Attended
24 Nov 14	Meeting with cove soccer club committee	Attended
26 Nov 14	Graffiti Volunteers End of Year function	Attended
27 Nov 14	Cove sports centre AGM	Attended
28 Nov 14	Keep Australia Beautiful Sustainable cities Awards Dinner	Attended
01 Dec 14	ICAC Elected Members Morning Tea	Attended
03 Dec 14	Glandore Christmas Carols – Glandore Community Centre	Attended
04 Dec 14	Hallett Cove year 10 PLP presentations	Reviewed presentations and provided comments to each student
04 Dec 14	HACC Christmas lunch Trott Park Neighbourhood centre	Attended
05 Dec 14	Hallett Cove year 10 PLP presentations	Reviewed presentations and provided comments to each student
06 Dec 14	SAJC Marion race day	Attended
08 Dec 14	Hallett Cove year 10 PLP presentations	Reviewed presentations and

		provided comments to each student
13 Dec 14	Mayors Christmas party	Attended
16 Dec 14	Ward briefing Southern Hills and Coastal Wards	Attended
17 Dec 14	Hallett Cove Baptist Church Christmas lunch for Baptist care recipients	Helped with greeting guests and serving lunch
18 Dec 14	Cove Sports centre Christmas drinks	Attended
09 Jan 15	Meeting with Graeme Botting – re Lions club Anzac day ceremony	Attended with Cr Crossland
12 Jan 15	Meeting with president RSL Marion	Attended
14 Jan 14	Meeting with manager cove sports	Attended
15 Jan 15	Principal Seaview High School intro meeting as liaison councillor	Attended with Cr Telfer
16 Jan 15	Meeting Hallett Cove Library re councillor liaison role with friends of the library	Attended
17 Jan 15	Elected Member Bus Tour of sporting facilities	Attended
23 Jan 15	Assisted the Lions and Rotary Clubs promoting the Australia Day breakfast at Hallett Cove shopping centre	Assisted
23 Jan 15	Marion Australia Day Citizenship Ceremony - Glandore	Attended
26 Jan 15	Australia Day Breakfast Hallett Cove	Attended
26 Jan 15	Australia Day Breakfast debrief – Lions club Hallett Cove	Attended
In addition Cr Byram met with numerous residents, local MP's and council staff regarding various issues.		

**Councillor Nick Westwood**  
**File No. 9.33.3.35**

Nil

**Councillor Bruce Hull**  
**File No. 9.33.3.27**

Nil

**Councillor Nathan Prior**  
**File No. 9.33.3.29**

Nil

**Councillor Luke Hutchinson**  
**File No. 9.33.3.24**

Nil

**Councillor Raelene Telfer**  
**File No. 9.33.3.33**

Date	Event	Comment
11 Nov 14	Induction meeting	
18 Nov 14	Elected Member Swearing in	
27 Nov 14	Final Business Function Glandore	
28 Nov 14	KESAB Sustainable Awards	
30 Nov 14	Gallery M Community Exhibition	
2 Dec 14	Warriparinga Ward briefing	
5 Dec 14	CEO Performance Review	
6 Dec 14	Marion Stakes Day	
6 Dec 14	Welcome to Australia party at St Elizabeth	
8 Dec 14	Clovelly Park Mitchell Park contamination meeting	
10 Dec 14	Clovelly Park Mitchell Park Community Reference Gp	
18 Dec 14	Active Elders Christmas lunch	
15 Jan 15	Principal Seaview High meeting re basketball stadium and communitywith Cr Byram	
16 Jan 15	Gallery M 300 exhibition	
17 Jan 15	Sports Facilities Tour	
23 Jan 15	CEO Review Committee	
23 Jan 15	Marion Australia Day Citizenship Awards	
26 Jan 15	Australia Day Hallett Cove Lions breakfast	
26 Jan 15	Edwardstown Oval Cycling Competitions	

**Councillor Nick Kerry**  
**File No. 9.33.3.32**

Nil

**Councillor Tim Pfeiffer**  
**File No. 9.33.3.22**

Nil

**YOUTH ADVISRY COMMITTEE (YAC) UPDATE**

Nil

**DEPUTATIONS**

**Deputation – Parking Restrictions Norfolk and Township Roads Marion**  
**Report Reference: GC270115D01**

Mrs Thomas and Mr Garfoot gave a 10 minute Deputation to Council in relation to parking on Township Road and Norfolk Road Marion.

## **PETITIONS**

### **Petition - Parking Restrictions Norfolk and Township Roads Marion Report Reference: GC270115P01**

**Moved Councillor Hutchinson, Seconded Councillor Gard that:**

1. Council note the petition;
2. Council introduce additional yellow line restrictions along Norfolk and Township Roads Marion such that at any given point parking only be available on one side of the road.
3. Parking opposite the entry of the Norfolk Estate Village be also restricted by a yellow line.

**Lost**

### **Councillor Hutchinson called for a divison:**

**Those for:** Councillors Kerry, Hutchinson, Prior, Hull and Gard

**Those against:** Councillors Pfeiffer, Telfer, Westwood, Byram, Veliskou, Appleby, and Crossland

**Lost**

**Moved Councillor Telfer, Seconded Councillor Byram that**

1. Council staff undertake a survey of all residents, business and community groups along both Township Road and Norfolk Road to ascertain their views on the installation of Traffic Management Strategies on one side of each road . The consultation is to take into consideration the following options:
  - Council introduce additional yellow line restrictions along Norfolk and Township Roads Marion such that at any given point parking only be available on one side of the road.
  - Parking opposite the entry of the Norfolk Estate Village be also restricted by a yellow line.
2. Outcomes of the survey to be reported back to Council at the earliest possible convenience and by the end of April 2015 with recommendations from Council's Traffic Management staff.
3. Report back to Council on the results of the survey.
4. The petition organisers be advised of Council's resolution

**Moved Councillor Westwood, Seconded Councillor Kerry that the motion be put**

**Carried**

The motion was put and was **Lost**

**Moved Councillor Crossland, Seconded Councillor Hutchinson** that:

1. Council's Traffic Management Engineers propose options for traffic restrictions on Norfolk Road and Township Road.
2. A Report back to Council be provided by the end of March 2015.
3. The petition organisers be advised of Council's resolution

**Moved Councillor Kerry, Seconded Councillor Westwood** that the motion be put

**Carried**

The motion was put and was **Carried**

**Councillor Appleby called for a division:**

**Those for:** Councillors Pfeiffer, Kerry, Telfer, Hutchinson, Prior, Hull, Westwood, Gard and Crossland

**Those against:** Councillors Byram, Veliskou and Appleby

**Carried**

## **ADJOURNED ITEMS**

### **Play Equipment Audit**

**Report Reference: GC091214M01**

**Moved Councillor Hutchinson, Seconded Councillor Gard** that:

1. In the course of the next quarterly inspection of council's playground equipment, the City of Marion identify the risks associated with super heating of surfaces, in particular those that may come into contact with skin; and
2. Appropriate risk mitigation strategies are developed and implemented within the current budget and within 4 weeks after the inspection.

8.26pm Councillor Pfeiffer left the meeting

**Lost**

**Councillor Hutchinson called for a division:**

8.29pm councillor Pfeiffer re-entered the meeting

**Those for:** Councillors Pfeiffer, Kerry, Telfer, Hutchinson, Prior, Hull, Veliskou, Gard and Crossland

**Those against:** Councillors Westwood, Byram and Appleby

**Carried**



**Ideas for Planning Reform**

**Report Reference: GC270115M01 (additional information to GC091214M02)**

This item was Withdrawn

**Streetscape Working Party**

**Report Reference: GC091214M03**

**Moved Councillor Veliskou, Seconded Councillor Gard** that Council:

1. Establish a streetscape working party for the incoming council to provide input in the development of the Council's streetscape policy draft before it goes to consultation.
2. Aims to establish and convene the streetscape working party by the end of April 2015 and that their input be incorporated into the draft policy being worked on.
3. Build on the work done by council staff on this to date.

**Carried Unanimously**

**Consideration of Opportunities for a Low Rating Strategy**

**Report Reference: GC091214M04**

**Moved Councillor, Seconded Councillor** that:

1. Council declare its commitment to a low rating strategy for the next 4 years, whilst ensuring long term financial sustainability.
2. A report be prepared for the March 2015 General Council Meeting outlining opportunities for a low rating strategy including consideration of a rate rise no greater than the Adelaide CPI for the 2015/16 financial year, whilst also ensuring long term financial sustainability.

**Moved Councillor Kerry Seconded Councillor Westwood** that the motion be left lying on the table.

**Carried**

8.40pm Councillor Prior left the meeting

**MATTERS LYING ON THE TABLE**

Nil

## **COMMITTEE RECOMMENDATIONS**

### **Audit Committee Confirmation of Minutes of Meeting held on 16 December 2014 Report Reference: GC270115R01**

8.45pm councillor Prior re-entered the meeting

**Moved Councillor Pfeiffer, Seconded Councillor Hull** that Council:

1. Receive and adopt the minutes of the Audit Committee meeting of 16 December 2014 (Appendix 1).

**Carried Unanimously**

## **WORKSHOP / PRESENTATION ITEM**

Nil

## **CORPORATE REPORTS FOR DECISION**

### **Residential (General) Development Plan Amendment (DPA) – Committee Report Reference: GC270115R02**

**Moved Councillor Hull, Seconded Councillor Crossland** that Council:

1. Appoint a Committee to consider representations made by the public/agencies on the Residential (General) DPA at a meeting to be held on 19 February 2015 and subsequently recommend to council amendments required to be made to the DPA.

**Carried Unanimously**

**Moved Councillor Hull, Seconded Councillor Veliskou** that the following Councillors be appointed to the Committee:

- Councillor Kerry
- Councillor Westwood
- Councillor Crossland
- Councillor Telfer

**Carried Unanimously**

**Local Heritage Places Development Plan Amendment**  
**Report Reference: GC270115R03**

**Moved Councillor Telfer, Seconded Councillor Gard** that Council:

1. Consider the Minister's proposed alterations to the Local Heritage Places Development Plan Amendment.
2. Advise the Minister that Council has no objection to the reinstatement of the following properties to the Local Heritage Places list:
  - Dwelling (former farmhouse) – 6 Norfolk Road, Marion
  - Dwelling (former farmhouse) – 32 Galway Avenue, Seacombe Heights
  - Vermont Uniting Church, 574-578 Cross Road, South Plympton
3. Forward an amended version of Table Mar/3 – Local Heritage Places, with amended descriptions/extent for the Local Heritage items, to the Minister.

**Amendment**

9.09pm Councillor Crossland left the meeting

9.12pm Councillor Crossland re-entered the meeting

**Moved Councillor Pfeiffer, Seconded Councillor Kerry** that Council:

1. Consider the Minister's proposed alterations to the Local Heritage Places Development Plan Amendment.
2. Advise the Minister that Council has no objection to the reinstatement of the following properties to the Local Heritage Places list:
  - Dwelling (former farmhouse) – 6 Norfolk Road, Marion
  - Dwelling (former farmhouse) – 32 Galway Avenue, Seacombe Heights
3. Forward an amended version of Table Mar/3 – Local Heritage Places, with amended descriptions/extent for the Local Heritage items, to the Minister.

**The Amendment was Withdrawn**

**Debate ensued in relation to the original motion**

**The original motion was Lost**

9.23pm Councillor Appleby left the meeting

9.25pm Councillor Appleby re-entered the meeting

**Moved Councillor Westwood, Seconded Councillor Hull** that Council:

1. Consider the Minister's proposed alterations to the Local Heritage Places Development Plan Amendment.
2. Advise the Minister that Council objects to the reinstatement of the following properties to the Local Heritage Places list:
  - Dwelling (former farmhouse) – 6 Norfolk Road, Marion
  - Dwelling (former farmhouse) – 32 Galway Avenue, Seacombe Heights
  - Vermont Uniting Church, 574-578 Cross Road, South Plympton
3. Forward an amended version of Table Mar/3 – Local Heritage Places, with amended descriptions/extent for the Local Heritage items, to the Minister.

**Carried**

9.30pm Councillor Byram left the meeting

**Expert Panel on Planning Reform – Final Report**  
**Report Reference: GC270115R04**

**Moved Councillor Veliskou, Seconded Councillor Kerry** that Council:

1. Notes the Expert Panel on Planning Reform's final report.
2. write to the Minister / DPTI indicating that while Council opposes the creating of a network of regional planning boards, it reinforces that any planning authority should include measures that ensure transparency for the public interest (including their deliberations).

9.33pm Councillor Byram re-entered the meeting

**Carried**

**Oaklands Inclusive Playspace**  
**Report Reference: GC270115R05**

**Moved Councillor Prior, Seconded Councillor Hull** that Council:

1. Endorse the allocation of \$250,000 out of the available \$425,000 from the 2015/16 playspace budget for Stage 1 of the Oaklands Inclusive Playspace development.
2. Endorse the submission of a matched funding application for \$250,000 to DPTI's 2015 Open Space and Places for People Grant Funding program.

**Carried Unanimously**

9.44pm Councillor Gard left the meeting

**1<sup>st</sup> Budget Review 2014/15 and 2013/14 Savings**  
**Report Reference: GC270115R06**

**Moved Councillor Westwood, Seconded Councillor Hull** that the item “*1<sup>st</sup> Budget Review 2014/15 and 2013/14 Savings, Report Reference: GC270115R06*” be adjourned until the General Council Meeting on 24 February 2015.

**Carried Unanimously**

**SA Ombudsman Report – Complaint by Mr and Mrs Stevens**  
**Report Reference: GC270115R12**

9.47pm Councillor Gard re-entered the meeting

**Moved Councillor Hull, Seconded Councillor Prior** that :

1. Council note the SA Ombudsman’s report following an investigation into a complaint made by Mr and Mrs Stevens
2. Council reinstate the driveway of Mr and Mrs Stevens at 70 Lascelles Avenue and the fence at 70a Lascelles Avenue.
3. Council apologise to Mr and Mrs Stevens for the customer service provided.

**Carried**

**Recruitment of an Independent Audit Committee Member**  
**Reference No: GC270115R07**

**Moved Councillor Westwood, Seconded Councillor Hutchinson** that Council:

1. Endorse the composition of a Selection Advisory Panel to source and evaluate potential candidates for appointment as independent members of the Audit Committee as being the Mayor, the Chief Executive Officer and Councillor Velsikou and Councillor Byram.

**Carried**

**Moved Councillor Hutchinson, Seconded Councillor Pfeiffer** that the meeting be extended up until 10.30pm.

**Carried Unanimously**

9.56pm meeting extended.

**Elected Member Private Email Accounts – Ombudsman Advice  
Report Reference: GC270115R08**

This item was not considered

**The John Legoe Award  
Report Reference: GC270115R09**

This item was not considered as no nominations were received.

**Nominations for LGA President and Board Members and Deputy Board Members  
representing Metropolitan Local Government Group  
Report Reference: GC270115R10**

This item was not considered as no nominations were received.

**CORPORATE REPORTS FOR INFORMATION NOTING**

**Finance Report – December 2014  
Report Reference: GC270115R13**

**Moved Councillor Hutchinson, Seconded Councillor Pfeiffer** that Council:

1. Receive the report "Finance Report – December 2014".

**Carried Unanimously**

**Strategic Activities as at 27 January 2015  
Report Reference: GC270115R14**

**Moved Councillor Veliskou, Seconded Councillor Appleby** that:

1. The Strategic Activities as at 27 January 2015 undertaken by the CEO and the Directors be noted.

**Carried Unanimously**

## **CORPORATE REPORTS FOR DECISION**

### **Nominations Sought for the Development Assessment Commission Reference No: GC270115R11**

Councillor Hutchinson declared a conflict of interest in this item *Nominations sought for the Development Assessment Commission* as he is being nominated and left the meeting.

10.03pm Councillor Hutchinson left the meeting

**Moved Councillor Prior , Seconded Councillor Kerry** that Council:

1. Notes the report *Nominations Sought for the Development Assessment Commission* Report Reference GC270115R11.
2. Nominates Councillor Hutchinson to the LGA for consideration as the Local Government Member on the Development Assessment Commission.
3. Administration forwards the above nomination/s to the Local Government Association by 9.00am 28 January 2015

**Carried**

10.04pm Councillor Hutchinson re-entered the meeting

10.04pm Councillor Kerry left the meeting.

## **MATTERS RAISED BY MEMBERS**

### **QUESTIONS WITH NOTICE**

#### **Residential Rate Income Report Reference: GC270115Q01**

#### **QUESTION:**

#### **Councillor Crossland**

What is the total amount of residential rate income collected per council ward and what is the average household payment within those wards? As a comparison of costs, if the wards were within the City of Onkaparinga or Holdfast Bay what would each ward be contributing and what would the average household payment be?

#### **COMMENTS:**

#### **David Harman, Acting Manager Finance**

The residential rate income collected per council ward and the average household payment for those wards for 2014/15 are listed below.

<b>Ward</b>	<b>Total Residential Rate Income</b>	<b>Average Rate per household</b>
Mullawirra	9,282,108	1,443
Woodlands	9,321,741	1,292
Warracowie	9,689,577	1,367
Warriparinga	9,689,577	1,320
Coastal	8,211,294	1,521
Southern Hills	7,248,222	1,366
<b>TOTAL</b>	<b>52,190,705</b>	<b>1,319</b>

There are a number of factors that impact a council's average residential rate, including:-

- Property portfolio - each council has a different residential property portfolio and therefore different average residential capital values.
- Land use types - each council has a different mix of land use types (residential, commercial, industrial, primary production, vacant land and other) and differential rates that apply to those land uses, which results in different proportionate rating revenue amounts being derived from each land use.
- Property values - are affected by many factors, including location, amenities, transport, lifestyle, as well as the type and quality of other properties in the area.
- Services – the level and types of services provided vary from council to council.

As such it is not possible to determine what capital value a residential property in Marion may have, if that same property were physically located in another council as it would, for a number of reasons, have a different and unknown capital value to the one it has in Marion.

The best and most appropriate way to compare residential rates between one council and another is by comparing the average rates for those councils:

<b>2014/15 Average Residential Rate</b>	
Marion	\$1,319
Onkaparinga	\$1,361
Holdfast Bay	\$1,372

### City of Marion Staffing Levels Report Reference: GC270115Q02

#### QUESTION:

#### Councillor Crossland

What were the City of Marion staffing levels 5, 10 and 15 years ago. What was the total income to council in those years and what percentage of that income was used to pay staff?



**COMMENTS:****Andrew Lindsay, Manager Organisational Development**

The data in the following table has been sourced from City of Marion Annual reports for the years ending June 2000, 2004, 2009 and 2014 and represent the figure as at 30 June each year but does not include any vacant positions. Employee numbers are not available for year ending 1999.

It should be noted that while employee numbers have been included in the Annual Financial Statements since 2001, the method of calculation has changed over time to be more inclusive, with agency staff filling positions temporarily only being included from 2007. The influence of this changed reporting method can be seen in the full time equivalent variation between 2004 and 2009.

	What were the City of Marion staffing levels 5, 10 and 15 years ago? (FTE)	What was the total income to council in those years? (\$000's)	What percentage of that income was used to pay staff?
1999/2000	271	\$33,397	35.8%
2003/2004	274	\$40,087	37.4%
2008/2009	342	\$57,520	40.9%
2013/2014	351	\$74,894	42.1%

**Additional Services and Grants Provided by City of Marion**  
**Report Reference: GC270115Q03**

**QUESTION:****Councillor Crossland**

Other than essential services such as road maintenance, management of parks and maintenance of assets etc please could I have a list of additional services and grants provided by the City of Marion Council together with the annual cost of each of those services?

**COMMENTS:**

**David Harman, Acting Manager Finance**

Non-Mandatory/Statutory Services

Council delivers a number of Mandatory/Statutory services required under both the Local Government Act 1999 and other forms of legislation. Attached in Appendix 1 is a list providing budgeted costs of services that are not Mandatory/Statutory and are therefore discretionary by nature.

Community Grants Program

In 2013/2014 Council provided funding of \$75,000 towards its Community Grants program. As noted by Council on 27 May 2014 (GC270514R02) since 2005 the City of Marion's Community Grants Program has contributed \$800,000, supporting 441 projects valued at \$2,264,879 from 254 organisations.

**'Green Power' for Street Lighting  
Report Reference: GC270115Q04**

**QUESTION:**

**Councillor Appleby**

How much extra expense does the City of Marion incur in purchasing "green" power for street lighting?

**COMMENTS:**

**Mathew Allen, Manager Infrastructure**

The additional cost for Green Power during 2013/2014 financial year was \$35,929.  
(3% of the overall street lighting cost)

Purchasing Green Power ensures the purchase of electricity is from accredited renewable energy generators, which generate electricity from sources such as wind and solar energy.

**Staffing and Recruitment**  
**Report Reference: GC270115Q05**

**QUESTION:**

**Councillor Appleby**

- 1) How many vacancies did the City of Marion seek to fill in each of the past four years?
- 2) How many of these vacancies were filled from within the organisation?
- 3) What was the average spent on costs related to recruitment in each of the last four years?

**COMMENTS:**

**Andrew Lindsay, Manager Organisational Development**

The following data has been collated and analysed on a 12 month January to December basis. Vacancies include recruitment activity arising from staff leaving the organisation as well as backfill arrangements associated with temporary vacancies. The data excludes recruitment activity associated with maintaining the Library casual pool.

Recruitment cost has been calculated using actual costs associated with the use of external recruitment consultants as well as recruitment managed internally (excluding staff costs) and includes those costs associated with pre-employment medical, psychometric testing and advertising.

Year	Question 1 How many vacancies did the City of Marion seek to fill in each of the past four years?	Question 2 How many of these vacancies were filled from within the organisation?	Question 3 What was the average spent on costs related to recruitment in each of the last four years?
2014	52	18	\$2,596
2013	67	24	\$2,908
2012	89	44	\$2,790
2011	72	24	\$4,540

**Strategic Directions Committee Costs**  
**Report Reference: GC270115Q06**

**QUESTION:**

**Councillor Appleby**

What was the total cost of the Strategic Directions Committee for the previous term of council including staff costs?

**COMMENTS:**

**Fiona Harvey, Manager Strategy**

The Strategic Directions Committee (SDC) was established to meet the legislative requirement in the Development Act 1993 S101A whereby councils must establish a strategic planning and development committee. The SDC in its current form was adopted by Council in 2011 (GC111011R07) and is comprised of four Independent Members and all Elected Members.

Over the previous term of Council the SDC met 24 times between November 2011 and October 2014. This included three induction meetings and three induction site visits for the Committee early in its term, and two annual joint forums with the Audit Committee in 2013 and 2014. This equates to over 300 hours of Independent Members' time committed for attendance at SDC meetings and workshops. This does not include other time committed such as meeting preparation time, travel etc. The total cost of the SDC inclusive of Independent Member fees and catering for meetings for Elected Members, Independent Members and Staff, over this period was \$97,990.

Preparation for, and attendance at, SDC meetings is a component of staffs' existing roles and therefore covered by existing labour costs. The only additional cost associated with staff attendance at SDC meetings is if staff choose to have a meal prior to the meeting. Over the previous term of council this cost can be reasonably estimated to be \$1,875.

**MOTIONS WITH NOTICE**

**Final Outcome regarding Code of Conduct Complaint**  
**Report Reference: GC270115M02**

Councillor Hull declared a conflict of interest in this item *Final Outcome regarding Code of Conduct Complaint* as it relates to himself and left the meeting.

10.05pm Councillor Hull left the meeting.

**Moved Councillor Hutchinson, Seconded Councillor Crossland that**

1. Council writes to the SA Ombudsman seeking a final outcome on elected member benefits for travel expenses that gave rise to the code of conduct complaint between Cr Allen and Cr Hull earlier this year.

**Carried Unanimously**

10.06pm Councillor Hull re-entered the meeting  
10.06pm Councillor Kerry re-entered the meeting

**Parking Restrictions Norfolk and Township Roads Marion  
Report Reference: GC270115M03**

This item was Withdrawn

**QUESTIONS WITHOUT NOTICE**

Nil

**MOTIONS WITHOUT NOTICE**

Nil

**CONFIDENTIAL ITEMS**

10.07pm Councillor Telfer left the meeting

**Marion Leisure & Fitness Centre  
Lease to CASA Leisure Pty Ltd  
Report Referene: GC270115F01**

**Moved Councillor Pfeiffer , Seconded Councillor Prior that:**

1. Pursuant to Section 90(2) and (3)(b) of the Local Government Act 1999 the Council orders that all persons present, with the exception of the following Mark Searle, Kathy Jarrett, Heather Montgomerie, Peter Patterson, Mark Gibson, Heather Michell, Kate McKenzie, Ray Barnwell, Craig Clarke and Victoria Moritz be excluded from the meeting as the Council receives and considers a report in relation to Marion Leisure & Fitness Centre Lease to CASA Leisure Pty Ltd on 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 the consideration of the matter confidential in order to ensure that the council does not disclose information that would (i) prejudice the commercial position of the council and (ii) would, on balance, be contrary to the public interest.

**Carried Unanimously**

10.08 pm the meeting went into confidence

**Moved Councillor Appleby, Seconded Councillor Byram** that:

1. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, Marion Leisure and Fitness Centre, Lease to CASA Licence Pty Ltd and the Minutes arising from this report having been considered in confidence under Section 90(2) and (3)(b) of the Act be kept confidential and not available for public inspection until no later than 20 February 2015.

**Moved Councillor Hutchinson, Seconded Councillor Hull** that the meeting be extended until 10.45pm.

**Carried**

10.27pm meeting extended

**Motion was Carried**

10.45 pm the meeting came out of confidence

**Ombudsman Report**  
**Report Reference: GC270115F02**

This item was Withdrawn

**Moved Councillor Hutchinson, Seconded Councillor Veliskou** to extend the meeting for a further 5 minutes.

**Carried Unanimously**

10.45pm meeting extended

10.45pm Councillor Telfer re-entered the meeting

**LATE ITEMS**

**Confirmation of CEO Review Committee Minutes  
Report Reference: GC230115F03**

**Moved Councillor Hutchinson, Seconded Councillor Pfeiffer that**

1. 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 Kathy Jarrett, Director be excluded from the meeting as the Committee considers that the requirement for the meeting to be conducted in a place open to the public has been outweighed in circumstances where the Council will receive and consider a report dealing with a review of the Chief Executive Officer's Employment Agreement and performance and remuneration review processes.

**Carried Unanimously**

**10.45 pm the meeting went into confidence**

**Moved Councillor Hutchinson, Seconded Councillor Kerry**

1. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report and any appendices to this report be kept confidential and not available for the public inspection for the period that the Chief Executive Officer remains in gainful employment on the basis that it deals with information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person being the Chief Executive Office of the Council. This order will be reviewed at the General Council meeting in December 2015.

**Carried Unanimously**

**10.47 pm the meeting came out of confidence**

**CLOSURE - Meeting Declared Closed at 10.47pm.**

**CONFIRMED THIS 24 FEBRUARY 2015**

.....

**CHAIRPERSON**

**Date of Council Meeting:****24 February 2015****Name of Elected Member:****Mayor Kris Hanna**

<b>Date</b>	<b>Event</b>	<b>Comment</b>
29 January	Met with Minister Susan Close to discuss Tonsley	
04 February	Met with Lieutenant Colonel David Lipschitz, Warrant Officer Andrew Crook and members of Hallett Cove Lions to discuss Hallett Cove Dawn Service and Freedom of Entry Parade	
04 February	Launched the Marion Community Leadership Program	
06 February	Met with Lynne Hargraves, Chairperson of Riding for the Disabled South Australia	
10 February	Attended and spoke at the COTA SA - Marion Over 50's Clubs Forum and Network meeting	
12 February	Attended the Church Service to mark the opening of the Parliamentary year	
16 February	Attended the Marion Mall Walkers' Birthday celebrations	
17 February	Met with Professor Colin Stirling, Vice-Chancellor of Flinders University	
20 February	Gave evidence at Parliamentary Select Committee into Electoral Matters	
20 February	Attended exhibition opening at Gallery M	
In addition the Mayor has met with residents, local Members of Parliament and also with the CEO and Council staff regarding various issues.		



**Date of Council Meeting:****24 February 2015****Name of Elected Member:****Deputy Mayor Luke Hutchinson**

<b>Date</b>	<b>Event</b>	<b>Comment</b>
17-Jan-15	Council Sporting & Facilities Tour	Attended
23-Jan-15	Australia Day Awards Ceremony Government House	Attended
26-Jan-15	Australia Day Parade & Concert VIP Guest	Attended
3-Feb-15	Ward Briefing / Strategic Directions Committee	Attended
8-Feb-15	Meeting with Marion Historical Society 10:30AM	Attended
8-Feb-15	Meeting with Marion Residents 7:30PM	Attended
18-Feb-15	Hamilton Secondary College Council Meeting	Attended
20-Feb-15	CEO Performance Review Meeting	Attended

**Date of Council Meeting:****24 February 2015****Chief Executive Officer:****Mark Searle**

<b>Date</b>	<b>Event</b>	<b>Comments</b>
28 January	Meeting with Office for Recreation and Sport and Cities of Holdfast Bay, Mitcham and Onkaparinga regarding the development of Regional Sport and Recreation Plan	
29 January	Tonsley Project Steering Committee	
03 February	Presentation and discussion with ElectraNet CEO and senior management	
04 February	Meeting with State Government staff and consultants regarding development of governance arrangements for Tonsley Redevelopment	
05 February	Meeting with State Director of Gymnastics South Australia to discuss their leasing arrangements and growth	
06 February	Meeting with Martin Hamilton-Smith MP, Office for Recreation and Sport and City of Mitcham regarding the Women's Memorial Playing Fields	
06 February	Meeting with Presiding Member, Adelaide Mt Lofty Ranges Natural Resource Management Board	
11 February	Meeting with residents regarding the Local Area Traffic Management planning for Dwyer Road, George Street and surrounding area	
16 February	Tonsley Redevelopment Progress Celebration and Showcase	

**Director:****Heather Montgomerie**

<b>Date</b>	<b>Event</b>	<b>Comments</b>
11 February	Attended Council Solutions Board meeting	

**Director:****Kathy Jarrett**

<b>Date</b>	<b>Event</b>	<b>Comments</b>
04 February	Attended meeting as member of the Tonsley Project Steering Committee	
06 February	Presenter at Intrapreneurship Forum	

**Director:****Vincent Mifsud**

<b>Date</b>	<b>Event</b>	<b>Comments</b>
29 January	Attended meeting with EPA Board Sub-Committee with Site Contamination Review Committee regarding feedback Clovelly Park/Mitchell Park	
30 January	Attended meeting regarding progressing Indigenous Land Use Agreement (ILUA)	
02 February	Attended quarterly Board Meeting of Southern Region Waste Resource Authority (SRWRA)	

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** Jaimie Thwaites, Unit Manager Council Support  
**Corporate Manager:** Kate McKenzie, Manager Governance  
**Director:** Kathy Jarrett  
**Subject:** Deputation – Marion City Band  
**Ref No:** GC240215D01

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**SPEAKERS:**

Veronica Boulton, Musical Director

**ORGANISATION/GROUP REPRESENTED BY SPEAKERS:**

Marion City Band

**COMMENTS:**

The Marion City Band's committee has requested to make a deputation to introduce the band and the Musical Director, Veronica Boulton, to the new council.

**CITY OF MARION  
COUNCIL MEETING  
24 FEBRUARY 2015**

**Originating Officer:** Kathy Jarrett, Director

**Subject:** Ombudsman's Final Report – Breach of Code of Conduct –  
Cr Bruce Hull

**Report Reference:** GC240215R01

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**BACKGROUND / DISCUSSION:**

In July and August 2014, Council considered a series of reports relating to the findings of the Acting Ombudsman's Code of Conduct investigation into the behaviour of Councillor Bruce Hull, directly related to his disapproval of transport provided to former Councillor Kathleen Allen to travel to and from Council meetings.

The Acting Ombudsman's findings were such that Councillor Hull's conduct constituted misconduct under Part 3 of the Code of Conduct for Council Members. To remedy this error, the Acting Ombudsman recommended under Section 25(2) of the Ombudsman Act that the Council:

1. Reprimand Councillor Hull.
2. Require Councillor Hull to issue a public apology to Councillor Allen, both written and verbal.
3. Require Councillor Hull to agree to refrain from such conduct.

Following receipt of the Acting Ombudsman's Report, Council passed a number of resolutions to give effect to the above recommendations. The resolutions provided detail as to Council's expectations concerning the nature, publication and timing of the reprimand, apology and undertaking to refrain from such conduct.

The reprimand was made via letter to Councillor Hull dated 1 August 2014 and signed by former Mayor Lewis. Accordingly, this requirement of the Ombudsman has been satisfied.

However, prior to the resolutions associated with the apology and undertaking being enacted, Councillor Hull (via his solicitor) made further submissions drawing into question the Acting Ombudsman's findings. The submission from Councillor Hull's solicitor claimed that the Acting Ombudsman had erred in her views on certain points of law. As a result, the Acting Ombudsman decided to seek independent legal advice in response to the submissions.

Given this circumstance, Council resolved to extend the timing of considering the matter of Councillor Hull's apology and undertaking to the Council meeting that immediately followed the receipt of further advice from the Acting Ombudsman.

On 6 February 2015, Council received correspondence from the Ombudsman advising that the independent legal advice had now been received. In his letter, the Ombudsman has advised that he is in agreement with the views expressed in the final report and has decided to finalise the matter without amending the report or the recommendations contained in it. Accordingly, he is requesting that the Council:

- Provide the report to a public meeting of the council, within two ordinary meetings of the council.
- Report to him by 27 March 2015 on what steps have been taken to give effect to the recommendations in the final report; and, if no such steps are taken, the reason(s) for the inaction.

On 23 February 2015, Councillor Hull forwarded an apology and undertaking.

The purpose of this report is to facilitate Council's finalisation of the matter, and to give effect to the recommendations of the Ombudsman's report.

To assist Council in this regard, the following Appendices are included:

Appendix 1 Letter from the Ombudsman received 6 February 2015 finalising the Ombudsman's investigation into whether Councillor Hull's conduct constituted misconduct under Part 3 of the Code of Conduct for Council Members

Appendix 2 Copy of final Acting Ombudsman's Report dated 21 July 2014.

Appendix 3 Copy of reprimand already made by letter dated 1 August 2014 signed by former Mayor Lewis.

Appendix 4 Councillor Hull's apology and undertaking received on 23 February 2015.

It is noted that the requirements to provide a copy of the Ombudsman's report to a public meeting of the Council, and the issuing of a reprimand to Councillor Hull are considered to have been met (refer to Appendices 2 and 3).

Matters remaining to be addressed include the nature, publication and timing of Councillor Hull's apology and undertaking and Council's report back to the Ombudsman by 27 March 2015 as to what steps have been taken to give effect to the recommendations in the final report.

Council's further consideration in relation to this matter is now sought.

## **RECOMMENDATIONS**

## **DUE DATES**

### **That Council:**

**24 February  
2015**

**1.**



RECEIVED CITY OF MARION INFORMATION MANAGEMENT	
- 6 FEB 2015	Original fwd: <input type="checkbox"/>
File No: _____	
2 5 0 7 3 10 P.	

Enquiries: Ms Sarah Wishart  
Telephone: (08) 8226 8699  
Ombudsman reference: 2014/03637

Mr Mark Searle  
Chief Executive Officer  
City of Marion  
PO Box 21  
OAKLANDS PARK SA 5046

Dear Mr Searle

**Full investigation - breach of Code of Conduct - Cr Hull and the City of Marion (the council)**

I refer to the letter to Mayor Lewis (cc'd to you) and the final report dated 21 July 2014, from the Acting SA Ombudsman, Ms Megan Philpot.

As you know, since you were informed of the final views about this matter, Cr Hull's lawyer wrote to Ms Philpot and the council claiming that Ms Philpot had erred in her views on certain points of law.

As a result of this, at the council meeting of 12 August 2014, the council extended the timing of Cr Hull's apology and undertakings to the council pending further advice from Ms Philpot regarding her views on the submissions made by Cr Hull's lawyer.

Ms Philpot sought independent legal advice in response to the submissions.

I have now received the independent legal advice and have reviewed the matter.

I am in agreement with the views expressed in the final report and have decided to finalise the matter without amending the report or the recommendations contained in it. As such, I request that the council provide the report to a public meeting of the council, within two ordinary meetings of the council.

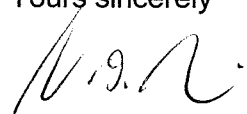
In accordance with section 25(4) of the Ombudsman Act, I request that the council report to me by 27 March 2015 on what steps have been taken to give effect to the recommendations in the final report; and, if no such steps have been taken, the reason(s) for the inaction.

I have also advised Cr Hull to address the recommendations contained in the final report within two ordinary meetings of the council providing it to a public meeting of the council.

I authorise disclosure of the final report as you see fit.

I apologise for the delay in finalising this matter.

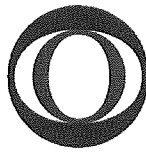
Yours sincerely

A handwritten signature in black ink, appearing to read 'W. Lines', written over the printed name.

Wayne Lines  
**SA OMBUDSMAN**

5 February 2015





OmbudsmanSA

Enquiries: Ms Sarah Wishart  
Telephone: (08) 8226 8699  
Ombudsman reference: 2014/03637

Mayor Felicity-ann Lewis  
City of Marion  
PO Box 21  
OAKLANDS PARK SA 5046

RECEIVED CITY OF MARION	
22 JUL 2014	Original Pwd: <input type="checkbox"/>
File No: 2-5-6-7-8-10-P	

Dear Mayor Lewis

### Complaint by Councillor Kathleen Allen

I refer to my provisional report dated 19 June 2014.

I have now concluded my investigation; and the purpose of this letter is to provide you with my final views about the complaint. They are set out in the enclosed report. I have sent a copy to the complainant and to Councillor Bruce Hull.

I have also sent a copy of my report to the Minister for Local Government as required by section 25(3) of the *Ombudsman Act 1972*.

As you may be aware, the Ombudsman Act imposes certain obligations<sup>1</sup> on my office and others, including complainants, officers and members of the council, to keep information about my investigation confidential. However, if I consider that disclosure of that information is in the public interest, then I may authorise or require its disclosure.

In my opinion, there is a public interest in disclosure of my final reports under the Ombudsman Act. Therefore, I authorise disclosure of this report by the parties as they see fit. I advise that I may publish my report on the Ombudsman SA and AustLII websites.

Yours sincerely

Megan Philpot  
**ACTING SA OMBUDSMAN**

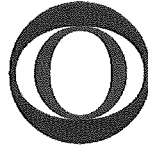
21 July 2014

Encl

Cc Mr Mark Searle  
Chief Executive Officer  
City of Marion  
PO Box 21  
OAKLANDS PARK SA 5046

<sup>1</sup> *Ombudsman Act 1972*, section 26.





OmbudsmanSA

**Report - City of Marion**  
**Full investigation - *Ombudsman Act 1972***

<b>Complainant</b>	<b>Councillor Kathleen Allen</b>
<b>Council member</b>	<b>Councillor Bruce Hull</b>
<b>Council</b>	<b>City of Marion</b>
<b>Ombudsman reference</b>	<b>2014/03637</b>
<b>Date complaint received</b>	<b>23 April 2014</b>
<b>Issue</b>	<b>Whether Councillor Hull engaged in repeated or sustained inappropriate behaviour such as to constitute misconduct under Part 3 of the Code of Conduct.</b>

**Jurisdiction**

Councillor Kathleen Allen made a complaint to the council alleging that Councillor Bruce Hull had:

- repeatedly breached Part 2 of the Code of Conduct for Council Members (**the Code of Conduct**)<sup>1</sup>
- breached his general duties as an elected member
- breached Part 3 of the Code of Conduct in the alleged misuse of council resources which have been used (and continue to be used) to further his campaign of bullying and harassment
- breached his duties as an 'Other person' under the *Work Health and Safety Act 2012*.

The legislative scheme envisages that:

- complaints in relation to Part 2 of the Code of Conduct (general behaviour; responsibilities; relationships and other matters) be made to the council, for investigation in accordance with its adopted process
- complaints in relation to Part 3 of the Code of Conduct (misconduct) be directed to my office or the Office of Public Integrity for investigation.

Part 3.17 of the Code of Conduct states that 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 Part 3.

The council resolved to refer the complaint about Cr Hull to me for investigation.<sup>2</sup>

<sup>1</sup> The Code of Conduct was gazetted on 29 August 2013.

<sup>2</sup> City of Marion General Council Meeting, 8 April 2014.

Looking at the totality of the allegations, it appears that the most significant allegation is that of Cr Hulls' repeated or sustained inappropriate behaviour. As such, I determined that my investigation would focus on this allegation.

I determined that the conduct of Cr Hull in relation to his comments about the council's hiring of a driver for Cr Allen may amount to repeated or sustained inappropriate behaviour that can be elevated to an allegation of misconduct under Part 3 of the Code of Conduct made pursuant to section 63 of the *Local Government Act 1999*. An act of a council member that may constitute grounds for complaint under the Local Government Act is taken to be an 'administrative act' for the purposes of the Ombudsman Act.<sup>3</sup>

I have not considered any conduct of Cr Hull prior to 1 September 2013 because the Code of Conduct does not operate retrospectively, and only applies to acts of council members after 1 September 2013.

## Investigation

My investigation has involved:

- assessing the information provided by the council
- seeking a response from Councillor Hull
- seeking further information from the council
- considering the Local Government Act
- considering the *Local Government (Members Allowances and Benefits) Regulations 2010 (the Member Allowances and Benefits Regulations)*
- Considering the *Local Government (General) Regulations 2013*
- considering the Code of Conduct
- considering the City of Marion Elected Members Expenses, Benefits, Support and Facilities Policy (**the council's Expenses Policy**)<sup>4</sup>
- providing Cr Hull, the council and the complainant with my provisional report for comment, and considering their responses
- preparing this report.

## Standard of proof

The standard of proof I have applied in my investigation and report is on the balance of probabilities. However, in determining whether that standard has been met, in accordance with the High Court's decision in *Briginshaw v Briginshaw* (1938) 60 CLR 336, I have considered the nature of the assertions made and the consequences if they were to be upheld. That decision recognises that greater care is needed in considering the evidence in some cases.<sup>5</sup> It is best summed up in the decision as follows:

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issue has been proved ...<sup>6</sup>

<sup>3</sup> Section 263A(4) Local Government Act; section 3, Ombudsman Act.

<sup>4</sup> City of Marion, Elected Members Expenses, Benefits, Support and Facilities Policy, Policy No. GP-23, Version 6, Authorisation Date 27/9/2011.

<sup>5</sup> This decision was applied more recently in *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 110 ALR 449 at pp449-450, per Mason CJ, Brennan, Deane and Gaudron JJ.

<sup>6</sup> *Briginshaw v Briginshaw* at pp361-362, per Dixon J.

## Response to my provisional report

In response to my provisional report, the complainant commented, by email dated 30 June 2014, in summary, that:

- the mayor did not ever make the offer to the complainant that she could stay at her house, and that this was a misquote in The Advertiser article
- Cr Hull has been asked to retract statements and make public apologies on a number of occasions in the past and 'any apology given by him lacks any sincerity, and is only given under duress, with no remorse intended'
- there has been no acknowledgement by Cr Hull 'or any apparent awareness, of the harm and damage his aggressive, caustic, bullying, and intimidating remarks that he has inflicted can have on another person'
- her formal complaint is not in isolation and that 'his blatant disrespectful and bullying behaviour is ongoing, and continuous, and these remedies have been tried and tested many times' and do 'not act as a deterrent for Cr Hull'.

Cr Hull provided a response by email dated 6 July 2014. In summary, Cr Hull replied that:

- section 59 of the Local Government Act requires a council member to keep resources and expenditure under review
- a council member should question costs 'that seem unreasonable, a perk or not in the public interest'
- the use of social media 'enables a greater reach in connecting with the community'
- twitter is 'widely recognised as a robust forum with strong commentary that passes in an instant. Debate rages and dies and is a two edged sword.'
- only two of his tweets mentioned the complainants name, and 'one of them is a referral to a media report'. The rest of the tweets are 'a small part of the wider debate that took place in the local print media and on the radio'
- it is a 'regular practice' to forward emails from ratepayers and is 'anticipated as part of an elected member's role and part of Council's information management'
- Cr Allen's complaint 'sits in the wider context of a media storm' in which his tweets 'were a minor part'
- he is 'not responsible for what is reported in the newspapers'
- 'Occ Health and Safety and Code of Conduct... should not be used as a weapon to silence criticism'.

I have considered Cr Hulls' comments but have not changed my provisional views.

The council responded by letter dated 25 June 2014.

The council sought clarity about whether a breach of Part 3 of the Code of Conduct is also a breach of the council members' statutory duty in section 62 of the Local Government Act. I have not considered whether Cr Hull has breached section 62 of the Local Government Act.

The council also sought clarity about the extent of my foreshadowed recommendations, namely whether they are intended to dispose of and remedy the allegation of repeated or sustained inappropriate behaviour only, or whether they are intended to remedy the complaint as a whole. As I determined to investigate only the allegation of Cr Hull's alleged repeated or sustained inappropriate behaviour, I advise that the recommendations address this issue only.

The council requested that I provide timeframes within which Cr Hull is to comply with the recommendations. I have done this.

## Background

1. Cr Kathleen Allen was provided transport home from council meetings in a car with a driver for four council meetings after she fell asleep at the wheel on her journey home from a council meeting in February 2014.
2. Cr Hull commented about the provision of a council funded driver for Cr Allen on many occasions through two twitter accounts: 'Cr Hullabaloo' and 'Earl of Warradale'. I have included a selection of Cr Hull's tweets in this report.
3. On 31 March 2014, Cr Hull tweeted:  
  
@BynerLeon Marion councillor Kathleen Allen chauffeured from Mt Compass home to meetings nwspl.us/2FdHfo Lady Kathleen of No Compass?
4. On 31 March 2014, Cr Hull tweeted:  
  
@theTiser SO, this is not an April Fools Day joke? @CityofMarion
5. On 31 March 2014, Cr Hull tweeted:  
  
You be the judge! \$260 round trip for each meeting or function, way too much for ratepayers to fund. A damn disgrace! adelaidenow.com.au/messenger/west...
6. On 31 March 2014, Cr Hull tweeted:  
  
@FrankPangallo I agree, strange how this all seemed to be cloaked as just mileage on the members register. Not even a cab? @amynmoran
7. On 31 March 2014, Cr Hull tweeted:  
  
Hey @coreyblacksell You standing for election @CityofMarion in Nov? You could get the Chauffeur up to Pinnaroo Mate nwspl.us/2FdHfo
8. On 31 March 2014, Cr Hull tweeted:  
  
@891adelaide @SophiaMacRae @IanHenschke @891Abc I could tell you about whistleblowing and Councillor's chauffeur driven cars at Marion?
9. On 31 March 2014, Cr Hull tweeted:  
  
@macdonald\_julie @newscomauHQ This speaks volumes about the sick Marion Council culture and contempt of ratepayers Julie #MarionDecides
10. On 31 March 2014, Cr Hull tweeted:  
  
I could fall asleep at the #OaklandsXing, should I have a Chauffeur as well? nwspl.us/2FdHfo with me being an Earl and all @LGAofSA
11. On 31 March 2014, Cr Hull tweeted:  
  
@AndrewFaulkner9 Chauffeur Editorial in Messenger. As a Marion Councillor I am appalled, as are most of the community. But admin see no wrong?
12. On 31 March 2014, The Advertiser tweeted:  
  
Marion councillor Kathleen Allen chauffeured from Mt Compass home to meetings nwspl.us/2FdHfo

The tweet included a link to the following article, written by Ms Amy Moran, which was published in The Advertiser newspaper on 1 April 2014:

**Marion councillor Kathleen Allen chauffeured from Mt Compass home to meetings**

MARION ratepayers are paying from an elected member to be chauffeured between council meetings and her Mount Compass home after she fell asleep at the wheel.

Cr Kathleen Allen has claimed four round-trips totalling more than \$1000 since the first on February 25, a claim permitted under the council's elected member expenses policy.

"I suffered a micro-nap and nearly swerved onto the side of the road after a late night council meeting," Cr Allen said.

"Meetings can go beyond 10 at night and can be fatiguing after working during the day."

Cr Allen said she moved to Mount Compass last July "for family reasons" but refused to give specifics or say whether she would stand for re-election in November.

Marion director Kathy Jarrett said hiring a chauffeur-driven car, worth \$260 per trip, was the "cheapest and best" option.

Ms Jarret said other, more expensive options, included Cr Allen staying in a motel or taking a taxi to and from meetings.

She said council staff decided it was not suitable for Cr Allen to drive home after learning of her "micro-nap".

"When we became aware of what occurred, we looked at options under our policy to allow Cr Allen to continue to serve her community," Ms Jarrett said.

Neither Ms Jarrett or Cr Allen would say whether the chauffeur trips would continue and if so, for how long.

The chauffeur bill is on top of Cr Allen's \$2000 in mileage expenses since July.

Cr Cheryl Connor claimed \$1000 and Cr Fank Verrall claimed \$90 for the same period, with all other councillors not claiming any mileage.

Deputy mayor Tim Pfeiffer claimed \$1000 in taxi fares, as he took a taxi from work in the city to meetings.

He said he used public transport or rode his bike to and from work, and taking a taxi from work to council meetings ensured he arrived on time.

"While I do use taxis, I have never claimed mileage from the council for the use of a vehicle and I claim few other expenses," Cr Pfeiffer said.

13. On 2 April 2014, a council officer emailed the council members asking them to provide feedback for the council's submission to the Local Government Remuneration Tribunal, which, under section 76 of the Local Government Act, is required to determine, on a four yearly basis, allowances for members of local government councils. Cr Hull replied to all the recipients of the email, and cc'd Ms Moran, as follows:

I guess we could all ask for our own Chauffeur?  
I have no other contribution to make.

14. On 2 April 2014 a ratepayer sent the following email to the mayor :

Dear Felicity

I am writing in reference to the article in the Adelaide advertiser of 1 April 2014 in which it is reported that the Marion Council provides a chauffeur service for an elected member. If this is true this is an outrageous waste of council revenue.

If Councillor Allen lacks the stamina for the drive from Marion to Mt Compass surely her lifestyle choices should be fully explored before the ratepayers foot the bill of over \$1,000 for 4 round trips? Things Councillor Allen may need to address include getting to bed early the day prior to late meetings, obesity, sleep apnoea and diet and exercise. Additionally safe driving strategies commonly employed by people on long journeys include stopping along the way to refresh with a thermos of coffee, getting out of the vehicle and deep breathing fresh air or driving with the window wound down.

I would like to know if any of the above issues/strategies were explored with the elected member before council took the decision to fund her travel.

I regularly drive from suburban Adelaide to Goolwa at various hours of the day and the journey takes me via Mt Compass. Even at my advanced age (61 years) I have never felt fatigued and I would consider such a trip as a very short one comparative to the distances many people in the community undertake on a regular basis. Many people undertake such trips to commute to and from their places of employment. Should their employers follow the example set by Marion Council and provide a car with driver, or is Marion Council way out of step with accepted workplace practices?

Furthermore I question Councillor Allen's ability to represent the ratepayers (of whom I am one) of Marion Council while she resides in Mt Compass.

Please note that earlier this year I wrote to Marion Council concerning the waste of council funds on a Christmas party for staff. I sincerely hope that this will not be repeated in 2014.

15. On 2 April 2014 the mayor responded to the ratepayer's email as follows:

Hi [ratepayer]

Thank you for your email, Cr Allen is a hardworking councillor and you get very good value from her efforts.

Cheers

Felicity

16. On 2 April 2014, the ratepayer forwarded his email to the mayor, along with the mayor's response, to Cr Hull. Cr Hull sent the following responses to the ratepayer:

Dear [ratepayer]

Thank you for raising these concerns with me,

There seems to be widespread palpable outrage about this matter and quite frankly I feel it is a disgrace.

There is just no plausible explanation or excuse for this behaviour at the expense of our rate payers.

It beggars belief that this interpretation of our allowance policy was given approval, it is yet another performance matter to be discussed by Council.

Can I assure you that your concerns will be raised within Council and every effort will be



made to tighten up our Policy to provide appropriate governance that reflects the community values expected of us.

Thank you once again for your correspondence, may I have your permission to share it with other Members?

Kind regards  
Bruce  
Dear [ratepayer]

I am truly sorry and embarrassed about the response you received from Mayor Lewis, perhaps with your permission I could share that with other Elected Members as well?

Kind regards  
Bruce

17. On 4 April 2014, Cr Hull tweeted:

Retribution pending over my comments/tweets re Cheffeur [sic] / Councillor. Not allowed to represent the community outrage & disgust?! @AndrewFaulkner9

18. On 7 April 2014, The Advertiser posted the following article written by Ms Moran on its website. The article was published in The Messenger newspaper on 8 April 2014:

**Marion Mayor Felicity-ann Lewis defends use of chauffeur to bring councillor to meetings**

MARION Mayor Felicity-ann Lewis has defended a councillor's decision to charge more than \$1000 in chauffeur bills back to the council.

Councillor Kathleen Allen has used a chauffeur to take her to and from four meetings at a cost of \$260 per round trip (<http://www.adelaidenow.com.au/messenger/west-beaches/marion-councillor-kathleen-allen-chauffeured-from-mt-compass-home-to-meetings/story-fni9llx9-1226870308665>) - paid for by ratepayers - since February after falling asleep at the wheel on the way home from a council meeting.

The chauffeured trips are on top of \$2000 in mileage Cr Allen has claimed between July and February.

Dr Lewis said if Cr Allen resigned in July when she moved to Mount Compass, Marion ratepayers would have had to pay "a lot more than \$2000" for a by-election.

However, any resignations between now and November's Local Government election will not spark a by-election because of their proximity to the poll.

"We are encouraging Cr Allen to stay and we support her," Dr Lewis said.

An advertiser.com.au poll found 80 over cent of almost 700 respondents thought it was unfair for ratepayers to pick up Cr Allen's chauffeur bill,

Cr Allen, who represents ratepayers in Darlington, Hallett Cove, O'Halloran Hill, Seacombe Heights, Seaview Downs, Sheidow Park and Trott Park, would not comment on the issue further last week.

Cr Kathleen Allen has used a chauffeur to get to council meetings since February.

But she has previously refused to say whether the trips would continue through to the November election, and whether she would stand.

Dr Lewis said council staff would become "more aware of how costs can be mitigated" since the original April 2 Guardian Messenger report.

She said she had offered Cr Allen a bed at her home after the meetings.

But Dr Lewis said it was fair for Cr Allen to return home in a safe means if she chose.

"It's a social justice issue and a health and wellbeing issue... we want to encourage people to do their work," she said.

Meantime, Marion councillors were last week invited to comment on the council's submission to the local government remuneration tribunal, which is conducting its four-yearly review of elected members' allowances.

A report considering councillor feedback would be presented at Marion's April 22 meeting.

19. On 7 April 2014, Cr Hull tweeted:

Council Meeting tonight, may bump into the Cheffeur [sic] again in the Members Car Park. For me? No! Reckon I would be told to walk or on ya bike.

20. On 7 April 2014, Cr Hull tweeted:

adelaidenow.com.au/messenger/west... Did David Spiers [sic] departure from Council require a by election? No!

21. At the council meeting on 8 April 2014 the council considered Cr Allen's complaint against Cr Hull in confidence. Cr Allen made a personal explanation to the council, as follows:

I am making a formal complaint about Councillor Hull's behaviour, due to the fact that on this occasion it has affected me, and my family, and I believe it to be very personal. I have been harassed by the media to give "my side of the story", due to the following personal reasons, you will understand why I did not want this incident to be prolonged.

This is not in any way, a justification that Council engaged a hire car for me to the last 4 Council Meetings, as this was within the parameters and admissible under the rules, and supported by Council adopted policy, and I appreciate the respect to my health and safety in my workplace, as I have done nothing wrong.

It perhaps could have been resolved much earlier, if prior to going to the media, and a request for the register of expenses be released, perhaps if the person had contacted me, as common courtesy, and given me the opportunity to discuss the incident. As a team working together, we could have discussed the fact I did not request a hire car, but Council looked at options for me, taking into account my health and safety. It has now escalated to this stage, by Councillor Hull, which could have been avoided, and which I did not initiate.

At no time have I retaliated publicly, or any other way, but have remained dignified in my resolve to continue my work as a Councillor.

Apart for Tuesday Council meetings, I drive to other Civic Events, sometimes 3 and 4 times a week.

My personal explanation is about, why I decided, that on the 3 counts of my grievance, and under the behavioural code, it is bullying, harassment, intimidation and an attempt to try to humiliate and ridicule me, and it blatantly shows public disrespect for another Council Member as per the Code of Conduct.

I did not speak to anyone of the incident, when I dozed off, on the Victor Harbour Road, on the way home after a late night finish to a Council Meeting. After the incident, I sat in the car for half an hour, with all the windows down, prior to driving home. Fortunately, I avoided what could have been a worse outcome. I was badly shaken by the incident, but I chose not to speak of it for the following personal reasons.<sup>7</sup>

<sup>7</sup> I do not consider it necessary to include Cr Allen's personal reasons in this report, to avoid further public attention on her and her family.

...

Councillor Hull then proceed to perpetuate the story, by public tweeting, on his website, under the guise of the title Earl of Warradale, which I found escalated the disrespectful, bullying, intimidating, demeaning and abusive assault about the incident. I see this as a form of cyber-bullying.

...

Councillor Hull then proceeded to circulate, on the Council email website, letters from a resident, whom he had encouraged, and sought permission to release and circulate private correspondence between him and the Mayor, which was very personal about me, and made derogatory remarks about my health, and lifestyle choices, amongst many other personal, disgraceful observations. This has caused me great personal embarrassment and humiliation.

These letters were private, and addressed to the Mayor, and Councillor Hull proceeded to distribute them to all Elected Members, members of staff, and the Messenger Press, using council resources.

...

Perhaps in his quest to provide our ratepayers with all this information via the media, it is a pity they do not know, that the amount of the expenditure on my use of transport on four occasions, will be minimal in comparison, to the amount that will be spent on this investigation into his behaviour, which he has initiated, and this will eventually cost the ratepayers a large sum, plus the cumulative amount Council has had to spend over the years, for legal advice investigating Councillor Hull's inappropriate behaviour, and the resulting harm to other elected members, staff, and guest speakers. Not to mention the waste of time this fiasco has caused, all over me getting a hire car to Council.

I have observed over my time as a member, the persistent disrespect by Councillor Hull to our Mayor, CEO, and other Elected Members, guest speakers and numerous staff.

Due to the reasons, I have given in this personal explanation, I have decided to make this formal complaint, as I think enough is enough, this bullying and continued inappropriate behaviour has to stop now. He has done enough harm to people in the past, I am his target for the present, but let it stop now for the future harm he may do. I tend not to be competitive, or combative, and avoid confrontation, but on this occasion I feel an injustice has been done.

This will then enable all of us to get on with our promise to the Community, to represent them, and advocate on their behalf. I made a commitment, and took an oath to do this, and I will stand tall, and continue to represent them. It is very sad to see our hard work being diminished in the community, and the reputation of Marion Council being tarnished publicly by Councillor Hull. When all the majority of us want to do is get on with the work we set out to do. I certainly did not sign up to be bullied, demeaned, and vilified in the public domain. Hence the reason I have made a formal complaint.

There have been other instances, in the past, where Councillor Hull has used aggressive and abusive behaviour towards me and others, and I did not take any action.

But now, this continuous abuse recently, only hinders my working with the community, and is affecting my physical, mental and social wellbeing, an attempt to tarnish me reputation in the community as well as affecting me family.

Let's, once and for all, make this a safe workplace, free from any risk, and an environment free from bullying and intimidation, not only now, but in the future, because if we don't take action now, there is no sign that this will change.

Let's get on with our core business, and finish our term on a high note of productivity, working constructively together, in genuine pursuit of making Marion a most wonderful place to be proud of.

Cr Allen then declared a conflict of interest and left the council meeting for the consideration of the item.

22. On 9 April 2014, Cr Hull tweeted:

@MayorRosenberg @LGAofSA Customers do like driven Councillor's but not by Cheffeur! [sic]

23. On 9 April 2014, Cr Hull tweeted:

@AdelaideAdagia Cheffeurs? [sic]

24. On 14 April 2014, Cr Hull tweeted:

So Marion Council will not rule out using Cheffeur [sic] to drive a Councillor home to Mt Compass \$ Council voted against motion to review policy!

25. On 14 April 2014, Cr Hull tweeted:

There is even more expense to ratepayers re this that I cannot talk about legally. Or be in deeper poo for blowing whistle.

26. On 16 April 2014, Cr Hull tweeted:

@FrankPangall @LGAofSA Send the driver! pic.twitter.com/48hTQfM8Ti



27. On 16 April 2014, Cr Hull tweeted:

@messengernews Just jealous of Marion's Cheffuer? [sic]

28. At the council meeting on 22 April 2014 the council again considered in confidence, Cr Allen's Code of Conduct complaint against Cr Hull. The council made a number of resolutions, including to refer the complaint to me for investigation and resolution under Part 3 of the Code of Conduct.

29. On 19 April 2014, Cr Hull tweeted:

@Rob\_Lucas Common Rob, even as a Marion Councillor you can have a driver. No big deal?

30. On 23 April 2014 the council's Acting Chief Executive Officer, Ms Heather Montgomerie, referred the complaint to my office in accordance with the council's 22 April 2014 resolution.

31. On 28 April 2014, Cr Hull tweeted:

This is unsatisfactory @LGAofSA, along with the use of Cheffeurs [sic] at Marion. Regulatory changes are required STAT:-  
adelaidenow.com.au/messenger/east..

32. On 29 April 2014, Cr Hull tweeted:

No allowance rise proposed at Marion, in enough poop with our cheffeur [sic]?  
Remuneration Tribunal need broad holistic lens. [adelaidenow.com.au/messenger/city...](http://adelaidenow.com.au/messenger/city...)

33. On 29 April 2014, Cr Hull tweeted:

Elected member forum finished at 9.00pm. Cheffeur [sic] & nice car waiting in car park,  
your rates at work? #MarionDecides [pic.twitter.com/rPyeo926rz](http://pic.twitter.com/rPyeo926rz)

34. On 1 May 2014, Cr Hull tweeted:

@ TimLooker But can we ALL have a Cheffeur [sic] please, I am tired and it is a long  
drive through that#OaklandsXing?@BynerLeon

35. On 3 May 2014, Cr Hull tweeted:

@ australian @MayorRosenberg Cheffeurs [sic] for Councillors as well!

36. On 5 May 2014, Cr Hull tweeted:

@ Rob\_Lucas Can still get a car/driver here at Marion Rob, but only if you live 45 km  
away. Not an issue for ratepayers apparently?

37. On 12 May 2014, Cr Hull tweeted:

@indaily Nothing to hand back at Marion, give or take a Cheffeur [sic] or two?

## Relevant law

38. Section 63 of the Local Government Act provides:

### 63 - Code of conduct for members

- (1) The Governor may, by regulation, prescribe a code of conduct to be observed by the members of all councils.
- (2) Council members must observe the code of conduct.

39. Regulation 7 of the *Local Government (General) Regulations 2013* prescribes:

### 7—Code of conduct for members

For the purposes of section 63 of the Act, the *Code of Conduct for Council Members* published by the Minister in the Gazette on 29 August 2013 (and as in force on that day) is adopted as a code of conduct to be observed by the members of all councils.

40. Part 2 of the Code of Conduct provides:

### 2. Behavioural Code

...

### General Behaviour

...

2.2 Act in a way that generates community trust and confidence in the Council.

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 publically.

...

#### **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.

...

41. Clause 3.17 of Part 3 of the Code of Conduct provides:

...repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.

42. Section 77(1) of the Local Government Act provides that a member of the council is entitled to receive from the council:

- (a) reimbursement of expenses of a kind prescribed for the purposes of this paragraph, incurred in performing or discharging official functions and duties; and
- (b) reimbursement of expenses of a kind prescribed for the purposes of this paragraph, and approved by the council (either specifically or under a policy established by the council for the purposes of this section), incurred in performing or discharging official functions and duties.

43. The Members Allowances and Benefits Regulations define a 'prescribed meeting' as:

...a meeting of the council or council committee, or an informal gathering, discussion, workshop, briefing, training course or similar activity which is directly or closely related to the performance or discharge of the roles or duties of the member.

44. An 'eligible journey' is defined as:

a journey (in either direction) between the principal place of residence, or a place of work, of a member of the council, and the place of a prescribed meeting.

45. Regulation 5 includes:

#### **Reimbursement of expenses – section 77(1)(a)**

- (1) Subject to this regulation, for the purposes of section 77(1)(a) of the Act, the kinds of expenses for which a member of a council will be reimbursed are as follows:
  - (a) travelling expenses actually and necessarily incurred by the member in travelling to or from a prescribed meeting if–
    - (i) the journey is an eligible journey; and
    - (ii) the journey is by the shortest or most practicable route;
  - (b) ...
- (2) However–
  - (a) in relation to the operation of subregulation (1)(a)–

- (i) if an eligible journey relates to travel between a place within the area of a council and a place outside the area of a council (in either direction), the member is only entitled to be reimbursed in respect of expenses that can be attributed to travel within the area of the council; and
- (ii) ...

46. Regulation 6 includes:

**Expenses requiring council approval– section 77(1)(b)**

For the purposes of section 77(1)(b) of the Act, the following kinds of expenses for which a member of a council may be reimbursed are prescribed:

- (a) ...
- (b) travelling expenses incurred by the member as a consequence of the member's attendance at a function or activity on the business of the council (other than for which the member is reimbursed under section 77(1)(a) of the Act);
- (c) travelling expenses incurred by the member in undertaking an eligible journey to the extent that those expenses are attributable to travel outside the areas of the council;

...

47. The council's Expenses Policy was approved by the council members at a meeting on 30 November 2010. It provides that:

Elected Members are entitled to receive reimbursement for travelling costs within the area of Council. Reimbursement is restricted to 'eligible journeys' (as defined in Regulation 3) by the shortest or most practicable route and to the part of the journey within the Council area, ie; any travelling outside the Council area in order to attend prescribed meetings is provided by this policy under 'Additional Reimbursement and Support'.

...

Pursuant to Section 77(1)(b) of the Act and Regulation 6 of the Regulations, Council approves the reimbursement of expenses for Elected Members as described below:

**Travelling expenses**

In addition to eligible journeys (as defined in Regulation 3) Elected Members are entitled to receive reimbursement for expenses actually and necessarily incurred in travelling to a:

- "prescribed meeting" as it related to that component outside the Council area, up to a maximum of \$50 or 100km per return journey;

**Whether Councillor Hull engaged in repeated or sustained inappropriate behaviour, such as to constitute misconduct under Part 3 of the Code of Conduct**

- 48. Cr Allen alleges that Cr Hull's disapproval of her use of a hired driver has resulted in him engaging in persistent bullying and intimidation, contrary to the council's Code of Conduct.
- 49. I consider that the provision of a driver for Cr Allen is in accordance with the Local Government Act and the council's Expenses Policy.
- 50. Section 77(1)(b) of the Local Government Act permits the council to reimburse expenses of a kind prescribed for the purposes of the section and that have been approved by the council under a policy.

51. As per the Members Allowances and Benefits Regulations, Cr Allen's journeys to and from the council meetings are 'eligible journeys' for 'prescribed meetings'.
52. The council's Expenses Policy provides that a council member, in undertaking an eligible journey in relation to travel outside the area of the council, is entitled to receive reimbursement for expenses incurred in travelling to a 'prescribed meeting', up to a maximum of \$50 or 100km per return journey. I consider that Cr Allen's return journey to the meetings is less than 100km and therefore she is entitled to such travel expenses from the council.
53. Having had regard to all of Cr Allen's personal circumstances, the details of which I am not prepared to reveal, I do not consider that the provision of a car to take Cr Allen home from four council meetings was unreasonable. I acknowledge that the council administration has work, health and safety obligations to Cr Allen. Further, I have viewed the council's Elected Member Register and Allowance Summary for 2013/2014 and consider that Cr Allen's expenses are not unreasonable.
54. I also acknowledge that Cr Hull has an interest in ensuring that council resources are used fairly, effectively and efficiently.<sup>8</sup> However, in my view, if Cr Hull disagrees with the provision of a driver for Cr Allen, commenting to the media and making what I consider are disrespectful tweets is not an appropriate way for him to address his concerns. I note that Cr Hull has attempted to have the council's Expenses Policy amended on two occasions, once as a motion without notice and subsequently as a motion with notice. Both of these motions were lost.
55. My final view is that Cr Hull has breached the following clauses of Part 2 of the Code of Conduct:
  - clause 2.2 – act in a way that generates community trust and confidence in the Council.
  - clause 2.3 – act in a reasonable, just, respectful and non-discriminatory way when dealing with people.
  - clause 2.4 – show respect for others if making comments publically.
  - clause 2.9 – endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.
  - clause 2.10 – not bully or harass other Council members.
56. There is a long history of complaints by staff and council members alleging inappropriate, bullying and intimidating behaviour by Cr Hull. Whilst I have not considered these past instances in this investigation, I note that Cr Hull has agreed in the past to take more care in relation to his interactions with staff. I also note that a number of staff members and council members have expressed concerns about their interactions with Cr Hull and his treatment of them in recent times. The report to the 8 April 2014 council meeting included the following comments from the council's Chief Executive Officer:

**Workplace Health and Safety Risks**

I have observed over the last number of months, and more particularly directly observed and been advised over the last 2 weeks, of the concerns of a number of staff regarding their interactions with, and behaviour of Councillor Hull.

As a result of these concerns, and Councillor Hull's past patterns of behaviours, I am seeking a conversation with Council about current levels of workplace health and safety risk together with options to mitigate any identified risks.

---

<sup>8</sup> Section 8(h) of the Local Government Act.



57. In my view, Cr Hull's frequent tweets, along with his media comments and email correspondence demonstrate repeated and/or sustained breaches of Part 2 of the Code of Conduct. As such, my final view is that Cr Hull's conduct constitutes misconduct under Part 3 of the Code of Conduct.

### Opinion

In light of the above, I consider that Cr Hull breached Part 3 of the Code of Conduct. In this way, Cr Hull acted in a manner that was contrary to law within the meaning of section 25(1)(a) of the Ombudsman Act.

To remedy this error, I recommend under section 25(2) of the Ombudsman Act that the council:

1. reprimand Cr Hull
2. require Cr Hull to issue a public apology to Cr Allen, both written and verbal
3. require Cr Hull to agree to refrain from such conduct.

### Final comment

In accordance with section 25(4) of the Ombudsman Act, I request that the council report to me by 29 August 2014 on what steps have been taken to give effect to my recommendation/s above; and, if no such steps have been taken, the reason(s) for the inaction.

In accordance with Part 3 of the Code of Conduct, my report must be provided to a public meeting of the council, within two ordinary meetings of the council following the receipt of my recommendations. I ask that the council confirm to me in writing that my report has been so tabled within the stipulated timeframe.

I request that Cr Hull address the recommendations above within two ordinary meetings of the council providing my final report to a public meeting of the council.

Pursuant to section 263B(2) of the Local Government Act, I note that if a council member fails to comply with a council requirement made as a result of an Ombudsman recommendation such as those above, the council member will be taken to have failed to comply with Chapter 5 Part 4 of the Local Government Act. In this event, the council is to ensure that a complaint is lodged against the member in the District Court.



Megan Philpot  
ACTING SA OMBUDSMAN

21 July 2014



1 August 2014

Councillor Bruce Hull  
139 Diagonal Road  
Warradale SA 5046

PO Box 21, Oaklands Park  
South Australia 5046

245 Sturt Road, Sturt  
South Australia 5047

T (08) 8375 6600

F (08) 8375 6699

E [council@marion.sa.gov.au](mailto:council@marion.sa.gov.au)

Dear Councillor Hull

**Reprimand associated with your repeated and/or sustained breaches of Part 2 of the Code of Conduct amounting to misconduct under Part 3 of the Code of Conduct**

Council has resolved to issue you with a reprimand in respect of your repeated and/or sustained breaches of Part 2 of the Code of Conduct which has amounted to misconduct in breach of Part 3 of that Code. Specifically:

- clause 2.2 – failing to act in a way that generates community trust and confidence in the Council;
- clause 2.3 – failing to act in a reasonable, just, respectful and non-discriminatory way when dealing with people;
- clause 2.4 – failing to show respect for others if making comments publicly;
- clause 2.9 – failing in your obligation to endeavor to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions;
- clause 2.10 – your bullying and harassment of other Council members.

This reprimand has been issued by Council in light of the findings of the Acting Ombudsman documented in her report of 21 July 2014. The Acting Ombudsman found that Councillor Allen's use of a hired driver (at Council's cost) was in accordance with the Local Government Act, Council's Expenses Policy and otherwise reasonable taking into account the Council administration's work, health and safety obligations to Councillor Allen.

Council acknowledges and supports the Acting Ombudsman's view that, despite your interest as an Elected Member in ensuring council resources are used fairly, effectively and efficiently, your comments to the media, your disrespectful tweets and email correspondence demonstrates repeated and/or sustained breaches of Part 2 of the Code of Conduct, including your bullying or harassment of Councillor Allen. This breach amounts to misconduct under Part 3 of the Code of Conduct.

The City of Marion acknowledges it is part of Kaurna land and recognises the Kaurna people as the traditional and continuing custodians of the land.



Conduct of this kind will not be tolerated by Council. As an Elected Member, you will be held to the standards of professional behaviour, which our community is entitled to expect.

A copy of this reprimand will be provided to the Acting Ombudsman as part of Council's report, in accordance with section 25(4) of the Ombudsman Act.

Yours sincerely



Dr Felicity-ann Lewis  
**Mayor**

Appendix 4

**City of Marion**

**Apology to Councillor Allen**

I note the recommendations in the Acting Ombudsman's report dated 21 July 2014.

I express my sincere regret and apology for any harm to Cr Allen or her family from my conduct.

I will refrain from such conduct in future.

.....

Councillor Bruce Hull

12 August 2014

# CITY OF MARION GENERAL COUNCIL MEETING 27 January 2015

**Originating Officer:** Heath Harding, Management Accountant

**Corporate Manager:** Ray Barnwell, Manager Finance

**Director:** Vincent Mifsud

**Subject:** 1<sup>st</sup> Budget Review 2014/15 and 2013/14 Savings

**Report Reference:** GC270115R06

## REPORT OBJECTIVE AND EXECUTIVE SUMMARY

The purpose of this report is to provide the financial results for the 1<sup>st</sup> Budget Review for 2014/15 and confirm the 2013/14 year end savings.

### 1<sup>st</sup> Budget Review

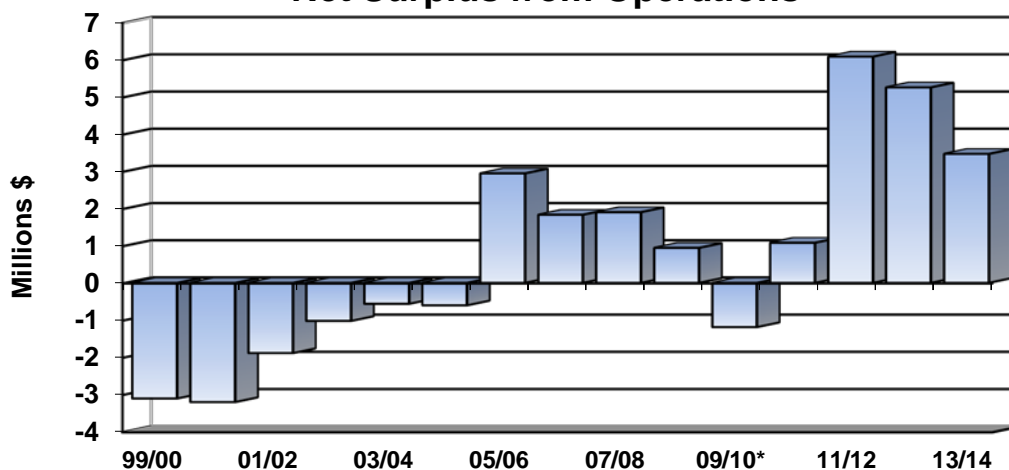
#### Funding/Cash

The 1<sup>st</sup> Budget Review forecasts a full year funding deficit of \$1.263m (refer Appendix 1 Budgeted Funding Statement – “Movement in levels of Cash/ Accruals”). However, after taking into consideration the retimed Capital Works from 2013/14 of \$2.275m this results in an underlying full year funding surplus for the 2014/15 financial year of \$1.012m.

#### Operating

The 1<sup>st</sup> Budget Review forecasts a full year operating budget surplus of \$2.491m, a decrease of \$1.252m from the original budget surplus of \$3.743m. This decrease is mainly attributed to 2013/14 carryovers and unexpended grants of \$1.925m, offset by a reduction in Employee Costs through the use of the Vacancy Management Policy of \$0.385m and the unexpected receipt of additional untied Grants Commission funding of \$0.135m. The 1<sup>st</sup> Budget Review operating budget surplus is within the financial sustainability target ranking of Category 3 for this financial year and has maintained an average category 3 over the last five years.

### Financial Performance Indicators Net Surplus from Operations



\* The underlying operating surplus for 2009/10 after adjusting for the once-off Domain Land transfer for the State Aquatic Centre is an Operating Surplus of \$4.787m.

\*\* The underlying operating surplus for 2010/11 after adjusting for the once-off cash contribution for the SA Aquatic and Leisure Centre is \$6.078m

### 2013/14 Year End Savings

Our independent audit of the financial statements for the year ended 30th June 2014 has now been completed and identified that once-off savings of \$0.316m have been achieved for the past financial year.

### RECOMMENDATIONS (2):

### DUE DATE

#### That Council:

- |   |                 |
|---|-----------------|
| 1. Adopt, as presented in Appendix 1, the revised budgeted statements including the Income Statement, Balance Sheet, Statement of Changes in Equity and Statement of Cash Flows.  | 27 January 2015 |
| 2. That Council transfers the identified once-off savings from the 2013/14 audited financial statements of \$0.316m to the Asset Sustainability Reserve in full for further consideration as part of Council's upcoming strategic prioritisation process. | 27 January 2015 |

### BACKGROUND:

Council is required to reconsider the approved budget three times during the year in accordance with Section 123 (13) of the Local Government Act 1999 and Section 7 of the Local Government Regulations.

The original 2014/15 budget was developed within the context of a long term framework to achieve a balance between meeting the objectives of the Strategic Plan and attaining financial sustainability in the long term.

### Framework

This budget review continues the focus on achieving the framework set by Council when developing the 2014/15 budget, this being:

- Support the achievement of the City of Marion's Strategic Directions;
- Address issues arising from internal audit reviews and business excellence assessments;
- Maintain a financial position at an average of category 3 over any five consecutive years, with a primary focus being on Cash Flow and Funding;
- Continue to improve the maintenance of assets in accordance with Council's Asset Management Plans, with a priority on maintenance before renewal, and renewal before new where it is cost effective to do so;
- Review existing services and assets to ensure they meet prioritised community needs;
- Council only considers new Major Projects where it has the identified funding capacity to do so;
- Maintain Council's position for average residential rate between mid range and 5<sup>th</sup> lowest rating metropolitan Council;
- Implement responses for progressing liveable cities strategies and funding opportunities within Marion.

## DISCUSSION:

### Funding Result

The 1<sup>st</sup> Budget Review forecasts an overall funding deficit of \$1.263m which is a favourable adjustment of \$1.012m from the original budget. The table below reflects the major budget adjustments since adopting the original budget:

Original Funding Surplus/(Deficit)		\$0m
Retimed Capital works from 2013/14		(\$2.275m)
Budget Adjustments		
- Employee Costs - Favourable	\$0.385m	
- Grant Funding - Favourable	\$0.135m	
- Various other net adjustments – Favourable	\$0.492m	<u>\$1.012m</u>
1 <sup>st</sup> Review Funding Surplus/(Deficit)		<u>(\$1.263m)</u>

However, after taking into consideration the retimed Capital Works from 2013/14 of \$2.275m this results in an underlying full year funding surplus for the 2014/15 financial year of \$1.012m.

The funding result:

- Identifies the difference between total revenues and expenditures of Council after allowing for funding from loans, investments, cash draw downs and reserves.
- Includes capital expenditures, which are excluded from the operating result.
- Provides information of changes in uncommitted financial resources available to Council.
- Returns a surplus where savings arise from the original budget, representing an increase in uncommitted financial resources or returns a deficit when costs are greater than the original budget, representing a decrease in available financial resources.

The 1st Budget review is based upon actual results to the end of September 2014 and forecast to June 2015. In accordance with the Local Government (Financial Management) Regulations 1999 a revised budgeted income statement, balance sheet, statement of changes in equity and statement of cash flows are provided in the Attachments to Appendix 1.

### Operating Result

The 1st Budget Review forecasts a full year operating budget surplus of \$2.491m, a decrease of \$1.252m from the original budget surplus of \$3.743m. This decrease is mainly attributed to 2013/14 carryovers and unexpended grants of \$1.925m, offset by a reduction in Employee Costs through the use of the Vacancy Management Policy of \$0.385m. The 1st Budget Review operating budget surplus is within the financial sustainability target ranking of Category 3 for this financial year and has maintained an average category 3 over the last five years.

### Capital Budget

The 1<sup>st</sup> Budget Review forecasts expenditure on new capital assets increasing from \$14.516m to \$24.087m. The net increase is mainly due to budget carry overs from 2013/14 into 2014/15 (\$13.919m).

Expenditure on renewal of Capital Assets is forecast to increase from \$13.914m to \$17.231m. The net increase is primarily due to budget carry overs from 2013/14 into 2014/15 (\$2.930m).

The Capital Budget is linked to one of Council's key financial indicators, the Asset Sustainability Ratio, which indicates that Council is on track to meet its performance indicator target of 95 – 100%.



## Loans

Council's Treasury Management Policy indicates that in the management of its finances, any funds that are not required to meet approved expenditure can be used to reduce the level of borrowings that would otherwise be required. The current Long Term Financial Plan incorporates a significant upcoming borrowing program and it is considered good Treasury Management to offset some future borrowing requirements where possible. In addition, the guidelines of Council's Annual Savings Initiative have the objective to ensure continued improvement in financial performance. One of the three focus areas is to reduce the borrowing program to assist with Long Term Financial Planning.

The 1<sup>st</sup> Budget Review forecasts a decrease of \$2.512m to the level of loan funding from the original budget. This is due to loan funding for the Cove Civic Centre being brought forward from 2014/15 into 2013/14. Accordingly loan principal repayments have increased by \$0.155m to \$1.572m to reflect this.

## Cash & Reserves

The 1<sup>st</sup> Budget Review reports an increase in the use of Cash & Reserves of \$15.398m predominantly due to carryovers and unexpended grants.

The balances held in the Reserves prior to the budget review, excluding Grants & Carryovers Reserve, were as follows:

	30 June 2014
Open Space Reserve	\$1.288m
Asset Sustainability Reserve	<u>\$3.029m</u>
Total Reserves	<u>\$4.317m</u>

## Operating Grants & Subsidies

Forecast operating grants and subsidies have increased by \$0.235m to \$5.902m. This increase is predominantly due to an increase in funding received from the Grants Commission (\$0.135m) and the unexpected receipt of other minor grants.

## Investment Income

Forecast investment income has increased by \$0.172m due to higher interest revenue as a result of forecast larger average cash deposits being held throughout the year.

## Employee Costs

Forecast employee costs have decreased by \$0.385m (1.2%) from the original budget to \$32.392m. This is mainly due to the existence of temporary vacant positions through the use of the Vacancy Management Policy.

## Carryovers and Unexpended Grants

The 1<sup>st</sup> Budget Review includes changes that were accepted as part of the finalisation of the 2013/14 Financial Statements including Carryovers and Unexpended Grants totalling \$18.774m (Carryovers \$16.281m, Unexpended Grants \$2.493m). The approval of carryovers is subject to the ability of Council to fund these from any funding surplus achieved from the previous financial year.

Carryovers included the following significant items:

- Cove Civic Centre \$6.207m
- Sporting club master plan capital works \$0.709m
- Ragamuffin Drive drainage works \$0.680m
- Outdoor pool waterslide \$0.654m
- Glandore Laneways \$0.527m

- Fleet vehicle replacement \$0.482m
- Community Facilities Partnership Program \$0.469m

The unexpended grants totalling \$2.493m relates to those monies received from funding bodies that were not fully expended by 30 June 2014. These grant monies were tied to a particular purpose or expenditure and therefore were required to be carried over.

### **2013/14 Year End Savings**

Our independent audit of the financial statements for the year ended 30<sup>th</sup> June 2014 has now been completed and identified that once-off savings of \$0.316m have been achieved for the past financial year.

Section 7 (2) of the Local Government (Financial Management) Regulations requires that the first reconsideration of a budget in a particular financial year must include a review which takes account of the financial outcomes of the council, council subsidiary or regional subsidiary for the previous financial year.

### **Corporate KPI – Performance against Council's Adopted Budget**

Council's key financial indicators have been updated to reflect adjustments associated with the 1<sup>st</sup> Budget Review. The major change relate to an unfavourable revision in the forecast operating surplus for the 2014/2015 financial year. Although there has been an unfavourable revision of the operating surplus Council is still on track to achieve an operating surplus for the 2014/15 financial year and meet its financial target. Commentary in relation to the indicators is provided in Appendix 1.

### **CONCLUSION:**

The 1st Budget Review forecasts a full year funding deficit of \$1.263m. However, after taking into consideration the retimed Capital Works from 2013/14 of \$2.275m this results in an underlying full year funding surplus for the 2014/15 financial year of \$1.012m

## Appendix 1

## Budgeted Funding Statement

The following report details the proposed budget changes for the 1<sup>st</sup> Budget Review.

CITY OF MARION					
Budgeted Funding Statement					
	Budget Original \$000's	Carryovers \$000's	1st Review \$000's	Revised Budget \$000's	
OPERATING REVENUE					
Rates					
General	65,480	-	113	65,593	
Other	1,571	-	(54)	1,517	
Statutory Charges	1,803	-	(126)	1,677	
User Charges	1,717	-	(43)	1,674	
Operating Grants and Subsidies	5,667	-	235	5,902	
Investment Income	560	-	172	732	
Reimbursements	910	-	28	938	
Share of Profit SRWRA	246	-	60	306	
Other	399	-	9	408	
	<b>78,353</b>	<b>-</b>	<b>394</b>	<b>78,747</b>	
OPERATING EXPENSES					
Employee Costs	32,777	-	(385)	32,392	
Contractual Services	16,293	1,814	53	18,160	
Materials	5,086	51	(124)	5,013	
Finance Charges	770	-	32	802	
Depreciation	12,958	-	238	13,196	
Other	6,726	60	(93)	6,693	
Less	<b>74,610</b>	<b>1,925</b>	<b>(279)</b>	<b>76,256</b>	
	<b>Operating Surplus/(Deficit) before Capital rev's</b>	<b>3,743</b>	<b>(1,925)</b>	<b>2,491</b>	
Add					
(a) Capital Revenue	2,157	-	15	2,172	
Equals	<b>Net Surplus/(Deficit) resulting from operations</b>	<b>5,900</b>	<b>(1,925)</b>	<b>688</b>	
				<b>4,663</b>	
Add	Depreciation	12,958	-	238	13,196
Less	Share of Profit SRWRA	246	-	-	246
Equals	<b>Funding available for Capital Investment exp</b>	<b>18,612</b>	<b>(1,925)</b>	<b>926</b>	<b>17,613</b>
Capital					
Less	Capital Expenditure - Renewal	13,914	2,930	387	17,231
Less	Capital Expenditure - New	14,516	13,919	(4,348)	24,087
Less	Capital - contributed assets	1,500	-	-	1,500
Equals	<b>Net Overall funding Surplus/(Deficit)</b>	<b>(11,318)</b>	<b>(18,774)</b>	<b>4,887</b>	<b>(25,205)</b>

CITY OF MARION				
Budgeted Funding Statement				
	Original Budget \$000's	Carryovers	1st Review \$000's	Revised Budget \$000's

Funding transactions associated with accommodating the above net overall funding deficit (or applying the net overall funding surplus) are as follows:

	<b>LOANS</b>				
	Loan Principal Receipts (Net)	12,628	-	(2,512)	10,116
	Loan Receipts from Sporting Clubs (Net)	-	-	-	-
Less	Loan Principal Payments	1,417	-	155	1,572
	<b>Loan funding (Net)</b>	<b>11,211</b>	<b>-</b>	<b>(2,667)</b>	<b>8,544</b>
	<b>Movement in level of cash &amp; accruals</b>				
(b)	Cash Surplus/(Deficit) funding requirements	-	-	(1,263)	(1,263)
Less	Reserves (Net)	107	18,774	(3,483)	15,398
	<b>Cash/Investments/Accruals Funding</b>	<b>(107)</b>	<b>(18,774)</b>	<b>2,220</b>	<b>(16,661)</b>
Equals	<b>Funding Transactions</b>	<b>11,318</b>	<b>18,774</b>	<b>(4,887)</b>	<b>25,205</b>

(a) Capital Revenue excludes book gains/loss on sale of assets

(b) Relates to use of cash to fund major projects

### Analysis of Budgeted Funding Statement

This section of the 1<sup>st</sup> Budget Review provides an analysis of the movements in the Budgeted Funding Statement (revenues, expenditures, capital, loans and reserves).

The 1<sup>st</sup> Budget Review reports a net funding deficit of \$1.263m, with a forecast underlying funding surplus for the year of \$1.012m.

### Financial Indicators

To assist Council in meeting its objective of financial sustainability a series of financial indicators endorsed by the Local Government Association are provided. Where a Council target has not been adopted the recommended Local Government Association (LGA) target has been provided. The following table provides a matrix of indicators of the 1<sup>st</sup> Budget Review 2014/2015 and whether the target has been achieved.

Key Financial Indicator	2014/15	Target	Result 5 Yr Avg
Operating Surplus/(Deficit)	\$2.521m	\$0 - \$3.280m	↑
Operating Surplus Ratio	3.8%	0 - 5%	↑
Net Financial Liabilities	\$18.9m	\$0 - \$39.4m	✓
Net Financial Liabilities Ratio	24.0%	0 - 50%	✓
Interest Cover Ratio	1.2%	0 - 5%	✓
Asset Sustainability Ratio	129%	95 - 100%	↑
Asset Consumption Ratio	89%	80 - 100%	✓

✓ = Within target

↑ = Exceeding target

In all instances the 1<sup>st</sup> Budget Review 2014/2015 is meeting or exceeding the required targets and is within range of Council meeting its objective of financial sustainability.

Further detail is provided below which explains the basis of each indicator:

Operating surplus – being the operating surplus (deficit) before capital amounts

Operating Surplus Ratio – This ratio expresses the operating surplus (deficit) as a percentage of general and other rates, net of rebates.

Net Financial Liabilities – total liabilities less financial assets. This measures a Council's net indebtedness.

Net Financial Liabilities Ratio – indicates the extent to which net financial liabilities of Council can be met by Council's total operating revenue

Interest Cover Ratio – indicates the extent to which Council's interest expenses are met by total operating revenues

Asset Sustainability Ratio – indicates whether Council is renewing or replacing existing assets at the rate of consumption.

Asset Consumption Ratio – indicates the remaining useful life of Council's assets or the asset stock at a point in time.

## **Attachments to Appendix 1**

- Attachment 1 – Budgeted Income Statement
- Attachment 2 – Budgeted Balance Sheet
- Attachment 3 – Budgeted Statement of Changes in Equity
- Attachment 4 – Budgeted Statement of Cash Flows
- Attachment 5 – Budgeted Funding Statement
- Attachment 6 – Consultants

## ATTACHMENT 1

CITY OF MARION Budgeted Income Statement		
	Actual 2014 \$000's	1st Review 2015 \$000's
<b>OPERATING REVENUE</b>		
Rates		
General	62,269	65,593
Other	1,496	1,517
Statutory Charges	1,715	1,677
User Charges	1,571	1,674
Operating Grants and Subsidies	5,391	5,902
Investment Income	793	732
Reimbursements	898	938
Net Gain - Equity Accounted Council Businesses	446	306
Other	315	408
<b>TOTAL OPERATING REVENUE</b>	<b>74,894</b>	<b>78,747</b>
<b>OPERATING EXPENSES</b>		
Employee Costs	31,532	32,392
Contractual Services	10,745	18,160
Materials	5,052	5,013
Finance Charges	358	802
Depreciation	12,556	13,196
Other	10,213	6,693
<b>TOTAL OPERATING EXPENSES</b>	<b>70,456</b>	<b>76,256</b>
<b>Operating Surplus/(Deficit) before Capital Revenues</b>	<b>4,438</b>	<b>2,491</b>
<b>CAPITAL REVENUES</b>		
Capital Grants, Subsidies and Monetary Contributions	438	672
Physical resources received free of charge	1,490	1,500
Gain/(Loss) on disposal of assets	(527)	-
<b>Net Surplus/(Deficit) resulting from Operations</b>	<b>5,839</b>	<b>4,663</b>

## ATTACHMENT 2

CITY OF MARION Budgeted Balance Sheet		
	Actual 2014 \$000's	1st Review 2015 \$000's
<b><u>CURRENT ASSETS</u></b>		
Cash	28,065	11,434
Receivables	3,545	3,545
Inventory	172	172
<b>TOTAL CURRENT ASSETS</b>	<b>31,782</b>	<b>15,151</b>
<b><u>CURRENT LIABILITIES</u></b>		
Creditors	6,408	6,408
Provisions	4,932	4,932
Loans	1,572	2,046
<b>TOTAL CURRENT LIABILITIES</b>	<b>12,912</b>	<b>13,386</b>
<b>Net Current Assets/(Liabilities)</b>	<b>18,870</b>	<b>1,765</b>
<b><u>NON-CURRENT ASSETS</u></b>		
Investment in SRWRA & Council Solutions	4,363	4,609
Land	341,918	343,835
Buildings	91,170	109,397
Infrastructure	636,078	645,026
Equipment	7,145	7,606
Furniture & Fittings	283	336
Other	9,614	9,930
<b>TOTAL NON-CURRENT ASSETS</b>	<b>1,090,571</b>	<b>1,120,739</b>
<b><u>NON-CURRENT LIABILITIES</u></b>		
Provisions	527	527
Loans	11,900	19,970
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>12,427</b>	<b>20,497</b>
<b>NET ASSETS</b>	<b>1,097,014</b>	<b>1,102,007</b>
<b><u>EQUITY</u></b>		
Accumulated surplus	340,053	360,444
Reserves	756,961	741,563
<b>TOTAL EQUITY</b>	<b>1,097,014</b>	<b>1,102,007</b>



## ATTACHMENT 3

CITY OF MARION		
Budgeted Statement of Changes in Equity		
	Actual	1st
	2014	Review
	\$000's	2015
		\$000's
<b>ACCUMULATED SURPLUS</b>		
Balance at beginning of period	333,847	340,053
Net Surplus/(Deficit)	4,868	4,993
Transfers from Reserves	18,324	15,809
Transfers to Reserves	(16,986)	(411)
<b>Balance at end of period</b>	<b>340,053</b>	<b>360,444</b>
<b>ASSET REVALUATION RESERVE</b>		
Balance at beginning of period	707,427	736,779
Net change this year	29,352	-
<b>Balance at end of period</b>	<b>736,779</b>	<b>736,779</b>
<b>OPEN SPACE RESERVES</b>		
Balance at beginning of period	3,960	1,288
Net change this year	(2,672)	33
<b>Balance at end of period</b>	<b>1,288</b>	<b>1,321</b>
<b>OTHER RESERVES</b>		
Balance at beginning of period	17,560	18,894
Net change this year	1,334	(15,431)
<b>Balance at end of period</b>	<b>18,894</b>	<b>3,463</b>
<b>Total Reserves</b>	<b>756,961</b>	<b>741,563</b>
<b>TOTAL EQUITY</b>	<b>1,097,014</b>	<b>1,102,007</b>

CITY OF MARION Budgeted Statement of Cash Flows		
	Actual 2014 \$000's	1st Review 2015 \$000's
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
<i>Receipts</i>	80,261	78,801
<i>Payments</i>	(60,178)	(63,030)
<b>NET CASH PROVIDED BY OPERATING ACTIVITIES</b>	<b>20,083</b>	<b>15,771</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
<i>Receipts</i>		
Loans Received	9,000	10,116
Loans From Sporting Clubs	-	-
<i>Payments</i>		
Principal	(1,063)	(1,572)
<b>NET CASH (USED IN) FINANCING ACTIVITIES</b>	<b>7,937</b>	<b>8,544</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
<i>Receipts</i>		
Capital Grants/Subsidies & Contributions/Investments	168	672
Sale of Equipment	601	-
<i>Payments</i>		
Purchase of Land	(4,299)	(1,897)
Purchase of Buildings	(3,394)	(22,070)
Purchase/Construction of Infrastructure	(12,827)	(14,372)
Purchase of Equipment	(1,696)	(1,809)
Purchase of Furniture & Fittings	(24)	(98)
Purchase/Construction of Other Assets + Investments	(928)	(1,372)
<b>NET CASH (USED IN) INVESTING ACTIVITIES</b>	<b>(22,399)</b>	<b>(40,946)</b>
<b>NET INCREASE/(DECREASE) IN CASH HELD</b>	<b>5,621</b>	<b>(16,631)</b>
<b>CASH AT BEGINNING OF REPORTING PERIOD</b>	<b>22,444</b>	<b>28,065</b>
<b>CASH AT END OF REPORTING PERIOD</b>	<b>28,065</b>	<b>11,434</b>

## ATTACHMENT 5

CITY OF MARION Budgeted Funding Statement			Actual 2014 \$000's	1st Review 2015 \$000's
<b>OPERATING REVENUE</b>				
Rates				
	General		62,269	65,593
	Other		1,496	1,517
Statutory Charges			1,715	1,677
User Charges			1,571	1,674
Operating Grants and Subsidies			5,091	5,902
Investment Income			793	732
Reimbursements			898	938
Net Gain - Equity Accounted Council Businesses			446	306
Other			315	408
			<b>74,594</b>	<b>78,747</b>
<b>OPERATING EXPENSES</b>				
Employee Costs			31,532	32,392
Contractual Services			15,220	18,160
Materials			4,939	5,013
Finance Charges			358	802
Depreciation			12,556	13,196
Other			6,822	6,693
			<b>71,427</b>	<b>76,256</b>
<i>Operating Surplus/(Deficit) before Capital Revenues</i>			<b>3,167</b>	<b>2,491</b>
<b>Capital Revenue</b>			439	2,172
<i>Net Surplus/(Deficit) resulting from operations</i>			<b>3,606</b>	<b>4,663</b>
Depreciation			12,556	13,196
Share of Profit Equity Accounted Council Business (excl div)			371	246
Gain/(Loss) on disposal of assets			(527)	-
<i>Funding available for Capital Investment expenditure</i>			<b>15,264</b>	<b>17,613</b>
<b>CAPITAL</b>				
Capital Expenditure - Renewal			7,269	17,231
Capital Expenditure - New			15,312	24,087
Capital - contributed assets			1,490	1,500
<b>Net Overall funding Surplus/(Deficit)</b>			<b>(8,807)</b>	<b>(25,205)</b>

**CITY OF MARION**  
**Budgeted Funding Statement**

		Actual 2014 \$000's	1st Review 2015 \$000's
Funding transactions associated with accomodating the above net overall			
funding deficit (or applying the net overall funding surplus) are as follows:			
<b>LOANS</b>			
	Loan Principal Receipts (Net)	9,000	10,116
	Loan Receipts from Sporting Clubs (Net)	-	-
Less	Loan Principal Payments	1,063	1,572
	<b>Loan funding (Net)</b>	<b>7,937</b>	<b>8,544</b>
<b>Movement in level of cash, investments &amp; accruals</b>			
	(c) Cash Surplus/(Deficit) funding requirements	469	(1,263)
Less	Reserves (Net)	1,339	15,398
	<b>Cash/Investments/Accruals Funding</b>	<b>(870)</b>	<b>(16,661)</b>
<i>Equals</i>	<b>Funding Transactions</b>	<b>8,807</b>	<b>25,205</b>

**ATTACHMENT 6****CONSULTANTS**

Council resolved at the Council meeting held 8 December 1998 that future budget reviews include an Executive Summary with reference to consultants.

Consultants are defined as an expert called on to provide professional or technical advice not currently available within the organisation. An analysis of Council's accounts reveals the following information of actual + committed year to date (30/11/14) expenditure versus full year actuals for 2013/14 relating to expenditure on Consultants of an operating nature:

**Legal Consultants**

*As at 30 November 2014 1<sup>st</sup> Budget review*

	<b>Full Year Actual 2013/14</b>	<b>Actual YTD 2014/15</b>
Organisational Development <i>(Employment advice)</i>	80,264	10,586
Cultural Development	1,101	-
Libraries	1,640	261
Community Management	1,388	-
Community Centres	-	27
Environmental Health	210	3,570
General Inspection <i>(Dog/Cat &amp; Parking Control)</i>	14,324	9,828
Governance	66,027	46,600
Financial Services	9,004	1,125
Strategic Projects	25,908	-
Asset Management	26,917	15,488
Development Assessment	185,868	57,482
Infra Mgt (Engineering)	4,979	1,858
Civil Services	5,959	-
	<b>424,451</b>	<b>146,825</b>
Full Year Budget		<b>302,227</b>

## Other Consultants (not including legal)

As at 30 November 2014 1<sup>st</sup> Budget review

	Actual Full year 2013/14	Actual YTD 2014/15
Crime Prevention	4,687	-
Strategic Development	7,696	6,300
Organisational Development	119,902	21,403
Community Development	(a) 223,180	(a) 10,036
Community Centres	1,060	128
Corporate Development	8,182	-
Occupational Health & Safety	450	21,775
Information Mgt & Technology	-	-
Community Care	298	680
Cultural Development	38,275	13,850
Libraries	24,500	-
Commercial Facilities	11,869	3,400
Environmental Health	1,778	-
Governance	(b) 70,748	(b) 14,400
Strategic Projects	(c) 223,385	(c) 1,098
Finance	4,250	-
Asset Management	27,795	674
Waste & Recycling	-	-
Development Assessment	28,936	32,660
Infrastructure Management (Engineering)	94,096	34,796
Civil Services	8,439	11,345
Open Space Services	49,419	41,860
Depot	2,240	-
Recruitment	202,824	51,198
	<b>1,154,009</b>	<b>265,603</b>
Full Year Budget		<b>708,871</b>

### Notes

(a) Includes Sporting Club Master Plan	\$167,425	\$0
(b) Includes Representation Review	\$18,895	\$0
(c) Includes MCC Plaza design work & costing analysis	\$209,160	\$0

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** Elaine Delgado, Strategy

**Director:** Kathy Jarrett

**Subject:** Strategic Directions Committee Confirmation of Minutes of Meeting held on 3 February 2015

**Report Reference:** GC240215R02

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**REPORT OBJECTIVES:**

The Strategic Directions Committee is a formally constituted Committee of Council pursuant to Section 41 of the Local Government Act 1999 and in accordance with Section 101A of the Development Act 1993, is responsible to Council.

**EXECUTIVE SUMMARY:**

The Strategic Directions Committee held a meeting Tuesday 3 February 2015. The minutes of that meeting are herewith forwarded to Council for adoption (Appendix 1).

**RECOMMENDATIONS (1)**

**DUE DATES**

**That Council:**

1. Receive and adopt the minutes of the Strategic Directions Committee meeting of 3 February 2015 (Appendix 1 to report reference GC240215R02).

**24 February 2015**

**MINUTES OF THE STRATEGIC DIRECTIONS COMMITTEE MEETING  
HELD AT MEETING ROOM 5.30, 5<sup>th</sup> FLOOR,  
FLINDERS @ TONSLEY, 1284 SOUTH ROAD, CLOVELLY PARK  
ON TUESDAY 3 FEBRUARY 2015**

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**PRESENT**

**Elected Members**

Councillor Jason Veliskou (Chair), and Councillors Appleby, Byram, Crossland, Gard, Hull, Hutchinson, Kerry, Pfeiffer, Prior, Telfer, Westwood

His Worship the Mayor Kris Hanna

**Strategic Directions Committee Independent Members**

Mr Darren Bilsborough, Professor Chris Daniels, Mr Marty Gauvin

**In Attendance**

Mr Mark Searle	Chief Executive Officer
Ms Kathy Jarrett	Director
Ms Fiona Harvey	Manager Strategy
Mr John Valentine	Manager Strategic Projects
Mr Steven Hooper	Manager Development Services
Mr David Melhuish	Senior Policy Planner
Ms Elaine Delgado	Minute taker

**1 OPEN MEETING**

The meeting commenced at 7.05pm.

The Chair welcomed Committee Members to the first Strategic Directions Committee meeting for the new Council's term and declared the meeting open.

**2 KAURNA ACKNOWLEDGEMENT**

*We would like to begin by acknowledging the Kurna people, the traditional custodians of this land and pay our respects to their elders past and present.*

The Chair followed the acknowledgement of the Kurna people by inviting the Independent Members to provide a brief overview of their professional expertise.

The Independent Members thanked Council for the opportunity to extend their membership of the Strategic Directions Committee and provided the following information:

- Professor Daniels is Professor in Biology at University of South Australia and has expertise as an urban ecologist, biologist and zoologist. He has a particular interest in research that explores how communities connect in the urban environment.



- Mr Bilsborough has extensive private sector experience in strategic urban planning to support integrated design for sustainable and liveable places and spaces including transport connections.
- Mr Gauvin specialises in IT services start-up businesses and cloud computing and has experience in supporting and fostering innovation in ways that a community can develop.

### **3 MEMBERS DECLARATION OF INTEREST**

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

No interests were disclosed.

### **4 CONFIRMATION OF MINUTES**

**Moved Cr Hull, Seconded Cr Hutchinson** that the minutes of the Strategic Directions Committee meeting held on 7 October 2014 be taken as read and confirmed.

**Carried Unanimously**

It was noted that the current Strategic Directions Committee could use the feedback received from Members' at the Committee's last meeting held on 7 October 2014 on its role and potential future directions.

### **5 BUSINESS ARISING**

Nil.

### **6 REPORTS**

#### **6.1 Tonsley Redevelopment Report reference: SDC030215R6.1**

Ms Megan Antcliff, Director Strategic Projects and Innovation, Department for State Development South Australia and Mr Vince Rigter, Project Director, Renewal SA, presented to the Committee and responded to comments/questions from Members.

The following points were made in relation to the presentation:

- Tonsley is a 61 ha site that was formerly the Mitsubishi automotive manufacturing site that closed in 2008 and which the state government committed to developing in 2012
- Tonsley is a key element of the state government's Manufacturing Works Strategy 2013-2014 that aims to ensure manufacturing in South Australia focuses on quality, long-term thinking, and service
- The future of industry in South Australia will focus on specialisation clusters and precincts to enable collaboration, jobs and export growth
- Objectives for Tonsley include economic growth and development through advanced manufacturing; liveable communities through mixed-use development; sustainability through technology, adaptive reuse and design;

place making that is people focussed; and governance and corporate responsibility delivered through best practice

- Tonsley is an Innovation District with economic, physical and network components
- Tonsley will host approximately 6,300 workers, 8,500 students and 1,200 residents
- A key feature of the development is adaptive reuse of the main assembly building that captures industrial heritage, keeps embodied CO2 in the structure, and grounds the site in meaning and identity
- The main assembly building is to be kept in state government ownership with a potential sale in future as a whole asset once a critical mass of tenants has been achieved
- Tonsley is seeking a Green Building Council of Australia 'Green Star – Communities' rating for energy and water efficiencies, connecting people via transport, and creating a high quality designed mixed-use precinct
- A design-led approach is being used to ensure environmental sustainability and public realm that reflects a desired character
- Design guidelines have been developed for the precinct that will act as an encumbrance into the long-term future
- Governance arrangements are currently being developed
- Community engagement for the retail and residential components is still to be undertaken

Further information can be found at website <http://www.tonsley.com/>

The following points were made by the presenters in response to Members' questions:

- Tonsley is a catalyst project in a network of projects for the state as it supports jobs growth through creation and retention of industries in South Australia, rather than overseas, in the fields of mining resources services; clean technology and renewable energy; health and medical technologies; and sustainable construction
- The project promotes South Australia as an attractive state for investment
- The value of the project is becoming more widely known and understood as more investors establish on site
- Application of a Suitability Assessment determines businesses eligible to establish on site and this would preclude inappropriate types of business/industry
- Interest in establishing at Tonsley by industry is continuing to grow with a number of allotments currently under negotiation
- There is potential for connection between Tonsley and the business enterprise hub being developed at the Cove Civic Centre
- Tonsley is providing an important model for the state government in responding to the closure of sites with large employment bases such as Holden
- State government has not been requested to support other local industries/businesses previously connected to Mitsubishi, but is however maintaining close contact
- The growth in jobs will relate to land sales with commercial land expected to take the longest
- Allotments will have Torrens Titles so the current rating system will apply with rates paid to Council by all tenants except government agencies, education agencies, health services, community services, and religious services
- The project has enabled a collaborative partnership between the City of Marion and state government to achieve the vision for the site by setting new benchmarks in development

- Connectivity to the City of Adelaide and the Adelaide Airport with rail and road links are strong
- Connectivity to immediate and regional areas adjoining Tonsley will be a key focus for the project
- The state government is actively targeting potential investors
- A Steering Committee comprising state government, City of Marion, Flinders University, business tenant representatives and TAFE is developing governance arrangements relating to ownership and management with consideration being given to founding partners, which includes City of Marion
- Leasing options that are tailored to start-up businesses are an important mechanism to ensure Tonsley attracts as many suitable investors as possible
- Tonsley is aiming to deliver an integrated model of development that is focussed both on internal relationships between business, education and residential elements within the site, and on external relationships between Tonsley and the local community in the surrounding area

*8.25pm Cr Gard left the meeting*

## **6.2 Strategic Directions Report - workshop**

**Report reference: SDC030215R6.2**

Mr Hooper and Mr Melhuish presented to Members prior to conducting a workshop to prioritise the actioning of Development Plan Amendments (DPAs).

The following summarises key points:

- The Strategic Directions Report is a review of the City of Marion's Development Plan that provides strategic direction for land use
- The purpose of the workshop was to prioritise medium and high priority DPAs, endorsed by Council and approved by the Minister for Planning, that have a strategic focus in the Strategic Directions Report
- Low priority DPAs were not included for prioritisation as they are generally limited to being site specific

*8.27pm Cr Pfeiffer left the meeting*

*8.28pm Cr Gard returned to the meeting*

- The DPAs presented to this workshop were reviewed by the Strategic Directions Committee on 2 April 2013, reviewed by the community from August to October 2013, endorsed by Council in December 2013, and forwarded to the Minister for Planning in December 2013
- A re-prioritisation of the DPAs' action list was sought by the Minister's delegate due to the extensive number of actions designated as a high priority
- On 26 August 2014 Council endorsed a revised action list and resubmitted to the Minister which received approval on 13 January 2015

*8.30pm Cr Pfeiffer returned to the meeting*

- Mr Hooper introduced the workshop providing an overview of the DPAs displayed and grouped as follows for consideration by Members to select 2 preferences each:

- Group 1*      Mixed Use/Various (Science Park); Recreation/Community Use; Commercial Sheidow Park
- Group 2*      Residential (Density Preservation); Residential (Character Policy Area 17); Stormwater Master Plan
- Group 3*      Racecourse (Morphettville) – Mixed Use; Residential (Southern Suburbs); Residential/Mixed Use; Residential (Higher Density)

The following points were made by Mr Hooper and Mr Melhuish in response to Members' questions:

- The process for a DPA is generally between 12-18 months to Ministerial approval
- DPAs relating to residential density have been initiated by the community and/or Council
- The Stormwater Master Plan DPA would also have beneficial implications for the City of Holdfast Bay
- Councils can generally handle about 5 DPAs at any particular time and the Department for Planning, Transport and Infrastructure raises concerns if this number is exceeded.

**Moved Cr Gard, Seconded Cr Crossland**, that formal meeting procedures be suspended to allow the Committee's conduct of a workshop for agenda item 6.2 from 8.40pm to 9.10pm.

**Carried unanimously**

Further points made by Mr Hooper following suspension of procedures were as follows:

- Council has approximately 5-6 DPAs currently with some nearing completion
- Council does not have control over DPAs that are initiated by the private sector, such as the Racecourse (Morphettville) DPA, but can provide support for their development
- Due to the stage of development for the Residential (Character Policy Area 17) DPA and the imperative that further erosion to the character of these areas be avoided through demolition and construction of new residences, it was proposed this be progressed as a priority in addition to 2 other DPAs as voted by Members at the workshop
- Potential negative urban form outcomes are likely to occur if DPAs do not proceed in the short term for Residential (Character Policy Area 17), Stormwater Master Plan, Commercial Sheidow Park (current zoning is obsolete), Mixed Use/Various (Science Park)

Further points of discussion raised by Members included:

- Consideration needs to be given to identifying areas that can accommodate higher density to meet 30-Year Plan for Greater Adelaide targets that will enable the retention of character areas proposed in the Residential (Character Policy Area 17)

- The Stormwater Master Plan DPA also has infrastructure cost implications for Council due to likely replacement requirements in future
- The decision-making process could be further enhanced if supported by a more in-depth strategic analysis prior to prioritisation of the DPAs

Relevant considerations from each Ward were discussed as follows:

*Coastal Ward*

- Southern Hills area does contain smaller blocks
- Houses on larger blocks (approximately 650-750 sqm) are ageing
- Housing to support older people ageing in place is required
- The development of higher density housing in the south to accommodate housing choice could be a substitute for areas targeted for higher density in the northern areas of Council
- Hallett Cove and Marino have some similar issues, such as undulating terrain that can preclude the division of large allotments

*Mullawirra Ward*

- Need to retain lower density and character housing
- Stormwater is an important issue for the area
- Morphettville Racecourse is a suitable location for further development with open space

*Southern Hills Ward*

- Higher density opportunities through sensitive sub-division and design is required in Seacliff Park, Seaview Downs, Sheidow Park, and Trott Park
- The Commercial Sheidow Park DPA is required to create additional capacity for businesses in the only commercial area in the Southern Hills

*Warracowie Ward*

- Supports the intent of the Residential (Density Preservation) DPA
- Higher density could be accommodated on main roads
- A 'trade-off' with some higher density being located in southern Marion in lieu of continued higher densification in northern Marion could be of benefit to both
- Stormwater is an important issue for the area

*Warriparinga Ward*

- The Darlington/South Road project will have an impact on Science Park
- If stormwater is not addressed this will have significant costs for Council

*Woodlands Ward*

- Traffic issues continue to rise with increases in sub-divisions of allotments with Ascot Park experiencing the highest density in the City of Marion
- Residential character areas tend to be along rail lines due to their era of settlement so alternative sites designated for higher density, potentially in southern Marion, would be welcomed
- The issue of stormwater management needs to be considered on both the eastern and western areas aligning Sturt River

Based on the information presented, the following priorities were identified:

The Chair announced the results of the vote as follows:

1. Residential (Character Area Policy 17) DPA
2. Stormwater Master Plan DPA
3. Residential (Southern Suburbs) DPA

### **6.3 Strategic Scanning**

**Report reference: SDC030215R6.3**

The Chair advised Members that due to insufficient time the workshop for this agenda item would be deferred.

The Chair took the opportunity to lead Members in discussion on how the Strategic Directions Committee could be most effective in 2015 in informing a strategic approach for Council and identifying a role for Independent Members. The following feedback was received:

#### *Strategic Directions Committee*

- A plan of action to address strategic topics would support the effectiveness of the Strategic Directions Committee
- Issues raised by Members at the 7 October 2014 Strategic Directions Committee meeting for agenda item Strategic Directions Committee Reflections (SDC071014R6.2) could be addressed
- A review of the status of outcomes from Council's previous Strategic Plan 2010/2020 could be undertaken
- The City of Marion's 30-Year Community Plan that articulates 6 aspirational themes is based on significant engagement with the community
- A clear understanding of strategic and tactical decision-making will enable more focussed meetings
- The Chair sought Elected Members' feedback prior to this meeting as a basis for the agenda item 6.3 Strategic Scanning workshop on community issues that were raised with Elected Members during the election campaign

#### *Independent Members*

- The role for Independent Members could include presentations and input into Strategic Directions Committee meeting discussions based on their areas of expertise to assist in growing a 'Marion brand' over the next 10 years
- There may be potential to add a further Independent Member based on a gap analysis of current expertise
- As the Strategic Directions Committee was established to meet the requirements of the Development Act S101A, consideration could be given to appointing a further Independent Member with urban planning expertise

The Chair sought a motion to extend the closing time of the meeting.

**Moved Cr Kerry, Seconded Cr Pfeiffer** to extend the closure of the Strategic Directions Committee meeting by 15 minutes until 10.15pm.

**Carried unanimously**

Discussion resumed with the following points made:

*Strategic Directions Committee*

- Contextual issues and trends should be tabled for discussion on the opportunities and threats they present, such as increasing urbanisation of populations; ageing of population; economic directions; opportunities resulting from growth of south-east Asia middle class; the role of arable land near cities to address food security; use of transport for the sustainable movement of people, etc.

The Chair stated he would organise a meeting with the Independent Members to further discuss their role.

**7 CONFIDENTIAL ITEMS**

Nil.

**8 ANY OTHER BUSINESS**

Nil.

**9 MEETING CLOSURE**

The meeting was declared closed at 10.15pm.

**10 NEXT MEETING**

The Next meeting of the Strategic Directions Committee is scheduled to be held on:

Time: 7.00pm - 10.00pm  
Date: Tuesday 7 April 2015  
Venue: To be advised

**CONFIRMED**

.....

**CHAIRPERSON**

/ /

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** Sue Bowden – Property Leasing Officer

**Corporate Manager:** Peter Patterson – Manager, Open Space & Facilities

**Director:** Heather Montgomerie

**Subject:** Landlords' Approval for kitchen and bar upgrade project, Plympton Sporting and Recreation Club Inc, Milton Avenue, Plympton Park, Certificate of Title Volume 5542 Folio 610

**Report Reference:** GC240215R03

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**REPORT OBJECTIVES:**

The purpose of this report is to obtain Council approval, as landlord, for alterations to the premises comprising of kitchen and bar upgrade works at Plympton Sporting and Recreation Club, Milton Avenue, Plympton Park.

**EXECUTIVE SUMMARY:**

The Plympton Sporting and Recreation Club, is licensed to the Plympton Sporting and Recreation Club Inc. ("Club"). The licence commenced on 1 November 2013 for a term of five years and expires on 31 October 2018. Refer to plan attached as Appendix 1

In accordance with the terms of the licence, the Club is seeking Council approval, as landlord, to make alterations to the premises. The proposed kitchen and bar upgrade will result in more efficient service to patrons and improved function of the facility. The total cost of the kitchen and bar upgrade is \$60,000 and will be fully funded by the Plympton Sporting and Recreation Club Inc.

**RECOMMENDATIONS (4)**

**DUE DATES**

**That Council:**

- |   |          |
|---|----------|
| 1. Grant landlord's consent for Stage 1 of the kitchen and bar upgrade project at Plympton Sporting and Recreation Club, Milton Avenue Plympton Park, Certificate of Title Volume 5542 Folio 610.   | Feb 2015 |
| 2. Delegate to the Team Leader Land and Property approval to authorise any works required to facilitate Stage 2 and Stage 3 of the kitchen and bar upgrade works at Plympton Sporting and Recreation Club, Milton Avenue Plympton Park, Certificate of Title Volume 5542 Folio 610, with the approval for the construction of a new canteen service counter being subject to full Development Consent being obtained. | May 2015 |



3. Council require the Plympton Sporting and Recreation Club to provide the full scope and costs associated with the proposed Stage 2 and Stage 3 works for the kitchen and bar upgrade works at Plympton Sporting and Recreation Club, Milton Avenue Plympton Park, Certificate of Title Volume 5542 Folio 610,

May 2015

4. Council require the Plympton Sporting and Recreation club Inc to be responsible for all future maintenance and repairs to the kitchen and bar area, the associated improvements and fit out.

Feb 2015

## BACKGROUND

The Club will fully fund the upgrade works by means of a \$60,000 grant they obtained from the Department of Infrastructure and Regional Development with the club allocating an additional \$20,000 of their own funds for any contingencies should they arise. The Club will be responsible for the on-going maintenance and repairs of the kitchen and bar in accordance with their existing licence agreement.

The kitchen and bar upgrade works will result in improved function of the premises and increase the ability to generate revenue through functions and food and beverage sales. Refer to Internal Demolition plan attached as Appendix 2, Internal New Work attached as Appendix 3 and 3D view plan attached as Appendix 4

## Landlord's Approval Process



Prior to any alteration to any Council property that is leased or licensed to a third party approval is required to be granted by Council as landlord. This approval is required for the following activities:

- Variation to terms and conditions of existing lease or licence.
- Addition or alteration to the built structure of the leased or licensed premises.

- Sub licensing of premises to a third party either outright or on a shared basis.

The requirement for this approval does not prevent a lessee / licensee from applying for or receiving a development approval for an activity on the premises. It does act, however, to prevent the lessee or licensee from physically undertaking any works approved under the Development Act.

The Club have divided the project into three stages to allow for the first stage of the works to be undertaken during the off season and to allow the club to keep operating while the works are being undertaken.

The commencement of Stage 1 works was also driven by the Department of Infrastructure and Regional Development funding requirements and therefore landlords' approval for Stage 1 works is needed at this time if the grant funding is to be realised.

Stage 1 has been costed at \$20,000 and consists of

- Removal of internal non-load bearing walls between the kitchen and a committee room and constructing new internal stud walls and door to re-configure the kitchen
- fit-out the kitchen by re-installing appliances
- make good all surfaces including floor coverings

Stage 2 (bar extension) and stage 3 (installation of movable wall) consists of

- Extension of the bar service counter thereby allowing staff easy access to kitchen from the bar service area
- Construction of a new canteen/serving area in the external wall to provide better functionality of the canteen
- make good all surfaces including new floor coverings
- Installation of an internal dividing door across the function area to divide the function area into two function areas when required

Stage 1 of the works, being the kitchen works, can be completed as stand alone works without affecting Stage 2 and 3 works. The Club has commenced some aspects of Stage 1 works as they believed they were bound to comply with the conditions of their grant funding, in that they were required to provide evidence that works had been commenced by 1 February 2015. The club have requested that Council grant landlords consent to Stage 1 of the project at this time.

Stage 2 and 3 works have reached a concept design level but has not fully costed and designed by the Club at this time however the Club will work closely with Council to provide the additional information regarding costing and final design prior to commencing Stage 2 and Stage 3 works.

## **ANALYSIS:**

### **Consultation**

#### **Development Services**

The proposed new opening in the external wall to make the new canteen service counter will require Development Approval. The Club will apply for Development Approval for the new canteen service counter. The club understands its responsibility to ensure that Development Approval and Landlords approval is obtained prior to commencing any works to construct the canteen service counter.

**Legal / Legislative and Risk Management**

The licence agreement requires the Plympton Sporting and Recreation Club to remain insured in relation to Public Liability Insurance and to indemnify the City of Marion against all damages costs and expenses.

**Financial Implications**

The total cost of the works is projected to be \$60,000 and will be fully funded by the Plympton Sporting and Recreation club Inc. with the club allocating an additional \$20,000 of their own funds for any contingencies should they arise. All costs associated with the maintenance and repair of the kitchen and bar area will be borne by the Plympton Sporting and Recreation club Inc. in accordance with their licence agreement.

**CONCLUSION:**

The kitchen and bar upgrade at the Plympton Sporting and Recreation Club will enable the club to provide improved food and beverage service and will result in improved function of the club premises.

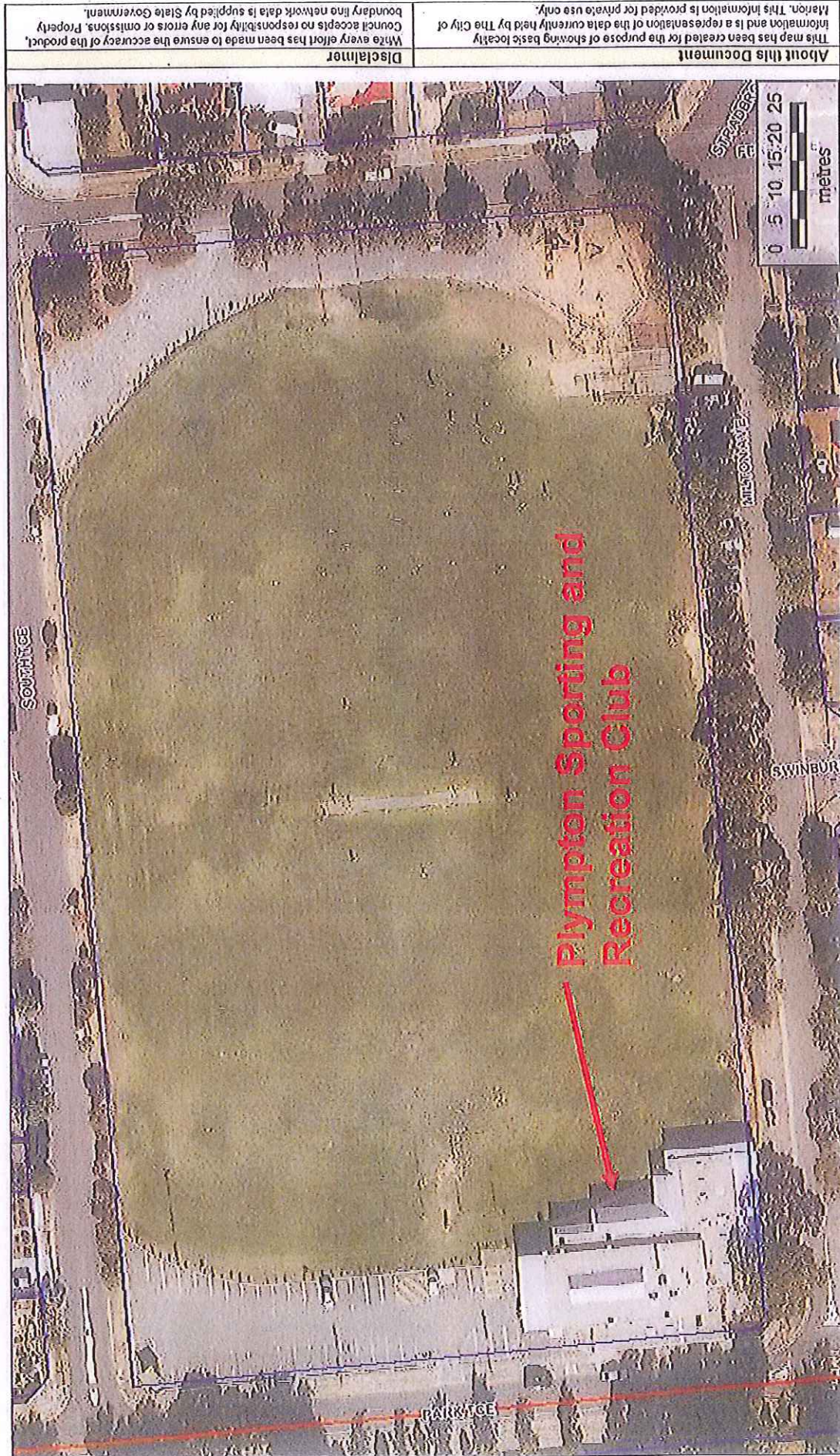
The Club have been succesful in achieving a grant from the Department of Infrastructure and Regional Development to fund this project.



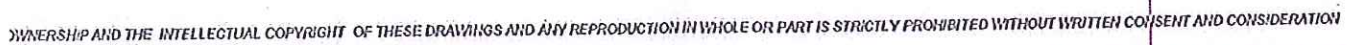
# Appendix1 - GC270115R Plympton Sporting and Recreation Club



Scale 1:967.8  
Map Width 236.8 m  
Created by rates  
Monday, 12 January 2015



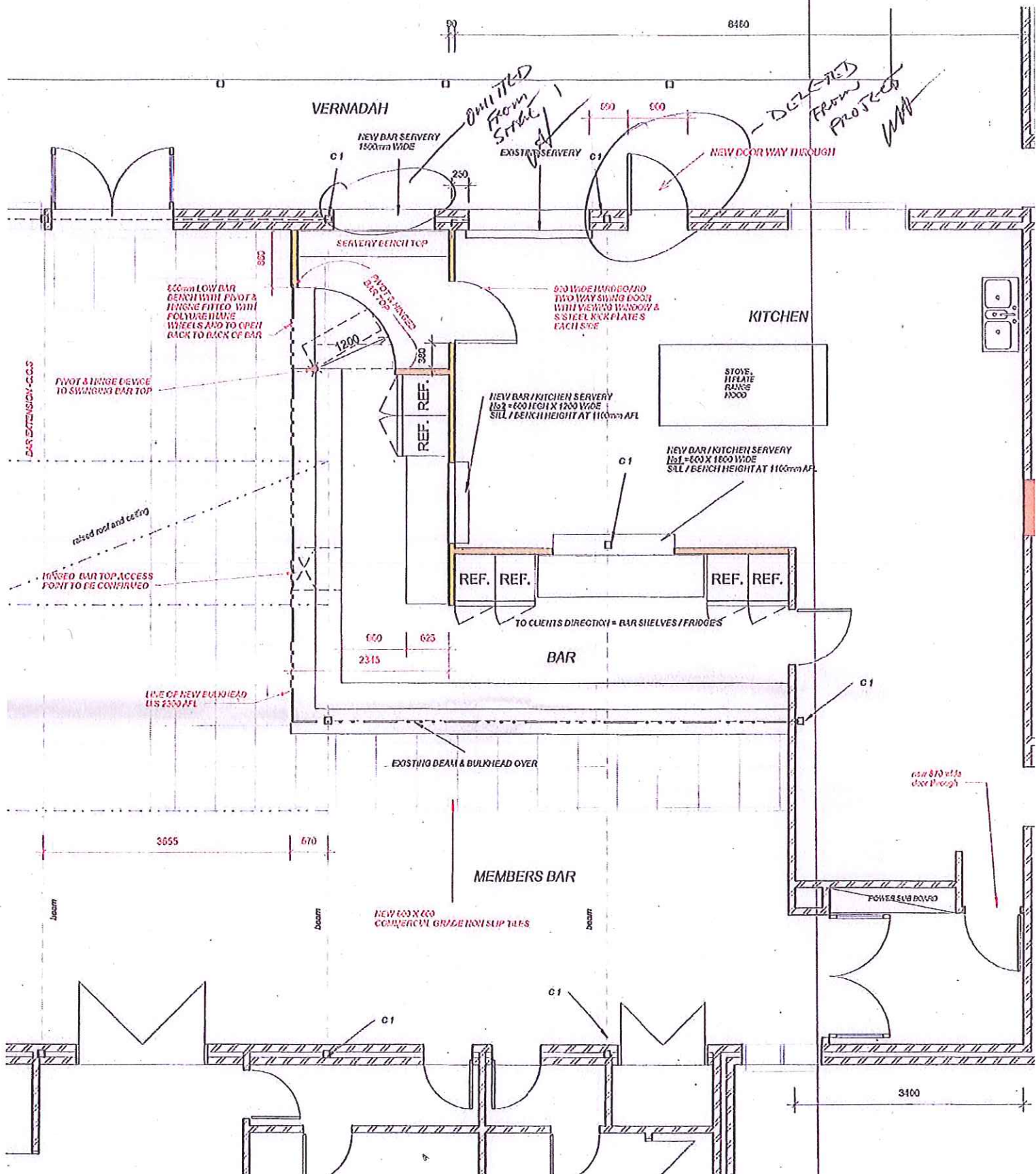




ALL CONSTRUCTION WORK TO BE PERFORMED IN ACCORDANCE WITH THE  
SA WORK HEALTH & SAFETY ACT, REGULATIONS & CODES OF PRACTICE 191

1. ALL TIMBER MATERIALS AND FIXINGS SHALL BE IN ACCORDANCE WITH AS 1
2. DO NOT SCALE DRAWINGS - USE FIGURED DIMENSIONS ONLY
3. G.O.S. = CONFIRM ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK
4. ORDERING MATERIALS
5. U.N.O = UNLESS NOTED OTHERWISE
6. ALL PROPRIETARY MATERIALS, FIXINGS & TIE DOWNS SHALL BE INSTALLED  
MANUFACTURERS SPECIFICATIONS & INSTRUCTION MANUALS





IT HAS OWNERSHIP AND THE INTELLECTUAL COPYRIGHT OF THESE DRAWINGS AND ANY REPRODUCTION IN WHOLE OR PART IS STRICTLY PROHIBITED WITHOUT WRITTEN CONSENT AND CONSIDERATION

(C)

SIGN SIGNED d.com a.com 1/202	<b>Project</b> Bar & Kitchen Upgrade	<b>DATE</b> 27/11/2014	<b>scale on A2</b> 1:50
	<b>Site</b> Park Terrace, Plympton Park SA	<b>Sheet No</b> 3	<b>Designer</b> Client
	<b>Project Owner</b> Plympton Sports Club		

ALL CONSTRUCTION WORK TO BE PERFORMED IN ACCORDANCE WITH SA WORK HEALTH & SAFETY ACT, REGULATIONS & CODES OF PRACTICE

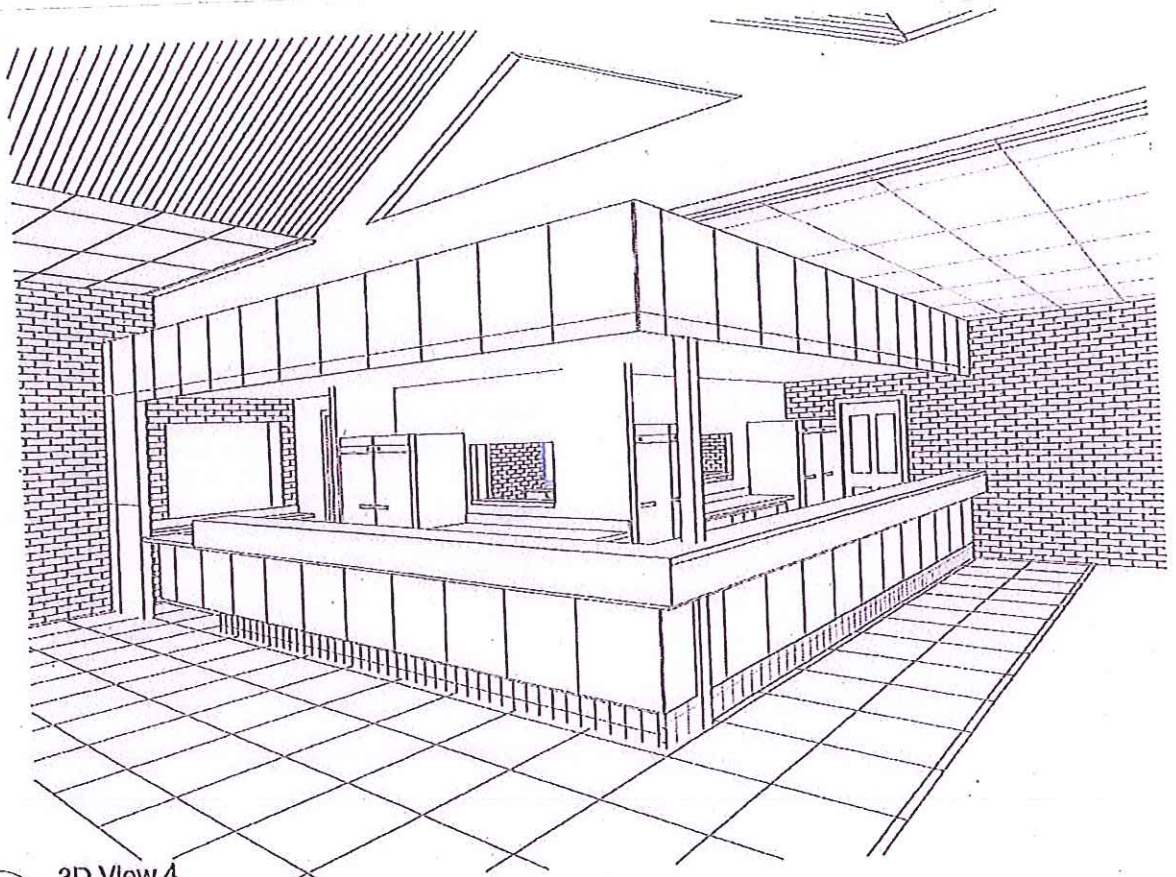
1. ALL TIMBER MATERIALS AND FIXINGS SHALL BE IN ACCORDANCE WITH DO NOT SCALE DRAWINGS - USE FIGURED DIMENSIONS ONLY

2. C.O.S. = CONFIRM ALL DIMENSIONS ON SITE PRIOR TO COMMENCING ORDERING MATERIALS

3. UNO = UNLESS NOTED OTHERWISE

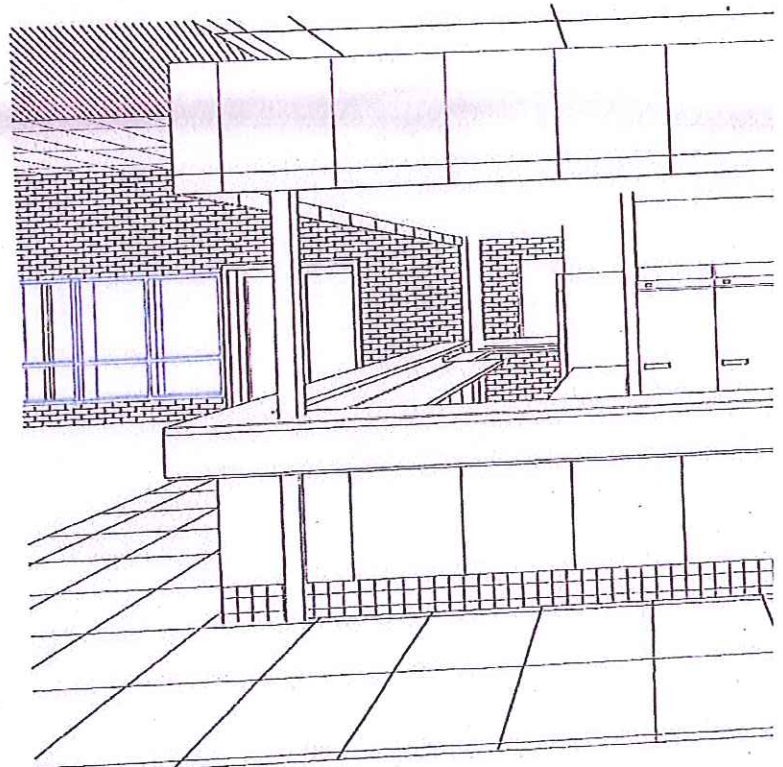
4. ALL PROPRIETARY MATERIALS, FIXINGS & TIE DOWNS SHALL BE IN MANUFACTURERS SPECIFICATIONS & INSTRUCTION MANUALS





1  
5

3D View 4



2  
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3D View 5

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**Project Owner** Plympton Sports Club

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 FEBRUARY 2015**

**Originating Officer:** Heather Michell, Land Asset Officer

**Corporate Manager:** Peter Patterson, Manager Open Space & Facilities

**Director:** Heather Montgomerie

**Subject:** Exclusion of land at Travers Street Sturt from the  
Community Land Classification  
(Certificate of Title Volume 5576 Folio 122)

**Report Reference:** GC240215R04

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**REPORT OBJECTIVES:**

The purpose of this report is to seek Council approval to exclude land to be transferred from Housing SA to Council at Travers Street Sturt, from the Community Land Classification, pursuant to Section 193 (4) of the Local Government Act, 1999.

**EXECUTIVE SUMMARY:**

Council owns a reserve at Myer Road, Sturt which is adjacent undeveloped land owned by Housing SA on Travers Street, Sturt. The Housing SA land provides a secondary access to the reserve.

Housing SA and Council have considered the options for the reconfiguration of the reserve and for the Housing SA land and on 9 December 2014 (GC091214R04), it was resolved that Council:

1. *Authorises the transfer of portion of the land owned by Housing SA at Travers Street, Sturt to Council and the transfer of portion of the land owned by Council to Housing SA for no monetary consideration, to effect the creation of one superlot of approximately 2650m<sup>2</sup> and one residential allotment fronting Travers Street of approximately 378m<sup>2</sup> in the name of Housing SA and the balance of the land to be in the name of The Corporation of the City of Marion as a reserve*
2. *Authorises the creation of two residential allotments from the reserve land of approximately 340 m<sup>2</sup> each, by a land division, for disposal*

**RECOMMENDATIONS (1)**

**DUE DATES**

**That:**

1. Pursuant to Section 193 (4) of the Local Government Act 1999 the portion of land at Travers Street Sturt, to be transferred to Council in accordance with Resolution 1 (GC091214R04), is to be excluded from the Community Land Classification.

**February 15**



## **BACKGROUND**

To enable the two residential allotments referred to in Resolution 2 (GC091214R04), the land must be excluded from the Community Land classification. A plan of the land to be transferred to the City of Marion from Housing SA is attached as Appendix 1.

All costs associated with the exchange of land between Housing SA and Council will be funded from the sale of the two residential allotments to be created.

### **Community Land Classification**

The Community Land classification was revoked over the whole of the land currently owned by Council in October 2009, however, the land that is to be transferred to Council from Housing SA will automatically be classified as Community Land unless Council passes a resolution to exclude the land from the Community Land Classification.

The recommendation contained in this report only applies to the portion of land to be transferred from Housing SA to Council pursuant to the resolution passed on 9 December 2014.

Section 193 (4) of the Local Government Act 1999 provides:

Local government land (other than a road) that is acquired by, or is brought under the care, control and management of, the council after the commencement date is taken to have been classified as community land unless –

- (a) The council resolves before it becomes local government land that it is to be excluded from classification as community land under this section; and
- (b) The land is not affected by provisions of a reservation, dedication, trust or other instrument that would prevent or restrict its alienation

It is confirmed that the land is not subject to a dedication, reservation or trust. Council owns the land in fee simple.

No Government financial assistance has been provided to acquire the land from Housing SA.

Following completion of the transfers of land and the creation and disposal of two residential allotments, the newly created reserve will be included in Community Land Management Plan 10: General Reserves.

## **ANALYSIS:**

### **Financial Implications**

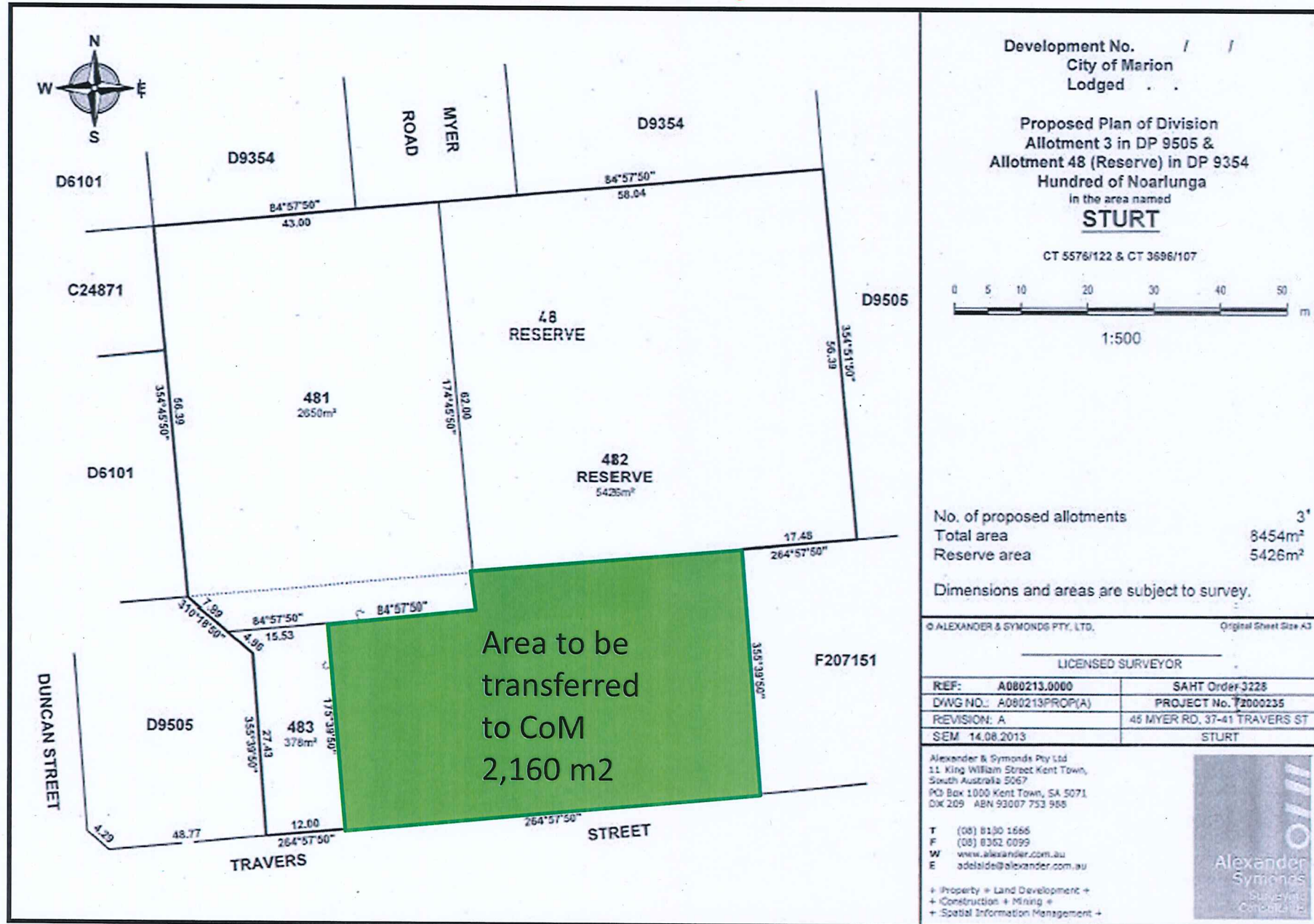
The exclusion of the land being transferred from Housing SA to Council, from the Community Land classification will negate the requirement to undertake a revocation of the Community Land classification process, therefore no additional costs will be incurred.

## **CONCLUSION:**

The proposed recommendation will enable Council to dispose of the two residential allotments to be created after the exchange of land without undertaking a revocation of Community Land classification process.

Appendix 1: Plan showing areas of land to be transferred from Housing SA to the City of Marion

## Plan showing areas of land to be transferred from Housing SA to the City of Marion



**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** Jaimie Thwaites, Unit Manager Council Support

**Corporate Manager:** Kate McKenzie, Manager Governance

**Director:** Kathy Jarrett

**Subject:** Submission Regarding 'Conflict of Interest Proposals'  
Discussion Paper

**Report Reference:** GC240215R05

---

**REPORT OBJECTIVES:**

To inform Council of the 'Council Members Personal Interests' discussion paper regarding proposals to amend the conflict of interest provisions in the Local Government Act 1999, and seek its views in order to provide feedback to the Local Government Association (LGA).

**EXECUTIVE SUMMARY:**

The Office of Local Government and the LGA have released a discussion paper on proposals to amend the conflict of interest provisions in the Local Government Act. The proposals put forward in the discussion paper are based on the model used in Queensland. Consultation on the discussion paper will inform the preparation of a Local Government Act Amendment Bill for the Minister for Local Government in 2015.

The deadline for feedback to the LGA is 6 March 2015.

**RECOMMENDATION (1)**

**DUE DATES**

**That :**

- |  |                    |
|--|--------------------|
| <b>1. Council note the discussion paper 'Council Members Personal Interests'.</b>  | <b>24 Feb 2015</b> |
| <b>2. Council advises the Local Government Association that it supports the proposals put forward in the discussion paper.</b> | <b>6 Mar 2015</b>  |

## BACKGROUND:

The Office of Local Government and the LGA have released a discussion paper on proposals to amend the conflict of interest provisions in the Local Government Act. Consultation on the discussion paper will inform the preparation of a Local Government Act Amendment Bill for the Minister for Local Government in 2015. There will be further opportunity to provide comments on the provisions, once the Bill has been drafted.

As highlighted in the discussion paper the need for review has been driven by a number of imperatives including:

- Significant difficulties and confusion for council members in interpreting the current provisions of the Act regarding **Conflict of Interest**<sup>1</sup>;
- Different legal opinions on the interpretation of this part of the Act;
- A District Court judgement that provided a particular legal interpretation on one aspect of the provisions;
- Repeated calls by the SA Ombudsman for the Act to be amended to provide for **“Perceived” Conflicts of Interest**;
- For the most part, the current provisions provide for only one outcome for the disclosure of a conflict, that is, the council member must leave the council meeting room and not vote on the matter. It can be argued that this is too onerous for conflicts that are minor, but which nevertheless should be disclosed and recorded for the public interest;
- Confusion about the application of the exclusion clauses in s73(1) of the Act, regarding interests shared in common with a “... substantial proportion of ratepayers, electors or residents ...” or other “... substantial class of persons ...”;
- The current provisions allow unhelpful speculation about possible conflicts of interest from other council members and members of the public.

A copy of the discussion paper is attached as Appendix 1.

## DISCUSSION:

The proposals put forward in the discussion paper are based on the model used in Queensland. It focusses on two main types of interest: (i) a material personal interest; and (ii) a conflict of interests.

- A material personal interest** is the most important type of interest that would essentially mandate the same kinds of responses that exist in the current Local Government Act. That is a person must declare the interest, leave the chamber and refrain from voting. Significant penalties would apply for a breach of this provision.
- A conflict of interests** involves lesser types of interests, either real or perceived, and would permit a range of responses. These may include leaving the chamber but could equally allow a person to remain and vote on the issue. The choice would be one for the person with the conflict to make, but would require the person to disclose the interest, have the interest minuted and to provide reasons for taking the action that they choose to take.

<sup>1</sup> *Local Government Act 1999* Section 73, 74 and 75 of the Act

Importantly, a person would not be found to have either a material personal interest or a conflict of interest if the matter under discussion falls into the category of '**ordinary business matter of the Council**'. An ordinary business matter would be defined in the Act, but the discussion paper lists the 'ordinary business matters' used by the Local Government in Queensland.

Based on feedback provided by Elected Members it is recommended that the City of Marion supports the proposals put forward in the discussion paper.

## **CONCLUSION:**

Council members must always consider the public interest in any decisions or actions taken in their role as a council member. The proposals raised by the discussion paper aim to amend the current strict and inflexible approach that applies to almost all disclosures of interest in South Australia.

Appendix 1 – Copy of the 'Conflict of Interest Proposals' Discussion Paper

# **COUNCIL MEMBERS' PERSONAL INTERESTS**

## **DISCUSSION PAPER**

Proposals to Reform the 'Conflict of Interest'  
Provisions

*Local Government Act 1999*

December 2014

## **Acknowledgement**

The proposals contained in this Discussion Paper are based on the *Queensland Local Government Act 2009* and supporting papers. The Queensland Government and the Queensland Department of Local Government, Community Recovery and Resilience in particular, are acknowledged for this reason.

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## KEY PROPOSALS FOR CONSULTATION

### Introduction

This Discussion Paper has been prepared by the SA Office of Local Government and the Local Government Association of SA for the purpose of promoting discussion and ideas on the reform of the “Conflict of Interest” provisions of the *Local Government Act 1999*. The Discussion Paper is based on equivalent provisions in the Queensland *Local Government Act 2009* and comments are sought on whether:

- The approach contained in the Queensland Act is broadly appropriate for application in South Australia; and, if so,
- The provisions should be amended or adapted for South Australian conditions.

However, the proposals contained in the Discussion Paper do not have the formal endorsement of the Minister for Local Government or the Local Government Association of SA.

Consultation on this Discussion Paper will inform the preparation of a Local Government Act Amendment Bill for the Minister for Local Government in 2015. Submissions may wish to state whether the proposal is supported in full, not supported, or supported with amendments.

### Proposal 1 - The need for change

Reform of the “Conflict of Interest” provisions of the South Australian Local Government Act is required because of:

- Significant difficulties and confusion for council members in interpreting the current provisions of the Act regarding conflict of interest;
- Differing legal opinions on the interpretation of this part of the Act, including a recent District Court judgement;
- Repeated calls by the SA Ombudsman for the Act to be amended to improve transparency and greater disclosure of actual and potential conflicts of interest; and,
- The fact that the provisions have not been reviewed since 1999, and are out of step with contemporary public policy, and community expectations of public integrity.

### Proposal 2 - Importance of the “Public Interest”

This Discussion Paper is based on the fundamental principle that council members must always consider the public interest in any decisions or actions taken in their role as a council member. The private interests of the member must never prevail over the public interest.

### Proposal 3 - Two Categories of “Interest”

The proposed framework distinguishes between two major categories of council members’ personal interests: “**Material Personal Interest**” and “**Conflict of Interest**”.

#### 3.1 Material Personal interest

This category of personal interest applies to more significant matters which require the council members to not only disclose the interest, but also to leave the council meeting room and not participate in debate or vote on the matter. Material personal interests relate to benefits or losses to the council member or related person or entity. Failure to disclose a material personal interest attracts a significant penalty (including a possible term of imprisonment).

#### 3.2 Conflict of Interest

A conflict of interest (that is not a “material personal interest”) is a conflict between a council member’s personal interests and the public interest that might lead to a decision that is contrary to the public interest. A conflict of interest can be a **real conflict of interest** or a **perceived conflict of interest**. Conflicts of interest must be declared and recorded, but do not necessarily require the council member to leave the meeting and abstain from voting on the matter.

##### 3.2.1 Real conflict of interest

A *real conflict of interest* exists when the council member knows that she or he has a conflict of interest in the matter to be dealt with at the council meeting.

##### 3.2.2 Perceived conflict of interest

A perceived conflict of interest exists when an impartial, fair minded person (who knew nothing about the council member’s character or reputation) could form a reasonable opinion that the council member’s possible interest in the matter could influence the manner in which he or she would participate in the debate and/or vote on the matter. Regardless of the council member’s own views and knowledge, he or she is still required to consider if an impartial person could form a reasonable opinion that a conflict could exist.

### Proposal 4 - Actions to be Taken by the Council Member

In the case of a material personal interest, the council member must declare the interest, leave the meeting room and not participate in the meeting for the duration of that agenda item. The council member has no discretion.

In the case of a conflict of interest (real or perceived), the council member must disclose the interest, but is not necessarily required to leave the meeting. However, the council member must provide reasons if they choose to remain in the meeting and participate in the vote on the item, and these reasons must be recorded in the minutes of the meeting. Non-participation in the meeting is not the only way the councillor may appropriately deal with the real or perceived conflict of interest in a transparent and accountable way.

### **Proposal 5 - Ordinary Business Matters**

Council members should be able to fully participate, debate and vote on matters that are the statutory obligations of councils and form the basis of ongoing council operations. In the proposed framework, a council member does not have a material personal interest or a conflict of interest if the topic before the council meeting is an **Ordinary Business Matter** for the council. It is proposed that “ordinary business matters” will be prescribed in the Act and/or Regulations.

### **Proposal 6 - Other Exclusions**

A number of other exclusions for the requirement to declare a material personal interest or a conflict of interest are proposed and are set out in sections (4) and (5) of this Discussion Paper. More flexibility is provided for a conflict of interest than for a material personal interest.

### **Summary: Comparison with Current SA Provisions**

The South Australian legislation has only one category of interests that includes both material personal interests and real conflicts of interest and only one course of action for the council member after disclosure, that is, non-participation in that part of the meeting. This means that there is no explicit requirement in South Australia for members to disclose “perceived conflicts of interest”.

The key differences in the proposed model compared to the current situation are the separate categories of ‘personal interest’. The more significant material personal interests are subject to strict and deliberately inflexible procedures (notably non-participation in the meeting) and serious penalties as is currently the case for all matters in SA. This strict and inflexible approach current applies to almost all disclosures of interest in SA, that is, a “one size fits all” approach.

The proposed new approach would establish a second category of personal interest known as conflicts of interest which would still require disclosure and recording but leave open to the council member a range of options to manage the disclosed conflict, including participation in the meeting. The final key difference is that the proposed framework explicitly includes the concept of perceived conflict of interest in the second category of personal interests.

## 1. BACKGROUND

In South Australia, the *Local Government Act 1999* (the Act) establishes the legal framework governing the roles, duties and conduct of members of councils. In particular, Chapter 5, Part 4, Division 3 of the Act, titled *Conflict of Interest*, is the principal focus of this Discussion Paper.

While some parts of the Act have been subject to significant reform since 1999, this part has not. Also, since 1999, the public expectations and scrutiny, of councils generally, and council members in particular, has grown significantly. The increased level of scrutiny and investigation of councils and council members by the South Australian Ombudsman's office provides tangible evidence of this trend<sup>1</sup>. The introduction of the *Independent Commissioner Against Corruption Act 2012* (the ICAC Act) signalled an even sharper focus on ethical behaviour for public officials, including council members and council employees.

The *Local Government Act 1999* was also amended in 2012 to introduce mandated Codes of Conduct for council members and employees to be published by the Minister. Prior to this, councils were required to have Codes of Conduct but the actual content of the Codes was at the discretion of each council.

The Local Government Association of SA (LGA) has also been active in the promotion of governance, ethical behaviour and accountability in local government through, for example:

- Publication of Guidelines, Model Codes and similar tools to assist council members and staff in the exercise of their responsibilities;
- Extensive training and development programs<sup>2</sup>;
- Establishment of the Local Government Governance Panel to assist councils in the management of allegations of breached of codes of conduct.

Against this background, it is appropriate to thoroughly review the *Conduct and Disclosure of Interest* provisions of the Act because these should state as clearly as possible a council member's principal duty to act in the **public interest** (see part 2 of this Discussion Paper).

In addition to the need to review the provisions to make them more accurately reflect contemporary public policy, there are also practical imperatives driving the consideration of reforms. These imperatives include:

- Significant difficulties and confusion for council members in interpreting the current provisions of the Act regarding **Conflict of Interest**<sup>3</sup>;
- Different legal opinions on the interpretation of this part of the Act;
- A District Court judgement that provided a particular legal interpretation on one aspect of the provisions;

<sup>1</sup> Refer Ombudsman Annual Reports: <http://www.ombudsman.sa.gov.au/publications/annual-reports/>

<sup>2</sup> Noting that the amendments to the Act were passed in October in 2014 to make certain training and development topics mandatory for council members

<sup>3</sup> *Local Government Act 1999* Section 73, 74 and 75 of the Act

- Repeated calls by the SA Ombudsman for the Act to be amended to provide for **“Perceived” Conflicts of Interest**;
- For the most part, the current provisions provide for only one outcome for the disclosure of a conflict, that is, the council member must leave the council meeting room and not vote on the matter. It can be argued that this is too onerous for conflicts that are minor, but which nevertheless should be disclosed and recorded for the public interest;
- Confusion about the application of the exclusion clauses in s73(1) of the Act, regarding interests shared in common with a “... substantial proportion of ratepayers, electors or residents ...” or other “... substantial class of persons ...”;
- The current provisions allow unhelpful speculation about possible conflicts of interest from other council members and members of the public.

## 2. THE PUBLIC INTEREST

The fundamental role of council members is to serve and represent the interests of the community in their council area as a whole, rather than those of any particular section or interest group.

Council decisions are taken by the majority vote of council elected members at council meetings (including council committee meetings). The collective will and decision-making of the council is paramount and individual council members' views and responsibilities are secondary to the majority view of council.

In particular, council members need to be mindful of serving and representing the overall public interest when making decisions for the benefit of their communities. In the event of a conflict between the public and private interests of a council member and/or their associates or 'related persons', **the overall public interest must prevail**.

In order to reinforce this fundamental principle of public office, the *Local Government (Governance) Amendment Bill 2014* was passed in the Parliament on 28 October 2014 to enable the Minister for Local Government to make Regulations to stipulate the declaration to be made by council members pursuant to section 60 of the Act. The Regulation, made on 20 November 2014, states the required wording of the declaration:

*"I, [insert full name of member of the council], having been elected or appointed to the office of a member of [insert full name of council], undertake to faithfully and **impartially** fulfil the duties of office **in the public interest**, to the best of my **judgement** and abilities and **in accordance with the Local Government Act 1999**."*<sup>4</sup>

In addition, section 8 of the Act outlines the Principles to be observed by a council. Some extracts from section 8 pertaining to the primacy of the public interest are included below:

*"A council must act to uphold and promote observance of the following principles in the performance of its roles and functions—*

*(a) provide open, responsive and accountable government;*

*(b) be responsive to the needs, interests and aspirations of individuals and groups within its community;...*

*(g) manage its operations and affairs in a manner that emphasises the importance of service to the community;...*

*(j) achieve and maintain standards of good public administration;..."*

These principles to be observed by councils as the body corporate are also binding on individual council members.

<sup>4</sup> *Local Government (General) Regulations 2013: Schedule 1, Form 2*

In summary, this Discussion Paper is predicated on the acceptance of the fundamental principle that council members must always consider the public interest in any decisions or actions taken in their role as a council member. A democratically elected group of council members, by their nature, tend to have different backgrounds, experiences and belief systems that will influence the council members' contributions to the debates and decisions of the council. Regardless, the private interests of the member must never prevail over the public interest.

The Register of Interests to be completed by council members as required by Chapter 5, Part 4, Division 2 of the Act is an important part of the overall framework to protect the public interest. These registers are kept to enhance the transparency of councils' decision making so that the community can have confidence that decisions are being made in the overall public interest and are not made for the benefit of individual council members or any related persons.



### 3. THE PROPOSED FRAMEWORK - OVERVIEW

The proposed framework for the reform of the *Conflict of Interest* provisions of the Act aims to distinguish between two major categories of council members' personal interests, largely based on the Queensland legislative model. A subtle but important change of language (see underlined words below) is used to describe the two categories of interest:

#### 3.1 Material personal Interest

This category of personal interest applies to more significant matters which require the council members to not only disclose the interest, but also to leave the council meeting room and not participate in debate or vote on the matter. Material personal interests relate to benefits or losses to the council member or related person or entity. See section 4 of this paper for details. Failure to disclose a material personal interest attracts a significant penalty (including a possible term of imprisonment for a maximum period of two years).

#### 3.2 Conflict of Interest

This is the generic term used in the Queensland legislation to describe council members' interests which require disclosure, but do not **necessarily** require the member to leave the room and not participate in debate. A conflict of interest can be "real" (although obviously not a material personal interest as above) or "perceived". See section 5 of this paper for definitions and details. There are significant disclosure requirements on the member and the council including a requirement for a record in the Minutes on the member's reasons and the member's vote on the item (if relevant). There are no separate or specific penalties listed for failure to disclose a conflict of interest in this category. The Queensland legislation also contains this 'saving clause':

*"To remove any doubt, it is declared that non-participation in the meeting is not the only way the councillor may appropriately deal with the real or perceived conflict of interest in a transparent and accountable way."*<sup>5</sup>

#### 3.3 **Comparison with Current SA Provisions**

The South Australian legislation has only one category of interests that includes both material personal interests and real conflicts of interest (as defined in Queensland) and only one course of action for the council member after disclosure<sup>6</sup>, that is, non-participation in that part of the meeting. There is no explicit requirement in South Australia for members to disclose "perceived conflicts of interest".

As stated earlier, in the current South Australian scenario, council members who are uncertain about whether they may have a conflict often exercise caution, disclose a conflict and leave the room for minor matters. This is reinforced in guidance material provided to council members and the often used adage "... if in doubt, get out!"

<sup>5</sup> (Queensland) *Local Government Act 2009*: section 173(10)

<sup>6</sup> Note: there are some minor exclusions to this general rule: *Local Government Act 1999* section 74(4b)

In summary the key differences in the proposed framework compared to the current situation are the separate categorisations of 'personal interest'. The more significant material personal interests are subject to the strict and deliberately inflexible procedures (notably non-participation in the meeting) and serious penalties. This strict and inflexible approach current applies to almost all disclosures of interest in SA, that is, a "one size fits all" approach.

The proposed new approach would establish a second category of personal interest known as conflicts of interest which would still require disclosure and recording but leave open to the council member a range of options to manage the disclosed conflict, including participation in the meeting. The disclosure and transparency requirements for conflicts of interest can be significant because the council member has to provide reasons if they wish to continue to participate in the meeting and the voting details must also be recorded in the Minutes. The final key difference is that the proposed framework explicitly includes the concept of perceived conflict of interest in the second category of personal interests.

### 3.4 Ordinary Business Matters Exclusion

Regardless of how it is worded in different legislation, it is clearly the policy intention that council members should be able to fully participate, debate and vote on matters that are the statutory obligations of councils and form the basis of ongoing council operations. The most obvious example of this is the council's annual cycle of approving annual budgets and general rates. It must be recognised that a council member may experience a "loss" as an individual (if they are a ratepayer for the area) if the council makes a decision that results in the council member being liable for higher rates. However, it is clearly inappropriate that the council member be required to disclose an interest in this decision about general rates that impact on all ratepayers.

In South Australia, the Act deals with this issue in what can be argued is a relatively clumsy way. The following separate provisions are relevant in this context:

- Section 73(1) states that the council member does **not** have an interest if a benefit or detriment meets the following condition:

*"(not being a benefit or detriment that would be enjoyed or suffered in common with all or a substantial proportion of the ratepayers, electors or residents of the area or a ward or some other substantial class of persons)."*

- Section 74(4a)(a) relieves a council member from disclosing an interest and taking any subsequent action in the following circumstances:

*"(i) to questions relating to allowances or benefits that a council is empowered to pay to, or confer on, members, their spouses, domestic partners or members of their families; or*

*(ii) to matters of a class exempted by regulation from the provisions of those subsections; or*

*(iii) to matters in relation to which the Minister has granted an exemption from the provisions of those subsections;"*

In the proposed framework, this issue is dealt with in a much more direct and unambiguous way. In short, a council member does not have a material personal interest or a conflict of interest if the topic before the council meeting is an **Ordinary Business Matter** for the council<sup>7</sup>.

“Ordinary Business Matter” is defined as follows:

**“ordinary business matter means—**

- (a) the remuneration of councillors or members of a local government committee; or*
- (b) the provision of superannuation entitlements or accident insurance for councillors or local government employees; or*
- (c) the terms on which goods, services or facilities are to be offered by the local government for use or enjoyment of the public in the local government area; or*
- (d) the making or levying of rates and charges, or the fixing of a cost-recovery fee, by the local government; or*
- (e) a planning scheme, or amendment of a planning scheme, for the local government area; or*
- (f) a resolution required for the adoption of a budget for the local government; or*
- (g) a matter that is of interest to a person merely as—*
  - (i) an employee of the State or a government entity; or*
  - (ii) an elector, ratepayer or resident of the local government area; or*
  - (iii) a beneficiary under a policy of accident insurance, public liability or professional indemnity insurance held, or to be held, by the local government; or*
  - (iv) a user of goods, services or facilities supplied, or to be supplied, by the local government (whether under a contract or otherwise) as a member of the public in common with other members of the public; or*
  - (v) a candidate for election or appointment as a mayor, deputy mayor or member of a committee of the local government; or*
  - (vi) a member of a non-profit, charitable or religious organisation involving no personal financial gain or loss to the person.”<sup>8</sup>*

The definition of “Ordinary Business Decision” would need to be adapted to meet the requirements of the legislative requirements and other conditions for the South Australian Local Government sector.

<sup>7</sup> (Queensland) *Local Government Act 2009*: sections 172(1)(b) and 173(1)(b)

<sup>8</sup> (Queensland) *Local Government Act 2009*: Schedule 4: Dictionary pp271-2

## 4. MATERIAL PERSONAL INTEREST

The proposals in this section of the Discussion Paper are based on section 172 of the Queensland *Local Government Act 1999*. The Material Personal Interest provisions of the Queensland Act resemble the current “Conflict of Interest” provisions of the South Australian Act<sup>9</sup> and cover the higher threshold matters and sanctions. Section 5 of this paper discusses the provisions for lower threshold matters that exist in the Queensland Act.

The Material Personal Interest requirements specifically apply to all council meetings and council committee meetings, unless the exclusions in 4.2 apply.

### 4.1 Definition of “Material Personal Interest”

A council member has a **material personal interest** in the matter if any of the following persons stands to gain a benefit, or suffer a loss, (either directly or indirectly) depending on the outcome of the consideration of the matter at the meeting:

- the council member;
- a spouse of the council member;
- a parent, child or sibling of the council member;
- a partner of the council member;
- an employer (other than a government entity) of the council member;
- an entity (other than a government entity) of which the council member is a member;
- another person prescribed under a regulation.

The use of the words “Material” and “Personal” is considered significant to bring focus to the more serious interests, rather than the more generic term, “conflict of interest” used in South Australia. While the word “Material” is not defined in the Queensland legislation, its dictionary meaning<sup>10</sup> provides a clear indication that it relates to matters of substance, not trivia.

### 4.2 Exclusions

The Material Personal Interest provisions do not apply in the following circumstances:

- The matter to be discussed is an **ordinary business matter** for the council (see 3.4 above).
- The council member has no greater personal interest in the matter than that of other persons in the local government area.
- The definition that relates to “parents, children or siblings” only applies to a council member if the council member knows, or ought reasonably to know,

<sup>9</sup> Sections 73 - 75

<sup>10</sup> “of substantial import or much consequence”: Macquarie Concise Dictionary: Third Edition

that their parent, child or sibling stands to gain a benefit or suffer a loss.

- Written approval is provided by the Minister, including any conditions specified in that approval.<sup>11</sup>

#### **4.3 What the Council Member Must Do**

If a council member has a material personal interest in a matter under 4.1 and the exclusions under 4.2 do not apply, the council member must:

- inform the meeting of their material personal interest in the matter; and
- leave the meeting room (including any area set aside for the public), and stay out of the meeting room while the matter is being discussed and voted on.

#### **4.4 Penalties**

Two penalty thresholds are proposed if a councillor fails to take the necessary action under section 4.3:

- A more severe maximum penalty (significant fine or imprisonment) if the council member votes on the matter with an intention to gain a benefit, or avoid a loss, for the councillor or someone else defined in 4.1 above.
- A less severe fine for any other breach of the section.

#### **4.5 Recording Requirements**

The following information must be recorded in the minutes of the meeting, and on the council's website:

- the name of the council member who has the material personal interest, or possible material personal interest, in a matter;
- the nature of the material personal interest, or possible material personal interest, as described by the council member; and
- whether the councillor took part in the meeting, or was in the chamber during the meeting, with the written approval of the Minister (refer 4.2 above).

#### **4.6 Interpretation of the Word "Matter"**

Both the Queensland and current South Australian legislation use the word "matter" to identify the particular aspect of business that may give rise to a material personal interest.

A recent judgement in the South Australian District Court found that the word "matter" was to be interpreted narrowly so that the council member's benefit or detriment had to be attached only to the specific item of business at the particular meeting where the matter was discussed (and not some subsequent action or resolution of the council related to the "matter"). Please refer to the citation in the footnote to access the full judgement.

<sup>11</sup> The Queensland Act cites possible ground for Ministerial approval being:

- the number of council members caught by the provision might "obstruct the conduct of the meeting"; and/or
- it appears to the Minister to "be in the interests of the local government area" to grant the approval

It is proposed to seek legal advice on whether or not consideration should be given to amending the Act in the light of this judgement and/or whether the proposed inclusion of a category of **perceived conflict of interest** (see section 5) might adequately deal with the issues raised in the case.

## 5. CONFLICT OF INTEREST

The second part of the Queensland scheme, also proposed for adaptation to South Australia, is set out in section 173 of the Queensland Act and is termed “Conflict of Interest”. The Conflict of Interest requirements specifically apply to all council meetings and council committee meetings, unless the exclusions in 5.2 apply. In contrast to Material Personal Interests dealt with in section 4, this category of interest includes the lower threshold matters.

### 5.1 Definitions

A **conflict of interest** is a conflict between a council member’s personal interests and the public interest that might lead to a decision that is contrary to the public interest.

A conflict of interest can be a **real conflict of interest** or a **perceived conflict of interest**.

A *real conflict of interest* exists when the council member knows that she or he has a conflict of interest in the matter to be dealt with at the council meeting.

A *perceived conflict of interest* exists when the council member could reasonably be taken to have a conflict of interest in the manner. Put another way, the council member is required to consider **whether an impartial, fair minded person** (who knew nothing about the council member’s character or reputation) **could form a reasonable opinion** that the council member’s possible interest in the matter could influence the manner in which he or she would participate in the debate and/or vote on the matter. Note the bolded words in this paragraph regarding *perceived conflict of interest*. Regardless of the council member’s own views and knowledge, he or she is still required to consider if an impartial person could form a reasonable opinion that a conflict could exist.

Because *conflict of interest* does not include *material personal interests* (as this must be dealt with under the strict rules summarised in section 4), there is no specific reference to relatives, business partners, employers etc in relation to conflict of interest. However, these associations would still need to be taken into account by the council member when determining if they had a real or perceived conflict of interest in a matter.

### 5.2 Exclusions

The conflict of interest provisions do not apply in the following circumstances:

- The matter to be discussed is an ordinary business matter for the council (see 3.4 above);
- A conflict of interest does not necessarily arise merely because of:
  - an engagement with a community group, sporting club or similar organisation undertaken by the council member in his or her capacity as a council member; or
  - membership of a political party; or

- membership of a community group, sporting club or similar organisation if the council member is not an office holder for the group, club or organisation; or
- the councillor's religious beliefs; or
- the council member having been a student of a particular school or the councillor's involvement with a school as parent of a student at the school; or
- A conflict of interest does not arise if the council member has no greater personal interest in the matter than that of other persons in the local government area;
- A council member who is nominated by a council to be a member of a board of a corporation or other association does not have a personal interest merely because of the nomination or subsequent appointment as the member.

### 5.3 What the Council Member Must Do

If a council member has a conflict of interest in a matter under 5.1 and the exclusions under 5.2 do not apply, the minimum requirements are that the council member must inform the meeting of:

- the council member's personal interest in the matter; and,
- **if the council member participates in the meeting** in relation to the matter, how the council member intends to deal with the real or perceived conflict of interest. For example, the council member could:
  - make a personal statement; and/or
  - remain in the meeting and vote on the matter; or
  - remain in the meeting but leave before the vote is taken on the matter;

**Note:** It is also still open to the council member to declare the conflict of interest, leave the room and not vote on the matter, if the member believes this is the most appropriate mechanism to manage the conflict.

### 5.4 Penalties

There are no **separate or specific penalties** for a breach of this part in the Queensland legislation.

If this model is adopted in SA, any alleged breach of the conflict of interest provisions would be considered as an alleged breach of the "general duties"<sup>12</sup> of a council member and/or an alleged breach of the council members' code of conduct<sup>13</sup> under Chapter 5, Part 4, Division 1 of the Act.

Such allegations must be investigated by the Ombudsman<sup>14</sup> who may make recommendations to the council about appropriate "penalties"<sup>15</sup> for the council member(s) where allegations are substantiated by the Ombudsman's investigation.

<sup>12</sup> Section 62 of the SA Act

<sup>13</sup> Section 63 of the SA Act

<sup>14</sup> Section 263A of the SA Act

<sup>15</sup> Section 263B(1) of the SA Act.



In the more serious cases this can include the laying of a complaint about the council member in the District Court which could result in penalties including fines, suspension from office and disqualification<sup>16</sup>.

## **5.5 Recording Requirements**

If a council member discloses a real or perceived conflict of interest, the following information must be recorded in the minutes of the meeting and on the council's website:

- the name of the council member who has the real or perceived conflict of interest;
- the nature of the personal interest, as described by the council member;
- how the council member dealt with the real or perceived conflict of interest;
- if the council member voted on the matter, how she or he voted;
- how the majority of persons who were entitled to vote at the meeting voted on the matter.

## **5.6 Transparency versus non-participation**

As stated in section 3.2 of this Discussion Paper, the proposed model places a much greater emphasis on the disclosure and recording of real and perceived conflicts of interest, including the public recording of the council members management of their interest and the way they voted on the matter. This is reinforced by the following clause from the Queensland legislation:

*“To remove any doubt, it is declared that non-participation in the meeting is not the only way the councillor may appropriately deal with the real or perceived conflict of interest in a transparent and accountable way”.*<sup>17</sup>

<sup>16</sup> Section 267 of the SA Act

<sup>17</sup> Section 173(10) Queensland Act

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** Anna White, Team Leader Community Safety Inspectorate

**Corporate Manager:** Margi Whitfield, Manager Community Participation

**Director:** Vincent Mifsud

**Subject:** Dog Registration Fees 2015/16

**Report Reference:** GC240215R06

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**REPORT OBJECTIVES AND EXECUTIVE SUMMARY:**

The purpose of this report is to provide Council with background and current information regarding dog registration fees and to recommend that Council approve an increase in the annual dog registration fees over the next three financial years.

The City of Marion currently has a standard dog registration rate of \$60. The Minister for Sustainability, Environment and Conservation has set the dog registration fee cap to \$85 per annum, effective 1<sup>st</sup> July 2014. As the costs associated with the management and administration of dogs continues to rise each year it is recommended that Council incrementally increase the annual standard registration fee over the next three financial years within the new fee cap set by the Minister.

**RECOMMENDATIONS (3)**

**DUE DATES**

**That Council:**

- |   |                    |
|---|--------------------|
| 1. Receives and notes this report.  | <b>24 Feb 2015</b> |
| 2. Subject to approval by the Minister for Sustainability, Environment and Conservation increase the standard rate registration fee effective from 1 <sup>st</sup> July over the next three years to: | <b>24 Feb 2015</b> |
| <ul style="list-style-type: none"> <li>• Financial year 2015/16 \$70.00</li> <li>• Financial year 2016/17 \$80.00</li> <li>• Financial year 2017/18 \$85.00</li> </ul>                                | <b>24 Feb 2015</b> |
| 3. Increase the fees for concessional dog registration in line with the rise in standard dog registration (Appendix 1)  |                    |

**BACKGROUND:**

Under the Dog and Cat Management Act, 1995 (SA), all dogs over three months of age must be registered and must then be re-registered each year. Registration expires on 30<sup>th</sup> of June each year. The Act allows Councils to set their own standard rate registration fee within the prescribed fee range as set by the Dog and Cat Management Board and to offer a range of concessions. All fees must be approved by the Minister for Sustainability, Environment and Conservation.

Since 2013, the City of Marion has charged \$60.00 as the standard rate registration fee and has offered a range of concessions. (See Appendix 1 for current and proposed dog registration fees). Registration fees do not provide full cost recovery relating to the management of dogs.

The Minister for Sustainability, Environment and Conservation, in recognition of the rising costs to Councils, has approved an increase to the maximum standard dog registration fee that can be charged by Councils effective 1<sup>st</sup> July 2014. The current maximum standard rate registration fee able to be charged by councils is \$85.00. The previous maximum standard registration rate was \$60.00.

As the costs associated with the management and administration of dogs continues to rise it is recommended that Council increase the annual standard rate registration fee accordingly.

The table below summarises the income and expenditure in relation to dog management. It also shows the estimated impact of an increase in registration:

<b>Expenditure and Income for Animal Management</b>					
Year	2013/14 (Actual)	2014/15 (Budget)	2015/16 (Budget)	2016/17 (Budget)	2017/18 (Budget)
Animal Management Expenditure (Budgeted) relating to dogs	\$642,032	\$727,780	\$685,415	\$704,333	\$721,698
Income (Registrations and expiations)	\$438,577	\$438,240	\$487,621	\$547,621	\$577,621
Net Cost	\$203,455	\$289,540	\$197,794	\$156,712	\$144,077
Cost Recovery %	68%	60%	71%	77%	80%
Registered Dogs	13,285	13,285	13,285	13,285	13,285

The number of dogs registered in City of Marion is fairly consistent but the mix between desexed, trained and/or microchipped dogs varies. It is predicted that as responsible dog owners become aware of the discounts available for the above categories that the number of dogs in these categories may change. As the numbers of dogs in the discount categories increase then income gained from increased dog registration fees will proportionately reduce.

The Minister has capped the maximum standard dog registration fee at \$85.00 and it is recommended that the standard fee is increased by \$10.00 per annum for the next two financial years and \$5.00 for 2017/18 effective from 1<sup>st</sup> July each year. This small incremental annual increase coupled with the concessions offered (see Appendix 1) is a more manageable amount for dog owners to financially absorb and is considered fair and reasonable given the increasing cost of animal management relating to dogs. Research has also confirmed that the recommended increased fee would be within range of other Councils:

<b>Council (14/15 financial year)</b>	<b>Current Standard Registration Fee</b>	<b>Standard Approved Fee 2015/16</b>
<b>City of Marion</b>	<b>\$60.00</b>	\$70 - proposed
Onkaparinga	\$60.00	Unknown
Mitcham	\$70.00	\$80
West Torrens	\$65.00	\$70-75 (TBD)
Holdfast	\$65.00	\$70
City of Charles Sturt	\$65.00	\$70-75 (TBD)
Salisbury	\$60.00	\$60 (TBD)
Port Adelaide Enfield	\$65.00	Unknown (TBD)
Unley	\$60.00	\$70 (TBD)

It is also recommended that the range of concession rates is increased in line with the standard rates for each of those years to assist with meeting the cost of animal management relating to dogs. (See Appendix 1 for the proposed dog registration fees to be increased to the nearest dollar.)

## **ANALYSIS:**

### **Legal / Legislative and Risk Management**

South Australian Councils have a range of responsibilities and legal requirements under the Dog and Cat Management Act, including receiving dog registrations and issuing identification for registered dogs and maintaining a register of dog registrations. Under the Act, all income received from dog registration fees must be spent on the management of dogs.

### **Financial Implications**

If the standard rate dog registration fee increases are approved, annual budgets will be adjusted in the Draft Annual Business Plan and Budget 2015/16 and the fees and charges schedule updated accordingly.

Each year, 20% of dog registration fees (approximately \$82,000) are paid to the Dog and Cat Management Fund, which is administered by the Dog and Cat Management Board. All other money received by Council under the Dog and Cat Management Act is used to fund the cost of administration and enforcement of the Act, relating to dogs.

### **Economic Impact**

Concession rates are offered to pensioners and other people within the community who are on a limited income, which will reduce the financial impact of the recommendations to these residents.

## **CONCLUSION:**

Due to the cost of the administration of the Dog and Cat Management Act 1995 relating to dogs, it is recommended that the standard rate registration fee be increased to:

- \$70.00 for 2015/16
- \$80.00 for 2016/17
- \$85.00 for 2017/18

The range of concession rates will be increased in line with the rise in standard dog registration fees, to assist with meeting the cost of animal management relating to dogs. It is recommended that these increases commence during the 2015/16 financial year and be effective from 1<sup>st</sup> July in each year.

Following Council approval, the new proposed schedule of fees will be submitted to the Dog and Cat Management Board office for processing through the Minister for Sustainability, Environment and Conservation's office for approval.

<b>Dog Registration Fees for current year and proposed Dog Registration Fees for 2015/16, 2016/17 and 2017/18</b>					
Types of Registration	Current	Percentage rebate	Proposed 2015-2016	Proposed 2016-2017	Proposed 2017-2018
Standard Rate	\$60		\$70	\$80	\$85
Standard Rate - Desexed	\$36	40%	\$42	\$48	\$51
Standard Rate - Microchipped	\$54	10%	\$63	\$72	\$76
Standard Rate - Trained	\$54	10%	\$63	\$72	\$76
Standard Rate - Trained & Desexed	\$30	50%	\$35	\$40	\$42
Standard Rate - Desexed & Microchipped	\$30	50%	\$35	\$40	\$42
Standard Rate - Microchipped & Trained	\$48	20%	\$56	\$64	\$68
Standard Rate - Desexed, Microchipped & Trained	\$24	60%	\$28	\$32	\$34
Concession	\$30		\$35	\$40	\$42
Concession Rate - Desexed	\$18	40%	\$21	\$24	\$25
Concession Rate - Microchipped	\$27	10%	\$31	\$36	\$38
Concession Rate - Trained	\$27	10%	\$31	\$36	\$38
Concession Rate - Trained & Desexed	\$15	50%	\$17	\$20	\$21
Concession Rate - Desexed & Microchipped	\$15	50%	\$17	\$20	\$21
Concession Rate - Microchipped & Trained	\$24	20%	\$28	\$32	\$34
Concession Rate - Desexed, Microchipped & Trained	\$12	60%	\$14	\$16	\$17
Working Dogs	\$15	75%	\$17	\$20	\$21
Greyhound Racing	\$15	75%	\$17	\$20	\$21
Guide & Therapy Dogs	\$0	N/A	\$0	\$0	\$0
Transfer of Registration	\$9	N/A	\$9	\$9	\$9
Replacement Tag	\$9	N/A	\$9	\$9	\$9

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 FEBRUARY 2015**

**Originating Officer:** Steve Hooper, Manager Development Services

**Director:** Kathy Jarrett

**Subject:** Development Assessment Panel – Expiry of two current Independent Panel Members Terms.

**Report Reference:** GC240215R07

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**REPORT OBJECTIVES:**

The terms of two current Independent Members of the Development Assessment Panel (DAP) including the Presiding Member expire on 28 May 2015.

When nearing the end of an Independent Member's term, a resolution from Council to advertise open positions is required.

Council also needs to establish a Review Panel to shortlist candidates, conduct interviews and formulate recommendations for appointment to Council.

**RECOMMENDATIONS (4)**

**DUE DATES**

- |   |          |
|---|----------|
| 1. That Council seeks candidates to fill the two impending vacant Independent Member positions of the Development Assessment Panel (DAP) by placing an advert in the Advertiser Newspaper for a two year term commencing 29 May 2015.   | May 2015 |
| 2. That the recruitment process, including during advertising and interviews provide opportunity for  | May 2015 |
| <ul style="list-style-type: none"> <li>- Council to express its view regarding the openness and transparency of DAP operations such that it is preferable that discussions, deliberations and the determination of development applications take place in public unless the provisions of Sections 56A(12)(a) of the Development Act 1993 apply;</li> </ul> | May 2015 |
| <ul style="list-style-type: none"> <li>- Candidates to express their views on deliberations and determinations of the DAP taking place in public;</li> </ul>  | May 2015 |
| <ul style="list-style-type: none"> <li>- Council, in making appointments to the DAP, to also take into account the requirements set out in Section 56A(3)(c)(ii) of the Development Act 1993 having regards to, among other things, an applicant's relevant knowledge, qualifications and experience in relation to the activities of the DAP.</li> </ul>   |          |

3. That a review Panel, comprising Councillor ....., Councillor ..... and Councillor ..... shortlist candidates for interview, conduct interviews and formulate recommendations for appointment (including the Presiding Member) to Council.
4. That expressions of interest from shortlisted candidates and the two remaining current Independent Members of the Panel be sought for the Presiding Member's role.

## **BACKGROUND**

Section 56A(3)(a) of the Development Act 1993 prescribes that a Development Assessment Panel must consist of 7 members unless approval of the Minister has been sought for an alternative number of members.

Section 56A(3)(b) prescribes that the Presiding Member will be appointed by the Council, must not be a member or officer of the Council and shall be a person who is determined by the Council to have a reasonable knowledge of the operation and requirements of the Act and appropriate qualifications or experience in a field that is relevant to the activities of the Panel.

The Presiding Member must therefore be an Independent Member of the Panel. The current Presiding Member is Rebecca Thomas.

Section 56A(3)(c) of the Development Act, 1993 provides that up to half of the remaining members (3 of the remaining 6) may comprise Council members. Currently, there are 3 Elected Members on the Panel with terms that end on 1 December 2015.

Accordingly, the remaining 3 members of the Panel must be Independent Members. Currently Phil Smith, Wendy Bell and Jenny Newman fulfil these roles. The terms of Rebecca Thomas and Jenny Newman expire on 28 May 2015, whilst the terms of the other two members expire on 28 May 2016.

With the impending conclusion of an Independent Members term, past practice has been to advertise the positions and establish a review panel to shortlist candidates, conduct interviews and make recommendations to Council. Ms Newman and Ms Thomas are eligible to re-apply and seek re-appointment.

## **ANALYSIS:**

### **Independent Member Recruitment**

At its meeting on 27 January 2015, and in reference to the "Think Design Deliver" Expert Panels recommended legislative reform to create regional planning boards, Council resolved to write to Minister Rau reinforcing that any planning authority should include measures that ensure transparency for the public interest (including their deliberations).

It follows that Council's position equally applies to its own Development Assessment Panel as it does to other planning authorities.

Recent legal advice from Norman Waterhouse has confirmed that Council can express its view regarding openness and transparency through the recruitment process including in any advertisement and the position of potential candidates can be sought and considered as part of the interview process.

Given the above, it is recommended that any advertisement for independent members include reference to Councils view regarding the openness and transparency of DAP operations.

A Review Panel established by Council will receive administrative support from Council's Manager Development Services and the Executive Officer of the Development Assessment Panel throughout the recruitment process.

The interview process will also be structured such that it also takes into account the requirements set out in Section 56A(3)(c)(ii) (as detailed hereunder) of the Development Act 1993 having regard to, among other things, an applicant's relevant knowledge, qualifications and experience having regard to the activities of the DAP:

### **Section 56A(3)(c)(ii)**

#### **56A—Councils to establish development assessment panels**

- (3) *The following provisions will apply in relation to the constitution and membership of a council development assessment panel:*
  - (c) *the remaining members of the panel will be appointed by the council taking into account the following requirements:*
    - (ii) *with respect to the members of the panel who are not within the ambit of subparagraph (i):*
      - (A) each must be a fit and proper person to be a member of a council development assessment panel; and
      - (B) subject to any provision made by the regulations, each must be a person who is determined by the council to have a reasonable knowledge of the operation and requirements of this Act, and appropriate qualifications or experience in a field that is relevant to the activities of the panel; and
      - (C) the qualifications and experience of these members, when considered in conjunction with the qualifications and experience of the presiding member, must provide a reasonable balance across the fields that are relevant to the activities of the panel;
  - (d) the council—
    - (i) must, unless granted an exemption by the Minister, ensure that at least 1 member of the panel is a woman and at least 1 member is a man; and
    - (ii) should, insofar as is reasonably practicable, ensure that the panel consists of equal numbers of men and women;

### **Financial Implications**

Fees for all Panel members are included in the budget each year. At present, the Sitting Fees for Panel members per meeting are; Presiding Member \$500, Independent Members \$400 and Elected Members \$200. The sitting fees were last reviewed in April 2014 and were demonstrated to generally be consistent with other Councils. The sitting fees are therefore not considered to warrant reviewing at this point in time.



**CONCLUSION:**

Independent Members of the Development Assessment Panel are usually appointed for two year terms (the maximum term of office under the Development Act).

The current terms of two of the four Independent Members expires on 28 May 2015.

Council needs to either re-appoint the current Independent Members or seek applicants for the impending vacant positions. Council also needs to seek nominees from Council to form a Review Panel.

Thereafter, the Review Panel will make recommendations to the Council on the appointment of two Independent Members to the Panel, as well as a Presiding Member.

Having regard to recent legal advice, Council can specify a desire for open and transparent decision-making through the recruitment process as incorporated into the recommendations.

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** Victoria Moritz, Governance Officer

**Corporate Manager:** Kate McKenzie, Manager Governance

**Director:** Kathy Jarrett

**Subject:** LGA General Meeting 2015 – Proposed Council Notices of Motion

**Reference No:** GC240215R08

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**REPORT OBJECTIVE**

The purpose of this report is to consider Notice of Motions for forwarding to the Local Government Association (LGA) for consideration at the Local Government General Meeting and to nominate a Voting Delegate.

**EXECUTIVE SUMMARY:**

Elected Members were asked to forward proposed motions to Administration by 6 February 2015 for further consideration at the 24 February 2015 General Council meeting. The LGA General Meeting will be held at the Adelaide Convention Centre, North Terrace, Adelaide on Thursday 30 April and Friday 1 May.

**RECOMMENDATIONS: (4)**

**DUE DATE:**

**That:**

- |  |                  |
|--|------------------|
| 1. Council notes the report “LGA General Meeting 2015 – Proposed Council Notices of Motion”  | 24 February 2015 |
| 2. Council submits the following motion to the Local Government Association for consideration at the Local Government Association General Meeting to be held on Friday 1 May 2015:   | 20 March 2015    |
| <ul style="list-style-type: none"> <li>• <i>'That the General Meeting requests the LGA to continue to advocate an amendment to the Local Government Act 1999 to amend Division 2 regarding Register of Interests to enable an Elected Member's residential address to be suppressed under special circumstances.'</i></li> </ul> | 20 March 2015    |
| 3. On submitting the motions to the Local Government Association, the Chief Executive Officer be authorised to amend the wording (without changing the meaning or purpose of the motion) if required.  | 2 April 2015     |
| 4. The nominated Council Voting Delegate for this meeting is and that the Proxy Delegate for this meeting is <b>XXXX</b>   |                  |

## **BACKGROUND:**

The 2015 LGA General Meeting will be held on Friday 1 May 2015 at the Adelaide Convention Centre, North Terrace, Adelaide. Pursuant to the LGA Constitution, Councils have been invited to submit Notices of Motion for consideration at the General Meeting.

All Notices of Motion from Councils must be received by the Executive Director of the LGA by no later than 12.00 noon Friday 20 March 2015.

Notices of motion must be on the required form setting out:

- Reference to the LGA Strategic Plan 2011 - 2015
- Subject / Title of the Issue
- Background / Intended Purpose

## **ANALYSIS:**

### Voting Delegate

At the City of Marion, historically the Mayor has been the Voting Delegate and Deputy Mayor has been proxy. However all Elected Members are eligible to be the Voting Delegate or Proxy. Pursuant to Rule 36 of the LGA Constitution only persons who are Council Members are eligible to be Voting Delegate. Voting Delegate Nomination forms are due the LGA by 2 April 2015.

### Motions

One (1) motion has been received from Elected Members which was:

#### **Motion: Register of Interests - Elected Member's residential address**

*'That the General Meeting requests the LGA to continue to advocate an amendment to the Local Government Act 1999 to amend Division 2 regarding Register of Interests to enable an Elected Member's residential address to be suppressed under special circumstances.'*

Prior to submitting any Notices of Motion, the LGA requires Councils to consult with the LGA to clarify any existing policy positions, and to ascertain the current status of any associated matters being addressed by the LGA. This also includes advice as to whether another Council has already submitted a similar Notice of Motion. The LGA has previously advised that this issue is included in the list of issues for the Bill to amend the Local Government Act, which is due to be introduced into Parliament in May. However noted that if Council puts this motion up and the Ordinary General Meeting votes against it, the LGA will be in a difficult position and will not be able to continue to pursue the change.

## **CONCLUSION:**

If Council choose to submit a Notice of Motion for the 2015 LGA General Meeting, the appropriate documentation will be completed and forwarded to the LGA by the due date of 12.00 noon Friday 20 March 2015.

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** Jaimie Thwaites, Unit Manager Council Support

**Corporate Manager:** Kate McKenzie, Manager Governance

**Director:** Kathy Jarrett

**Subject:** Elected Member Liaison for the Marion RSL and Glenelg Plympton RSL

**Reference No:** GC240215R09

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**REPORT OBJECTIVE AND EXECUTIVE SUMMARY:**

Elected Members are involved, as Council liaisons to a range of external bodies which comprise community groups, school councils, management committees etc. These bodies are generally incorporated bodies (and thus legally constituted) that operate separately to Council's operations. Liaison with such external bodies is an important role for Elected Members in that it provides leadership within the community, and helps build the community's capacity and resilience.

Correspondence has been received from the Marion Returned & Services League of Australia (Marion RSL) requesting a Council liaison and the Plympton Glenelg Returned & Services League of Australia (Plympton Glenelg RSL) has been contacted to see if they would like the same.

Accordingly, the purpose of this report is to seek nominations from Elected Members to act as Council liaison for the Marion RSL and Plympton Glenelg RSL for a period of up to two years.

**RECOMMENDATIONS (3):**

**DUE DATES:**

**That:**

- |   |             |
|---|-------------|
| 1. Council endorses the nomination of Councillor _____ to act as Council liaison to the Marion Returned & Services League of Australia for a period of up to two years, to be reviewed by January 2017.           | 24 Feb 2015 |
| 2. Council endorses the nomination of Councillor _____ to act as Council liaison to the Plympton Glenelg Returned & Services League of Australia for a period of up to two years, to be reviewed by January 2017. | 24 Feb 2015 |
| 3. The Marion Returned & Services League of Australia and Plympton Glenelg Returned & Services League of Australia be advised of the above resolutions.   | Mar 2015    |

## **BACKGROUND:**

At the 9 December 2014 General Council meeting, Council reviewed its nominated representatives to a number of external bodies (Report Reference GC091214R07).

Since that time the Marion Returned & Services League of Australia (Marion RSL) has written to Council requesting that Councillor Janet Byram be appointed as their Council liaison due to her previous service to the Army. The letter is attached as Appendix 1.

Administration has contacted the Marion RSL and confirmed that if more than one Elected Member is interested in being the Council liaison they will accept more one.

Following the request from the Marion RSL, the Plympton Glenelg Returned & Services League of Australia (Plympton Glenelg RSL) was also contacted about having a Council Liaison Officer. The Plympton Glenelg RSL confirmed that they are interested in having a Council Liaison appointed.

## **DISCUSSION:**

The liaison roles are structured to assist in communication and exchange of information between the Council and the external body concerned. Elected Members are not appointed as members of the external body and do not have any voting rights when matters are brought before the body for decision.

The liaison approach, rather than a formal appointment to the external bodies has been the preferred method as voting members on external bodies, Elected Members must make decisions on behalf of, and in the best interests of the external body, and not on behalf of, or in the interests of Council. This circumstance has the potential to create a conflict of interest between an individual's role as a City of Marion Elected Member, and their role as a member of the external body.

As non-voting liaison to an external body, an Elected Member can, with the agreement of the external body concerned:

- Act as the point of contact for Council
- Observe and participate in discussions at a meeting of the external body
- Act as an information provider from Council to the external body and vice-versa
- Act as an advisor, mentor and support for the external body;
- Support Council's approach to any matters associated with the external body

If Council chooses to nominate one or more Elected Member liaison to the Marion RSL and Plympton Glenelg RSL for a period of up to two years then these appointments could be reviewed at the same time as the other Council Liaison roles.

## **CONCLUSION:**

Elected Member involvement as Council liaisons to Marion RSL and Plympton Glenelg RSL provides an ideal opportunity not only for leadership within the community and helping to build community capacity and resilience, but also the opportunity to hear the views of the community on many and varied topics.



**The Returned & Services League of Australia**  
**MARION SUB-BRANCH INC.**

31-39 Norfolk Road  
MARION SA 5043  
Email: [admin@marionrsl.com.au](mailto:admin@marionrsl.com.au)  
Phone: 08 8296 4535  
Fax: 08 8296 3101  
ABN 82 963 847 803

15 January 2015

Ms. Kathy Jarret  
Marion City Council  
PO Box 21  
OAKLANDS PARK SA 5046

RECEIVED	
CITY OF MARION	
INFORMATION	MENT
18 JAN 2015	
Original <input type="checkbox"/>	
Fwd: <input type="checkbox"/>	
File No: 10.85-1-1	
2	5 6 7 8 10 P

Dear Ms. Jarret,

**Liaison Councillor for Marion RSL**

I understand that you are the person responsible for the allocation of Liaison Councillors for the City of Marion.

Due to her previous service in the Army we would like to request that Janet Byram be appointed as the Liaison Councillor to the Marion RSL. We are currently the major ex-service organisation in the Marion Council area and the custodians of the Marion Cenotaph and Honour Board for WW1.

We trust that you will be able to view our request favourably and look forward to your decision,

Yours sincerely,

Bruce Wright  
Secretary Manager

Email address: [secretary@marionrsl.com.au](mailto:secretary@marionrsl.com.au)

SCANNED

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** Jaimie Thwaites, Unit Manager Council Support

**Corporate Manager:** Kate McKenzie, Manager Governance

**Director:** Kathy Jarrett

**Subject:** Elected Member Private Email Accounts – Ombudsman Advice

**Report Reference:** GC240215R10

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**REPORT OBJECTIVES:**

To inform Council of the SA Ombudsman's advice in relation to the use of personal email accounts and Council's obligations under the *State Records Act 1997*.

**EXECUTIVE SUMMARY:**

Correspondence has been received from Mr Wayne Lines, SA Ombudsman dated 7 January 2015, drawing attention to the matter of council member use of private email address for conducting council business and the requirements of the *State Records Act 1997* (refer Appendix one).

In the letter the Ombudsman recommends that all councils should consider a relevant Elected Member Records Management Policy in the first year of elected office. As such, Administration will prepare a draft policy regarding Elected Members Records Management for Council to consider in the near future.

The Ombudsman's letter serves as a reminder that under Section 5 of the *State Records Act 1997* council '*must ensure that official records of enduring evidential or informational value are preserved for future reference*'.

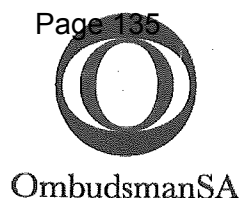
**RECOMMENDATION (1)**

**DUE DATES**

**That :**

- 1. Council note the attached correspondence from Mr Wayne Lines, SA Ombudsman regarding 'Personal email accounts and council members'.**

**24 Feb 2015**



RECEIVED									
CITY OF MARION									
DEPT. OF RECORDS & INFORMATION									
08 JAN 2015									
Original fwd: <input type="checkbox"/>									
File No: 10-46-1-1									
2	5	6	7	8	10	P			

Enquiries: Mr Kym Davey  
 Telephone: (08) 8226 8681  
 Ombudsman reference: AF2014/000124

Mr Mark Searle  
 Chief Executive Officer  
 City of Marion  
 PO Box 21  
 OAKLANDS PARK SA 5046

Dear Mr Searle

### Personal email accounts and council members

I write to you on the matter of council member use of private email addresses for contact with residents and ratepayers and for council business.

In recent months my office has received complaints that some council members appear to be using private email addresses for contact with residents and ratepayers and for council business.

In one instance, my office has investigated such a complaint and found the council had been wrong to permit the forwarding of emails to private email addresses without ensuring that the necessary practice and policies were put in place to prevent breaches of the *State Records Act 1997*. The council has now rectified the problem.

The purpose of this letter is to remind all council members of their obligations under the State Records Act, and to encourage councils to take steps to ensure that all council members use their council provided email addresses. I have sent letters to this effect to all other councils and Ms Wendy Campana of the Local Government Association of South Australia (LGA).

**I would appreciate you tabling this letter at the next meeting of the council for the information of all council members.**

By way of a positive example, I am advised that the City of Prospect has recently resolved to endorse an Elected Members Records Management Policy which outlines and directs the practices of councillors in relation to the management of their records.

Clause 6.3.7 of the Policy reads:

- (1) The Mayor and Elected Members will only utilise Council systems for official correspondence created or received in the conduct of their role in Council, i.e. personal email accounts will not be used.

The policy is available on the council's website at [www.prospect.sa.gov.au](http://www.prospect.sa.gov.au).

I consider the City of Prospect policy to be leading practice in this area of public administration. Other councils may have initiated, or be considering a similar policy setting. I encourage all to do so as early as practicable in this, the first year of council elected office.



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As you may be aware, the use of private email addresses is not, in itself, contrary to the *Local Government Act 1999* or the *State Records Act 1997*. However, under the State Records Act, the council 'must ensure that official records of enduring evidential or informational value are preserved for future reference'.<sup>32</sup>

In any event, you will be aware that documents created or received by council officers and council members during the course of their duties, will always be subject to the operation of the *Freedom of Information Act 1991*. In my view, this is whether or not their email is created using council or personal email addresses.

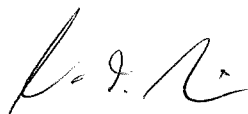
I note that the LGA also has in place a Records Management Model Policy which also provides guidance to councils in this area. I urge you to contact the LGA if you require advice or support in records management policy or procedure.

Please note that I intend to monitor this area of local government administration in 2015. I may decide that an audit on compliance with the State Records Act and the Local Government Act is necessary under section 14A of the *Ombudsman Act 1972*. Please contact my office if you wish to discuss this matter with me.

I take this opportunity to advise you that I was appointed, as of 18 December 2014, to the role of South Australian Ombudsman. I look forward to working with all councils in the interests of public sector administrative improvement and capacity building.

My best wishes for the New Year to you, your staff and to council members.

Yours sincerely



Wayne Lines  
**SA OMBUDSMAN**

7 January 2015

---

<sup>32</sup> Section 5 *State Records Act 1997*.

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 FEBRUARY 2015**

**Originating Officer:** Kate McKenzie, Manager Governance  
**Director:** Kathy Jarrett  
**Subject:** Elected Member Professional Development Policy  
**Report Reference:** GC240215R11

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**REPORT OBJECTIVES:**

For Council to consider and if appropriate, adopt the Elected Member Professional Development Policy.

**EXECUTIVE SUMMARY:**

The Elected Member Professional Development Policy forms part of the policy suite required under the *Local Government Act 1999 (The Act)*. The Act requires that Council must prepare and adopt a training and development policy for its members that assists the Council Member in the discharge of their functions and duties and complies with the requirements set by the regulations. The regulations now set mandatory training and development requirements for Council Members.

The draft Elected Member Professional Development Policy (**Appendix 1**) and Procedure (**Appendix 2**) has been developed to assist Council Members in their on-going training and development needs to ensure that Council has the necessary knowledge, skills and attributes to exercise sound judgement and effective decision making.

**RECOMMENDATIONS (1)**

**DUE DATES**

**That Council:**

- |  |                      |
|--|----------------------|
| <b>1. Adopt the Elected Member Professional Development Policy and Procedure as outlined in Appendix 1 and 2, with the following amendments:</b> | <b>February 2015</b> |
|--|----------------------|

-

## **BACKGROUND:**

### Legislative Provisions

Section 80A of the Act requires Council to develop and adopt a training and development policy for Elected Members:

#### **80A - Training and development:**

1. The policy must be aimed at assisting members in the performance and discharge of their functions and duties
2. A council may from time to time alter its policy, or substitute a new policy.
3. A person is entitled to inspect (without charge) a policy under this section at the principal office of the council during ordinary office hours.
4. A person is entitled, on payment of a fee fixed by the council, to a copy of a policy under this section.

Section 8AA of the Local Government (General) Regulations requires that Council complies with the requirements of the Local Government Association Training Standards for Council Members. These training standards outline a minimum training requirement for Council Members that must be completed within 12 months of a general election. The modules required to be completed include:

- Introduction to Local Government (1.5 hours)
- Legal Responsibilities (2 hours)
- Council and Committee Meetings (1.5 hours)
- Financial Management (2.5 hours)

Training can be delivered in a variety of ways that reflect the needs of the Council Members. The Chief Executive Officer must be satisfied that the training providers have the appropriate expertise to deliver the required training and keep a record that indicates that Council Members have completed the required modules.

## **POLICY:**

The framework proposed in the draft Elected Member Professional Development Policy includes:

- Identification of the knowledge, skills and attributes (competencies) needed by an Elected Member / Council as a whole having regard to the strategic directions and performance of the City of Marion, as well as developments within the local government industry.
- Analysis of the professional development needs of Elected Members and Council as a whole against the identified needs, and the formation of short and long term development plans for individual Elected Members and Council as a whole.
- Attendance at professional development activities by individual Elected Members and Council as a whole.

This framework provides Council with the opportunity to identify needs, form short and long term plans and record progress against the plan.

**PROCEDURE:**

The procedure outlines a process for Council to consider regarding:

- Approval and attendances,
- Reimbursements/payments, and
- Record keeping.

**IMPLEMENTATION:**

The draft Policy outlines that Council will develop a “whole of Council” development plan. This Plan will be developed via the outcomes of a survey completed individually by elected members. The survey will be developed in consultation with Elected Members and the collective outcomes presented at an Elected Member Forum for consideration.

A similar process will also be implemented (in consultation with Elected Members) to facilitate the development of individual development plans for elected members.

**CONCLUSION:**

The Professional Development of an Elected Member is an important factor in Council's ability to ensure that the City of Marion is well governed and operating in the best interests of the Corporation and the Community.

## **1. POLICY STATEMENT**

The City of Marion:

- 1.1 Is committed to professional development activities for its Elected Members, including the mandatory training required pursuant to section 8AA of the Local Government (General) Regulations.
- 1.2 Recognises that the ongoing professional development of Elected Members is an important factor in Council's ability to ensure that the City of Marion is well governed and operating in the best interests of the Corporation and the Community.

## **2. PURPOSE**

The purpose of this Policy is to guide the ongoing development of Council to ensure that it collectively possesses the necessary competencies to exercise sound judgement on the various issues faced by the City of Marion, and possesses the characteristics that lead to effective decision-making.

## **3. OVERVIEW**

The broad framework within which Elected Member professional development will be delivered encompasses:

- 3.1 Identification of the knowledge, skills and attributes (competencies) needed by an Elected Member / Council as a whole having regard to the strategic directions and performance of the City of Marion, as well as developments within the local government industry.
- 3.2 Analysis of the professional development needs of Elected Members and Council as a whole against the identified needs, and the formation of short and long term development plans for individual Elected Members and Council as a whole.
- 3.3 Attendance at professional development activities by individual Elected Members and Council as a whole.

## **4. KNOWLEDGE, SKILLS AND ATTRIBUTES**

As outlined in section 3.1 of the Policy, Council has identified the following knowledge, skills and attributes as key competencies required by all Elected Members in order to ensure sound judgement and effective decision-making:

### **4.1 Knowledge of:**

- Roles, responsibilities and obligations of Elected Members
- Relationships between Elected Members, the CEO and staff
- Legislative framework within which City of Marion operates

- Principles of corporate governance and risk management
- Understanding and application of financial policy and budgeting processes
- Local Government industry and 'fit' within the Federal and State levels of government
- Understanding of the City of Marion's strategic directions and how they align with broader strategies and plans (E.g. 30 Year Plan for Greater Adelaide)
- Council meeting procedures (notices of motion, questions with notice etc).

#### 4.2 Skills:

- Strategic planning and monitoring
- Corporate policy evaluation
- Critical thinking, analysis and questioning
- Ability to separate the duties and responsibilities of an Elected Member from management
- Information & Communications Technology (Including Social Media)
- Community consultation
- Elected Member liaison and working with external stakeholders
- Ability to operate (during meetings) in a public arena
- Public speaking
- Chairing meetings (council and public)

#### 4.3 Personal Attributes:

- Adopts a style encompassing effective communication, decisiveness and being a member of a team
- Adopts a style that is focused on continuous improvement
- High level of ethics, transparency and integrity
- Objective
- Available time and personal organisation skills to manage Elected Member responsibilities
- Constructive leadership.

## 5. LOCAL GOVERNMENT ASSOCIATION TRAINING STANDARDS

Section 80A of the Local Government Act 1999 requires that Council complies with the requirements set under section 8AA of the Local Government (General) Regulations, particularly the Local Government Association Training Standards for Council Members. These training standards outline the minimum training requirements for all Council Members that must be completed within 12 months of a general election.

## **6. IDENTIFICATION OF PROFESSIONAL DEVELOPMENT NEEDS**

In addition to the mandatory training, Council will undertake a review of its professional development needs on an annual basis. The review will focus on the professional development needs of:

### **6.1 Council as a Whole**

The review of the professional development needs of Council as a whole will assist Elected Members to quantify the needs of Council and to identify broad issues to enhance Council's overall effectiveness.

This review shall be undertaken individually by Elected Members and the results collated by the Manager Governance. The results shall be provided to Council for discussion and results in the development of a "whole of Council" development plan. The review shall take the form of a survey covering key areas of Council's role. The survey content and format shall be determined by Council and may be varied from time to time.

### **6.2 Individual Elected Members**

The review of professional development needs for individual Elected Members will assist Elected Members to consider their own development needs as a member of Council. This will involve the completion of an Elected Member Self-Assessment survey.

The self-assessment will be discussed between each individual Elected Member and the Mayor and is intended to be used as the basis for identifying development opportunities for both the next 12-months and the remainder of the term.

The self-assessment review shall take the form of a survey covering key areas of the role of an individual Elected Member. The survey content and format shall be determined by Council and may be varied from time to time.

## **7. ANNUAL PROFESSIONAL DEVELOPMENT PLAN**

Following the completion of the annual surveys, a professional development plan will be developed for Council as a whole and individual Elected Members. The Plans will identify development opportunities for the ensuing 12 months as well as the longer term based on the remaining duration of the current Council's term.

## **8. PROCEDURE REVIEW**

This policy will be reviewed within 12 months of a general election or as directed by Council.

## **1. OVERVIEW**

The Elected Member Professional Development Procedure provides guidance to members regarding the operations of the Elected Member Professional Development Policy.

## **2. ATTENDANCE AT PROFESSIONAL DEVELOPMENT ACTIVITIES**

Council's Elected Member Professional Development Plan(s) will determine the nature of training to be made available however access to activities not directly conducted by the Council will require approval upon application and should link to the Professional Development Plan.

The Mayor will consider all applications for attendance at a professional development activity and recommend approval or otherwise. Where the total cost of the activity is less than \$3,000, the Chief Executive Officer will make the final determination.

Where the total cost of the activity is greater than \$3,000, the application will be forwarded to Council for consideration at a General Council Meeting. Council as a whole is to be informed of an Elected Member's pending attendance at a professional development activity so as to provide opportunity for other Elected Members to seek clarification on matters associated with the topic of the activity.

Following attendance at a professional development activity, individual Elected Members are to prepare a report outlining the nature of the activity, the knowledge gained through attendance and any opportunities for application within the City of Marion. The reports prepared by individual Elected Members will be placed on the Agenda as soon as practicable after the completion of the training.

Note that the application of this paragraph may be waived for some activities e.g. attendance at computer training courses.

## **3. PAYMENTS / REIMBURSEMENTS**

Expenses will only be reimbursed for attendance at conferences, seminars, etc which have been approved under this Policy. The following types of expenses will be reimbursed:

- 3.1 Airfares
- 3.2 registration fees
- 3.3 accommodation
- 3.4 meals\*
- 3.5 taxi fares
- 3.6 car parking
- 3.7 incidentals\*

\* Meals and incidentals will be reimbursed up to the amounts recommended by the Australian Taxation Office in accordance with Subdivision 900-B of the Income Tax



Assessment Act 1997 (with the exception of meals included as part of a conference or seminar etc registration as these will be reimbursed in full).

Where a professional development activity does not fully relate to Council business, Council will only reimburse the expenses associated with that portion of the activity related to Council business. An Elected Member may then make their own arrangements to contribute the costs associated with attending that part of the activity not related to Council business.

All professional development activity undertaken by Elected Members (and reimbursed by Council) will be recorded in Council's Allowances and Benefits Register, which will be updated as required to reflect attendances.

#### **4. REPORTING AND RECORDING KEEPING**

Council's Annual Report will include a segment regarding the operation of this Policy, the nature of matters raised in the Professional Development Plan and attendances by Elected Members.

All training completed by Elected Members will be recorded individually on their training register. This includes where training is provided in-house during Council meetings, forums and/o workshops. Attendances at Elected Member forums will be recorded when the topic/session can be recorded on the Elected Member training register.

The training register will be managed by the Unit Manager Council Support.

#### **5. PROCEDURE REVIEW**

This procedure will be reviewed in conjunction with the Elected Member Professional Development Policy and within 12 months of a general election or as directed by Council.



Page 145  
APPLICATION FOR ATTENDANCE AT AN EXTERNAL  
PROFESSIONAL DEVELOPMENT OPPORTUNITY

NAME OF APPLICANT \_\_\_\_\_

TITLE (OF COURSE/SEMINAR,ETC) \_\_\_\_\_

DATE/S \_\_\_\_\_ LOCATION (CITY) \_\_\_\_\_

**COST BREAKDOWN:**

REGISTRATION (1051.7810)	\$ _____	ACCOMMODATION (1051.7812)	\$ _____
TRAVEL/FARES (1051.7811)	\$ _____	BOOKING REF	_____
(see over) MEALS (1051.7810)	\$ _____	INCIDENTALS (1051.7810)	\$ _____
<b>TOTAL COST</b>			<b>\$ _____.</b>

RELATIONSHIP WITH PROFESSIONAL DEVELOPMENT PLAN (COUNCIL OR INDIVIDUAL) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER COMMENTS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

ELECTED MEMBER REPORT TO COUNCIL - GENERAL COUNCIL MEETING

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

MAYOR'S COMMENTS:

Signed - Mayor

OFFICE USE ONLY

ATTENDANCE APPROVED / NOT APPROVED

Signed - Chief Executive Officer

If Not Approved - Reason:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## MEAL &amp; INCIDENTAL COSTS CALCULATIONS



DAY/DATE	BREAKFAST \$25.35 per day*	LUNCH \$28.55 per day*	DINNER \$48.65 per day*	INCIDENTALS \$18.70 per day*
SUB TOTALS	\$	\$	\$	
GRAND TOTALS:			\$	\$

\* 2014/15 amounts set by the Australian Taxation Office in accordance with Subdivision 900-B of the Income Tax Assessment Act 1997. These amounts will be reviewed and updated (if applicable) each financial year.

### OFFICE USE ONLY

Council Reference: .....

Date Bookings Made: ...../...../.....      π      Faxed  
    π      e-mailed

Cash / Cheque / Direct Deposit forwarded to Elected Member on: ...../...../.....

Cheque No: .....

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** Victoria Moritz, Governance Officer  
**Corporate Manager:** Kate McKenzie, Manager Governance  
**Director:** Kathy Jarrett  
**Subject:** Petition Policy Review  
**Report Reference:** GC240215R12

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**REPORT OBJECTIVES:**

For Council to consider and if appropriate, adopt the Petition Policy.

**EXECUTIVE SUMMARY:**

Petitions are a valuable resource for the community to use to make requests to and provide information to council. It is one of the ways in which members of the community can advise council of their concerns and influence the decision making process. As an informed and responsible decision maker the City of Marion has a role to ensure these decisions are made with openness and transparency whilst aligning these with the requirements of the Local Government Act 1999 ( *the Act*) and associated regulations.

The current Petition Policy has been reviewed and updated to ensure it is aligned with current legislation and increases in electronic communications.

**RECOMMENDATIONS (1)**

**DUE DATES**

**That Council:**

1. Adopts the Petition Policy provided as Appendix 1 to this report.

**24 Feb 2015**

## BACKGROUND

The Act requires that councils provide the opportunity for members of the community to petition Council as a method of community engagement and participation in decision-making.

The Petition Policy was last adopted by Council in January 2008. As a result of changes in the Legislation and a vast increase in electronic communication it is timely that a review is conducted.

Provided at **Appendix 1** is a copy of Council's Petitions Policy that has been reviewed and amended (with the additions marked for ease of reference).

## ANALYSIS:

An amendment to Regulation 11 of the Local Government (Procedures at Meetings) Regulations 2013 now indicates a petition to the Council must include the name and address of each person who signed or endorsed the petition. The other significant inclusion to this policy is the use of electronic communication as a means of "delivering" a petition. The Policy defines what is and is not considered a Petition and has referred to the Electronic Transaction Act 2000.

Another significant change is that the Policy now states that *"The Petition and all associated pages including those with names and addresses will be included as an appendix to the report and made publicly available."* This statement is included on the bottom of the Petition template which is available to the community on the City of Marion Website and attached as **Appendix 2**.

## LEGISLATIVE / POLICY CONSIDERATIONS

The Policy complies with the Local Government Act 1999, Local Government (Procedures at Meetings) Regulations 2013 and it is also consistent with the Council's Code of Practice Procedures at Meetings 2014. Advice was sought from the Local Government Association regarding Electronic Communication and more specifically in relation to communication via Social Media. The Policy is also consistent with all aspects of council's Social Media Policy.

## CONCLUSION:

Petitions are a valuable mechanism in which the views of the community are effectively communicated to Council and considered by them in the process of making decisions. It provides an open and transparent process in which council can make an informed decision, taking into account the needs and expectations of the wider community whilst ensuring it meets the requirements of the legislation and associated procedures.

## 1. POLICY STATEMENT

The City of Marion's principal role is to act as an informed and responsible decision maker which represents the interests of its community through open and transparent decisions.

The City of Marion makes decisions on behalf of the community, however, members of the community have a role to play in informing Council of their needs and/or to provide information that may assist or influence Council's decision(s). One of the ways in which members of the community can advise Council of their concerns, and influence the decision making process, is to take up a petition.

Petitions provide a democratic mechanism for the community to make requests of, and provide information to, Council.

Council will accept written petitions from person that have a direct interest in the City of Marion Council area as residents, landowners, business people or in some other capacity. Petitions must concern matters that Council is authorised to determine.

As far as possible petitions must be in the form set out in, and otherwise comply with, this policy.

## 2. PRINCIPLES

When considering a petitioned request, Council will take into account the City of Marion's strategic directions, budget and programmed work. This will ensure that the needs and expectations of both the petitioner(s) and the wider community are considered.

In addition, Council will meet all legal requirements relating to the management of petitions and follow the principles set out in Regulation 11 of the Local Government (Procedures at Meetings) Regulations 2013 which states:

(1) A petition to the council must –

- a) be legibly written or typed or printed; and
- b) clearly set out the request or submission of the petitioners; and
- c) include the name and address of each person who signed or endorsed the petition; and
- d) be addressed to the council and delivered to the principal office of the council.

If a petition is received as detailed above, the Chief Executive Officer must ensure that the petition with a statement as to the nature of the request or submission and the number of signatures is placed on the agenda for the next ordinary meeting of the council.

The City of Marion has included these principles in Council's Code of Practice – Procedures at Meetings 2014.

### 3. POLICY SCOPE AND IMPLEMENTATION

All petitions whether written and delivered to the Council or submitted electronically must indicate the following:

- The nature of the petition, clearly setting out the request or submission on each page of signatories;
- The name and contact details of the head petitioner
- The name and address of signatories to the petition; and
- The date the petition was initiated.

#### 3.1 WRITTEN PETITIONS

Petitions will be received at the Administration Centre of the City of Marion located at 245 Sturt Road, Marion. They can be hand delivered, faxed or posted.

If a petition is brought to a General Council Meeting it will be tabled and noted at that meeting and then brought back and considered at the subsequent General Council Meeting following the process below.

A petition proforma is available on Council's website and from the Administration Centre (Attachment 1).

#### 3.2 SOCIAL MEDIA AND ONLINE PETITIONS

Pursuant to the Electronic Transactions Act section 13B(1)(b), an electronic communication is taken to have been received at the place where the addressee has its place of business. Therefore an email delivered to the chief executive officer of a council is taken to be an email delivered to the Council (council@marion.sa.gov.au). Petitions can be received electronically via the following means:

- An email containing a petition delivered to council;
- An email containing a link to a petition (Facebook or other application) delivered to council
- Posting a petition to City of Marion Social Media

In regards to a Petition being addressed to council the following does not meet the criteria of a petition and will therefore not be considered as a petition. It may however be used to promote a petition and create awareness of its existence:

- "Likes" on facebook for photos, comments, posts, follows
- "Tagging" City of Marion in comments, tweets, posts
- Individual email, comments, posts supporting a particular request or submission

#### 4. DEFINITIONS

- Petition*** – a request to Council seeking action or special consideration of a particular matter, which is signed by more than two residents/members of the public at, at least, two different property addresses.
- Tagging*** – To tag is to attach another Facebook members name to a photograph or post on the social networking site, Facebook.
- Like*** – The Facebook "Like" button is a feature that allows users to show their support for specific comments, pictures, wall posts, statuses, or fan pages.
- Tweet*** – Tweet, tweeting, tweeted. The act of posting a message, often called a "Tweet", on Twitter. A message posted via Twitter containing 140 characters or fewer
- Address*** - The particulars of the place where someone lives or an organisation is situated.

#### 5. REFERENCES

Social Media Policy  
Code of Practice – Procedure at Meetings 2014  
Petition Proforma – refer attached

#### 6. RELEVANT LEGISLATION

Local Government Act 1999  
Local Government (Procedures at Meetings) Regulations 2013  
Electronic Transaction Act 2000

#### 7. COUNCIL ENDORSEMENT

This Policy was adopted by resolution of the council on [insert date]

#### 8. REVIEW

This Policy is scheduled for review by Council in [insert date]



**CITY OF MARION**

# PETITION

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

Petition Contact Person: .....

Telephone Number:.....

Address: .....

Date Petition Initiated: .....

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

.....

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

.....

.....

.....

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

.....

.....

.....

[illegible]

***(Identify the details of the petition on each page)***

.....

.....

.....

[illegible]

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** David Harman, Financial Accountant  
**Corporate Manager:** Ray Barnwell, Manager Finance  
**Director:** Vincent Mifsud  
**Subject:** Finance Report – January 2015  
**Report Reference:** GC240215R13

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**REPORT OBJECTIVES AND EXECUTIVE SUMMARY:**

This report provides Council with information relating to the management of financial resources under its control as at January 2015. This report is one of a series of reports designed to assist Council in achieving and maintaining a financially sustainable position. Other reports assisting in this process include the Quarterly Budget Reviews and the Long Term Financial Plan.

It is considered appropriate that financial information regarding Major Projects be presented on a monthly basis in this report. Financial information regarding Major Projects will also be summarised in the quarterly Major Project reports. The principles used for assessment of reportable projects are according to the following criteria:

- Council has agreed to proceed with the project and approved a Section 48 Prudential Report.
- The Whole Of Life Cost is greater than \$4 million dollars (including grant assisted projects).
- Has a project life of more than 12 months.

According to the above criteria, the Cove Civic Centre and the City Services Redevelopment projects qualify and are included in Section 2 of this report.

**RECOMMENDATIONS (1)**

**DUE DATES**

**That Council:**

1. Receive the report “Finance Report – January 2015”.

**24 February 2015**

## **BACKGROUND**

This report is presented on a monthly basis to provide Elected Members with key financial information to assist in monitoring Council's financial performance.

## **DISCUSSION:**

Appendix 1 contains a financial report to identify Council's performance against budget utilising a "Funding Statement". It provides a review against all of the elements contained within the Statement of Comprehensive Income and Statement of Financial Position that are adopted as part of the Annual Budget Report.

The following reports are included:

(1) Major Projects

Section 48 approved Projects

- (a) Cove Civic Centre (CCC)
- (b) City Services Redevelopment

(2) Funding Statement – Actual versus Budget (Appendix 1)

(3) Debtors Reports for Sundry Debtors and Rates Debtors (Appendix 2)

**(1) Major Projects****(a) Cove Civic Centre**

	<b>2014/15 Actual + Committ YTD 31/01/2015</b>	<b>2014/15 Budget</b>	<b>Project Cost At Completion</b>
<b>Income</b>			
Federal Budget Grant 2011-12 Contribution			3,400,000
<b>Total Income</b>			<b>3,400,000</b>
<b>Expenditure</b>			
<b>Operating</b>	-	-	-
<b>Capital Construction</b>	(3,067,602)	(8,387,095)	(13,400,000)
<b>Total Expenditure</b>	<b>(3,067,602)</b>	<b>(8,387,095)</b>	<b>(13,400,000)</b>
<b>Project Result Surplus/(Deficit)</b>	<b>(3,067,602)</b>	<b>(8,387,095)</b>	<b>(10,000,000)</b>

The net deficit forecast will be funded in the following manner:

<b>Funded By :</b>	<b>\$</b>
<b>(Over Project Life)</b>	
Fixed Term Loan	10,000,000
	<b>10,000,000</b>

Construction of the Cove Civic Centre was originally forecast to commence in 2010/11 and is now included in the current Long Term Financial Plan to take place over the 2013/14 and 2014/15 financial years. On the 14 February 2012 (GC140212R02) Council resolved to support a design-led approach to provide greater certainty regarding design and project costs.

The Federal Budget announcement on the 8 May 2012 advised that the Government would provide \$3.4 million which was received in June 2012 as a contribution to the Cove Civic Centre. At the 13 November 2012 Council Meeting, a Section 48 Prudential report (GC131112R01) was considered and adopted by Council.

Operating costs from the existing Hallett Cove Library will be transferred and additional net annual operating costs once the new Cove Civic Centre is opened will be required. These funds are now incorporated in the current Long Term Financial Plan as outlined in the Section 48 Prudential Report.

**(b) City Services Redevelopment**

	<b>2014/15 Actual + Committ YTD 31/01/2015</b>	<b>2014/15 Budget</b>	<b>Project Cost At Completion</b>
<b>Income</b>			
<b>Total Income</b>			<b>-</b>
<b>Expenditure</b>			
<b>Operating</b>	-	-	-
<b>Capital Construction</b>	(2,590,473)	(7,836,623)	(14,332,000)
<b>Total Expenditure</b>	<b>(2,590,473)</b>	<b>(7,836,623)</b>	<b>(14,332,000)</b>
<b>Project Result Surplus/(Deficit)</b>	<b>(2,590,473)</b>	<b>(7,836,623)</b>	<b>(14,332,000)</b>

The net deficit forecast will be funded in the following manner:

<b>Funded By :</b>	<b>\$</b>
<b>(Over Project Life)</b>	
Operating Revenue	1,732,000
Fixed Term Loan	12,600,000
	<b>14,332,000</b>

The City Services Redevelopment design work commenced in 2011/12, with tendering for the project commencing in March 2014. Following the completion of the tender process, Council have unanimously approved the awarding of the construction contract for the redevelopment to Badge Constructions, with work expected to be completed late 2015 (SGC190814F01).

On the 11 February 2014 (GC110214R04) Council approved the change in allocated funding for this project of up to \$14.332m.

On the 25 March 2014 (GC250314R001) Council approved loan funding of up to \$12.6m to be taken out for this project. Council has also agreed that it will consider a report on the timing and methodology for disposal of any surplus land following completion of the project.

## **INTERNAL ANALYSIS**

### **Financial Implications:**

This report is an information report only and has no direct financial implications.

### **CONCLUSION:**

The main monthly reporting focus is to report the “Actual versus Budget” position to enable regular monitoring of Council’s financial performance. Major Projects require regular reporting and monitoring by Council to ensure prudent financial management is maintained.

Appendix 1 : Funding Statement & Graphs – Actual versus Budget.

**(2) Funding Statement – Actual versus Budget**

The Funding Statement provides a view of Council's financial performance against the approved budget and is consistent with the information provided at budget reviews. It provides a review against all of the elements contained within the Statement of Comprehensive Income and the Statement of Financial Position that are adopted as part of the Annual Budget Report. It details Council's:

**Statement of Comprehensive Income -**

The operating result is recognised as one of Council's key financial indicators. The budget framework includes a commitment to maintaining a Category 3 Financial Sustainability rating, on average over each five year period, which for 2014/15 means a targeted operating surplus of between \$0 and \$3.277m.

**Comment:** Council has a net operating surplus result of \$6.168m before capital revenues, against a year end forecast from Budget of \$2.491m surplus.

**Capital Budget -**

The Capital Budget is linked to Council's key financial indicator – "Asset Sustainability Ratio" and an actual to budget comparison reflects Council's progress in achieving its Capital program.

**Comment:** The year to date actual to budget position reveals that 58.2% of the full year financial Capital Renewal Budget has been spent or committed.

The actual progress to date of Council's full Capital New and Renewal Expenditure programs is detailed in the attached graphs, with the exception of major projects which have previously been detailed in this report.

**Loans -**

The loans component of the Funding Statement identifies any new proposed loan receipts or principal payments. Council's borrowings are included in Council's key financial indicator – "Net Financial Liabilities" which reflects Council's total indebtedness.

**Comment:** New borrowings of \$10.116m for Cove Civic Centre and for the City Services Redevelopment, are included in the 2014/15 budget as part of Council's Major Projects. Principal repayments of \$1.572m mean that the overall loan liability balance is due to increase by \$8.544m.

**Reserves & Cash -**

Various fund movements such as surplus budget review results, unspent grants and carryover projects at year end are reflected as transfers to reserves, whilst utilisation of reserve funds are recognised as transfers from reserves.

Cash may be utilised to fund expenditure within the context of Treasury Management to ensure loans are not drawn down where temporary cash holdings are available.

**Comment:** Major movements in Net Transfers from Reserve of \$15.398m include the following:

**Transfers from Reserve**

Grants & Carryovers Reserve	\$ 15,669k
Asset Sustainability Reserve	\$ 140k

**Transfers to Reserve**

Open Space Development Contribution and Interest	(\$ 33k)
Grants & Carryovers Reserve	(\$ 378k)

A net cash deficit of \$1.263m is forecast to occur in 2014/15. Of this amount \$2.275m relates to uncompleted projects retimed and fully funded from 2013/14, offset by \$1.012m from savings identified through the first Budget Review.



## Funding Statement

As At 31 January 2015

Original Adopted Budget \$'000		YTD Actual + Committ \$'000	YTD Budget \$'000	YTD Variance \$'000		Annual Budget \$'000	Note
	<b>Operating Revenue</b>						
67,051	<b>Rates</b>	39,578	39,456	122	F	67,110	<b>A</b>
1,803	<b>Statutory Charges</b>	1,111	976	135	F	1,677	<b>B</b>
1,717	<b>User Charges</b>	947	970	(23)	U	1,674	
5,667	<b>Operating Grants &amp; Subsidies</b>	3,333	3,561	(228)	U	5,902	<b>C</b>
560	<b>Investment Income</b>	551	485	66	F	732	
910	<b>Reimbursements</b>	621	546	75	F	938	
399	<b>Other</b>	725	238	487	F	408	<b>D</b>
246	<b>Net gain - SRWRA</b>	30	30	-	-	306	
<b>78,353</b>		<b>46,896</b>	<b>46,262</b>	<b>634</b>	<b>F</b>	<b>78,747</b>	
	<b>Operating Expenses</b>						
32,777	<b>Employee Costs</b>	16,409	18,711	2,302	F	32,392	<b>E</b>
16,293	<b>Contractual Services</b>	10,259	10,600	341	F	18,160	<b>F</b>
5,086	<b>Materials</b>	2,370	2,927	557	F	5,013	<b>G</b>
770	<b>Finance Charges</b>	349	349	-	-	802	
12,958	<b>Depreciation</b>	7,619	7,680	61	F	13,196	
6,726	<b>Other</b>	3,722	3,985	263	F	6,693	<b>H</b>
<b>74,610</b>		<b>40,728</b>	<b>44,252</b>	<b>3,524</b>	<b>F</b>	<b>76,256</b>	
<b>3,743</b>	<b>Operating Surplus/(Deficit) before Capital Revenues</b>	<b>6,168</b>	<b>2,010</b>	<b>4,158</b>	<b>F</b>	<b>2,491</b>	
	<b>Capital Revenue</b>						
657	<b>Capital Grants &amp; Subsidies</b>	809	672	137	F	672	<b>I</b>
1,500	<b>Contributed Assets</b>	-	-	-	U	1,500	
-	<b>Gain/(Loss) on Asset Disposal</b>	57	-	57	F	-	
<b>2,157</b>		<b>866</b>	<b>672</b>	<b>194</b>	<b>F</b>	<b>2,172</b>	
<b>5,900</b>	<b>Net Surplus/(Deficit) resulting from operations</b>	<b>7,034</b>	<b>2,682</b>	<b>4,352</b>	<b>F</b>	<b>4,663</b>	
12,958	<b>add Depreciation</b>	7,619	7,680	61		13,196	
(246)	<b>less Share of Profit SRWRA (excluding dividend)</b>	-	-	-		(246)	
<b>18,612</b>	<b>Funding available for Capital Investment</b>	<b>14,653</b>	<b>10,362</b>	<b>(4,291)</b>	<b>F</b>	<b>17,613</b>	
	<b>Capital</b>						
13,914	<b>less Capital Expenditure - Renewal</b>	10,027	9,160	(867)	U	17,231	<b>J</b>
14,516	<b>less Capital Expenditure - New</b>	6,822	13,175	6,353	F	24,087	<b>K</b>
1,500	<b>less Capital - contributed assets</b>	-	-	-	U	1,500	
<b>(11,318)</b>	<b>Net Overall lending/(borrowing)</b>	<b>(2,196)</b>	<b>(11,973)</b>	<b>9,777</b>	<b>F</b>	<b>(25,205)</b>	

Original Adopted Budget \$'000		YTD Actual + Committ \$'000	YTD Budget \$'000	YTD Variance \$'000	Annual Budget \$'000	Note
<b>Funded by;</b>						
<b>Loans</b>						
12,628	Loan Principal Receipts (Net)	-	-	-	-	10,116
-	Loan Receipts/(Payments) from Sporting Clubs (Net)	-	-	-	-	-
1,417	less Loan Principal Repayments	706	706	-	-	1,572
11,211	Loan Funding (Net)	(706)	(706)	-	-	8,544
<b>Movement in level of cash, investments and accruals</b>						
-	Cash Surplus/(Deficit) funding requirements	15,091	2,749	12,342		(1,263)
107	less Reserves (Net)	17,993	15,428	2,565		15,398
(107)	Cash/Investments/Accruals Funding	(2,902)	(12,679)	9,777		(16,661)
11,318	Funding Transactions	2,196	11,973	(9,777)	F	25,205 L

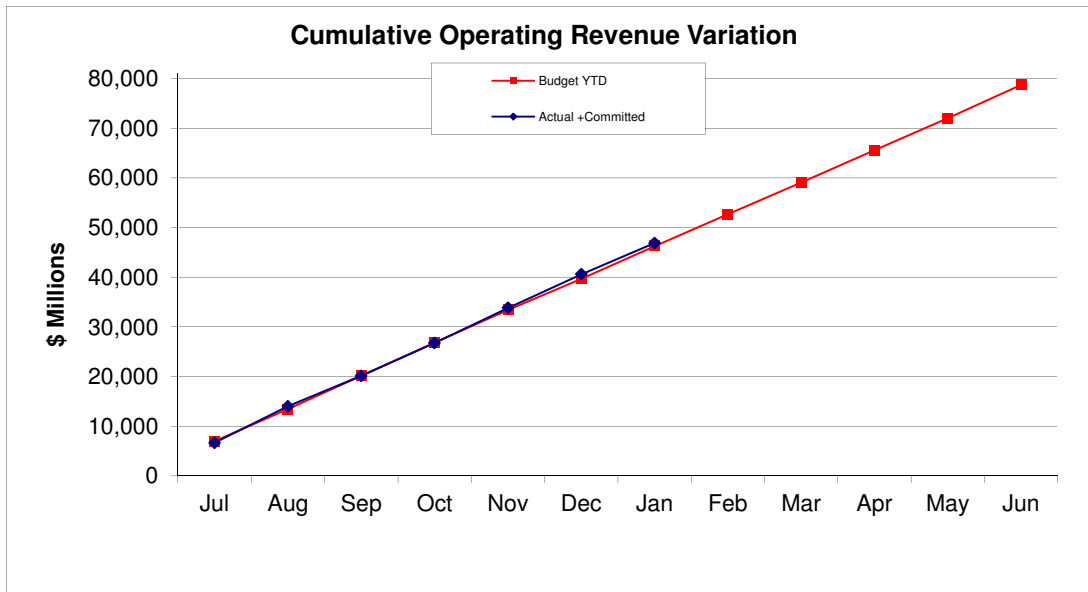
**Variation Notes**

<b>A</b>	<b>Rates</b>	<b>Favourable \$122k</b>	Predominantly reflects budget timing variances in relation to rate rebates expected for SA Housing Trust stock transfer that has not yet occurred.
<b>B</b>	<b>Statutory Charges</b>	<b>Favourable \$135k</b>	Predominantly reflects budget timing variances in relation to Dog Registration fees – majority of fees were received in August.
<b>C</b>	<b>Operating Grants &amp; Subsidies</b>	<b>Unfavourable \$228k</b>	Reflects budget timing variance in relation to quarterly HACC funding from the Commonwealth Government.
<b>D</b>	<b>Other Revenue</b>	<b>Favourable \$487k</b>	Relates to contributions received from Cove Sports, Mitchell Park Sports and Edwardstown Sporting Club to be used for Council approved capital works (\$301k), and unbudgeted Oakford Homes development Open Space contribution (\$211k).
<b>E</b>	<b>Employee Costs</b>	<b>Favourable \$2,302k</b>	Predominantly reflects budget timing variances arising from the way pay weeks fall, as well as the existence of some temporarily vacant positions.
<b>F</b>	<b>Contractual Services</b>	<b>Favourable \$341k</b>	Predominantly reflects a number of monthly budget timing variations, none of which are individually significant.
<b>G</b>	<b>Materials</b>	<b>Favourable \$557k</b>	Predominantly reflects budget timing variations in regards to water charges (\$197k) and electricity (\$139k).
<b>H</b>	<b>Other Expenses</b>	<b>Favourable \$263k</b>	Predominantly reflects a number of monthly budget timing variations, none of which are individually significant.
<b>I</b>	<b>Capital Grants &amp; Subsidies</b>	<b>Favourable \$137k</b>	Predominantly relates to unbudgeted grant received for the Mike Turtur Bikeway.
<b>J</b>	<b>Capital Expenditure (Renewal)</b>	<b>Unfavourable \$867k</b>	Predominantly reflects budget timing variations in regards to Road Reseals.
<b>K</b>	<b>Capital Expenditure (New)</b>	<b>Favourable \$6,353k</b>	Predominantly reflects budget timing variations in regards to the Cove Civic Centre (\$1,972k), drainage construction (\$738k), and City Services Redevelopment (\$3,249k).
<b>L</b>	<b>Funding Transactions</b>	<b>Favourable \$9,777k</b>	The increase in cash/investments/accruals funding is attributable to the corresponding net overall lending/(borrowing) position.

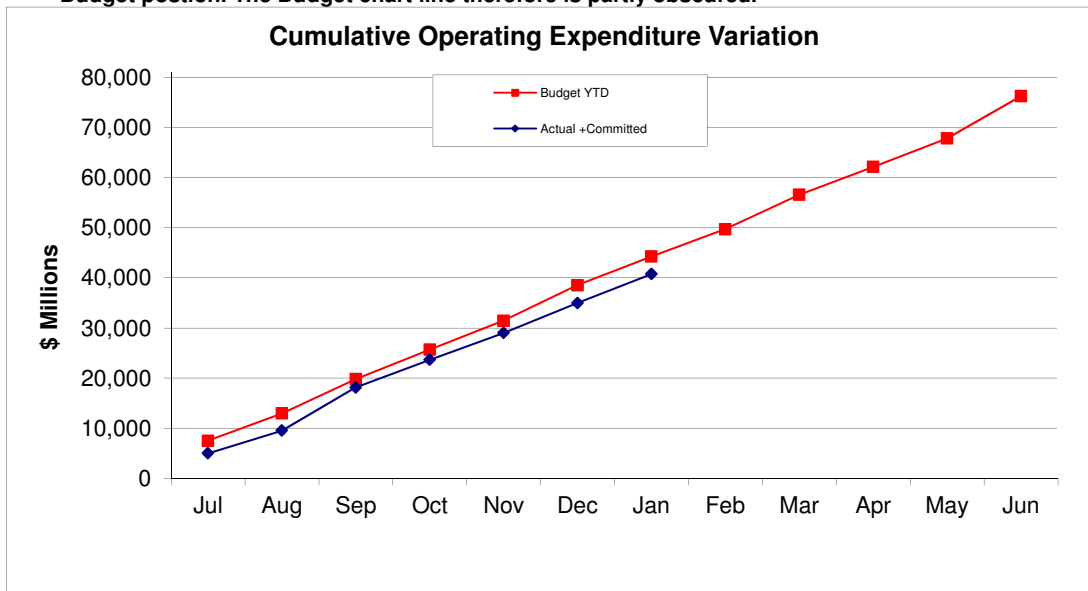
The above comments referring to budget timing variations are where some monthly budget estimates are not reflective of the actual expenditure patterns as at the reporting date.

Note: The progress to date of Capital Expenditure programs (New and Renewal) is detailed in the attached graphs, noting that where no budget exists in the initial months this is primarily due to certain types of capital works that cannot be carried out during periods of inclement weather.

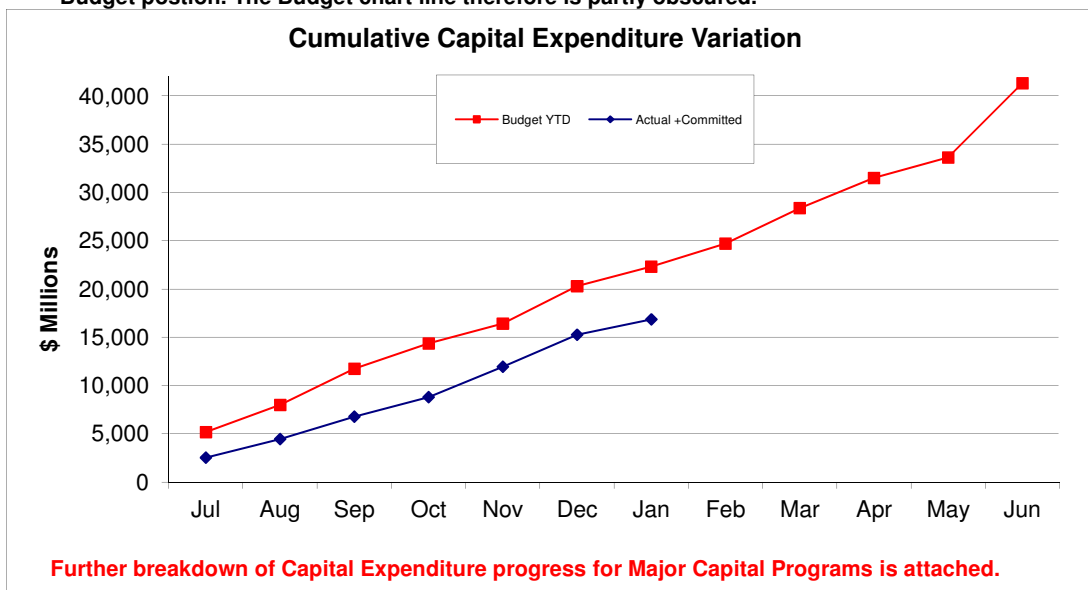
## Funding Statement Cumulative Position - 2014/15

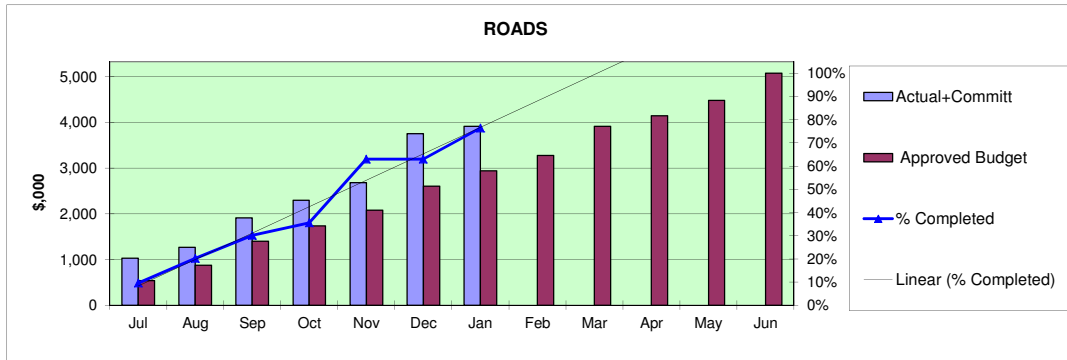


**Note - The Year to Date Actual + Committed position result is accurately aligned to the Year to Date Budget position. The Budget chart line therefore is partly obscured.**

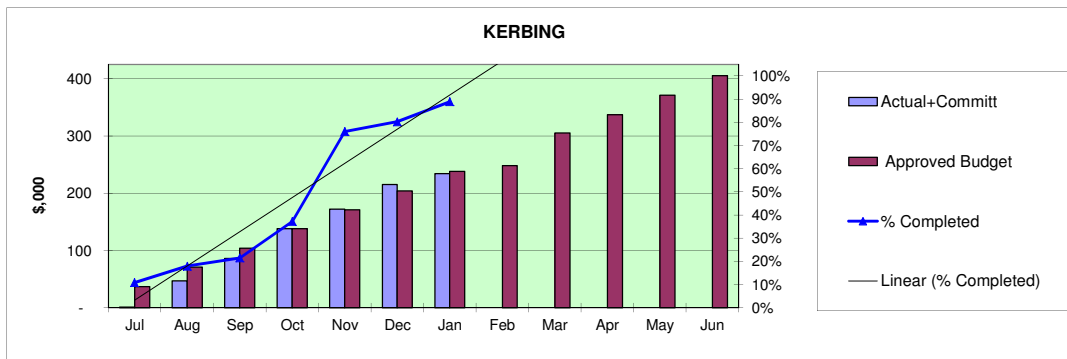


**Note - The Year to Date Actual + Committed position result is accurately aligned to the Year to Date Budget position. The Budget chart line therefore is partly obscured.**

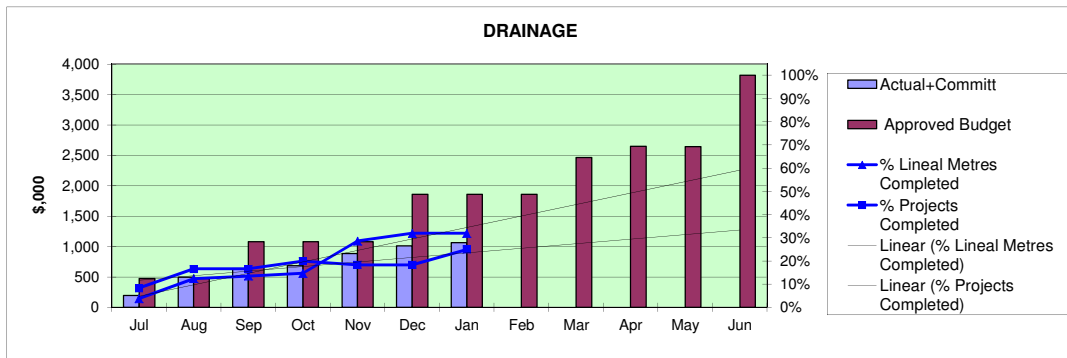




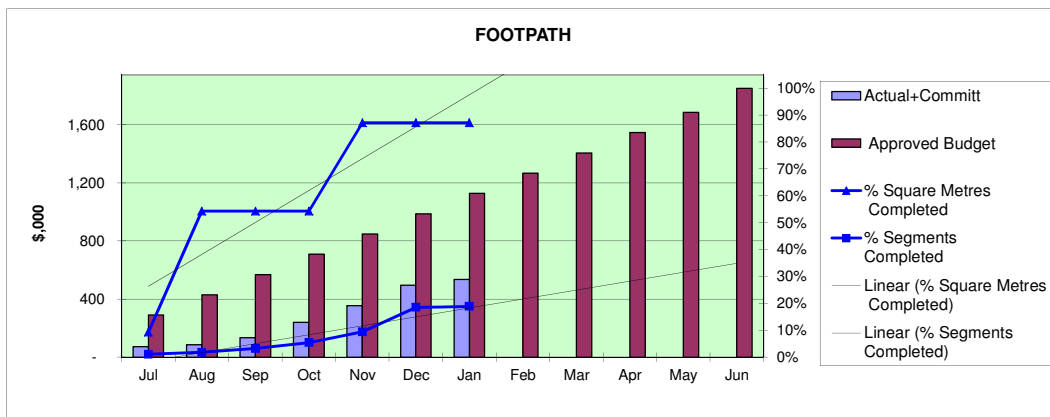
• Road seal program in progress, 76% completed.



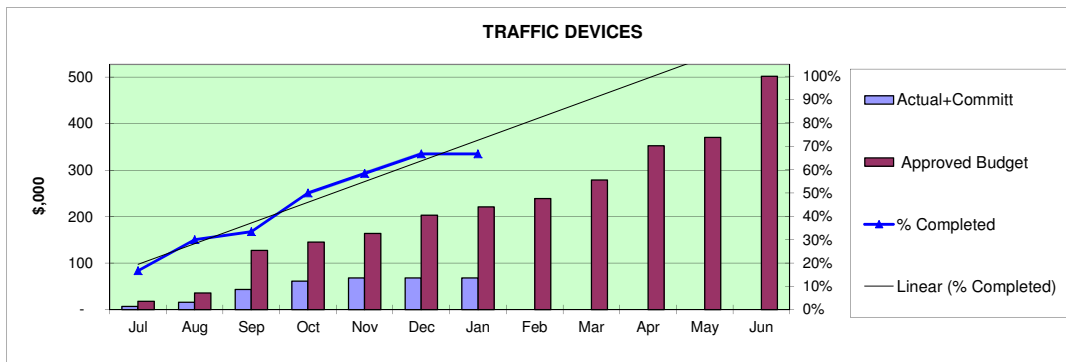
• Kerb program in progress, 89% completed.



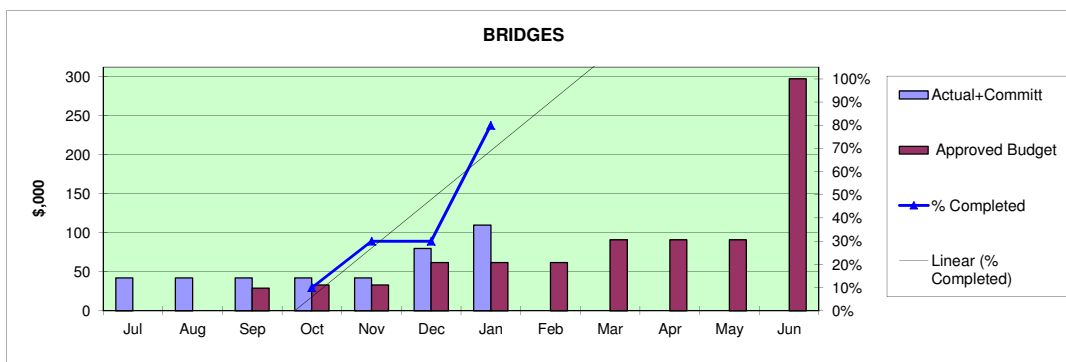
• Ramrod Ave drain, Coolah Ave box drain, Graham Road Side Entry Pit, Radstock Ave, Crozier Tce drain, Travers Street drain, Harbrow Grove spoon drain, Brigalow Ave spoon drain, West Street spoon drain, Waterfall creek, in progress.  
• Waterfall Creek retention structures, Ragamuffin Ave drain completed.



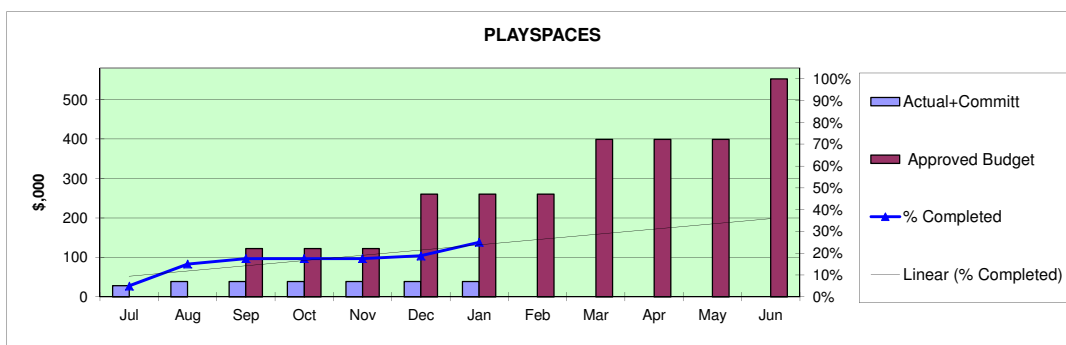
• Footpath construction in progress, 87% completed.  
• Proactive works in progress, 19% completed.



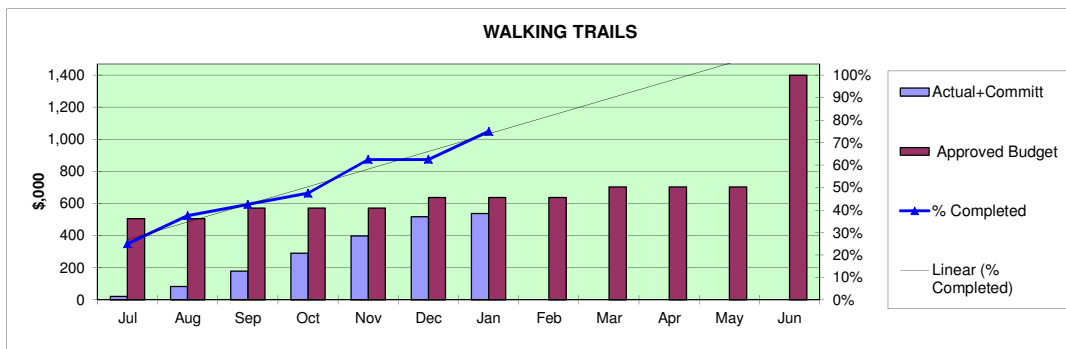
- Traffic Devices program 67% completed.
- Trott Grove parking bay, Towers Tce parking bay, Quailo Ave, Nottingham Tce parking bays completed.
- Hazel Street Park and Ride, and Railway Tce Greenway in progress.



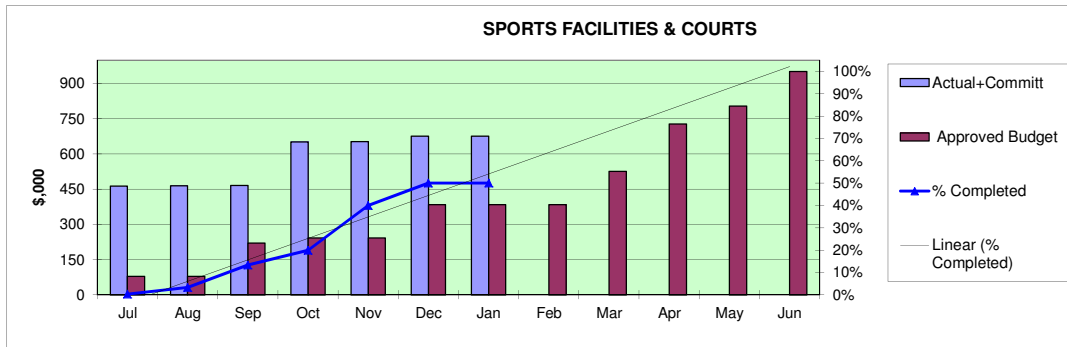
- Gannett Court bridge works commenced, due for completion February 2015.



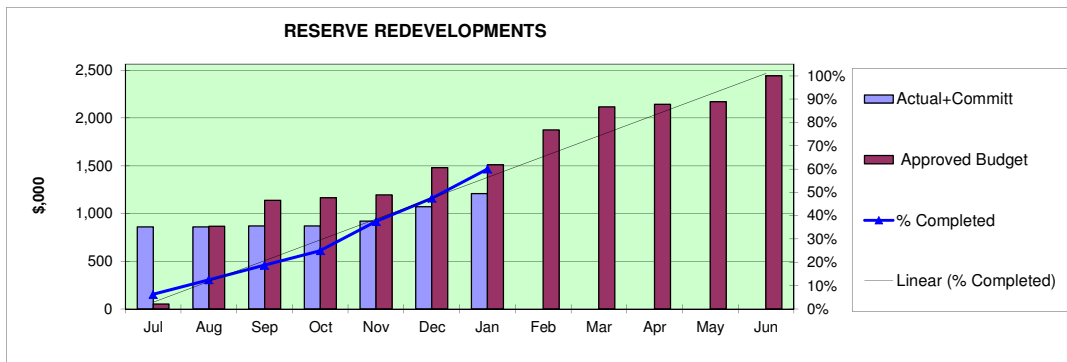
- Playspace program 19% completed.
- Plympton Oval upgrade and Edwardstown Oval upgrade consultation complete.
- York Street Reserve completed.



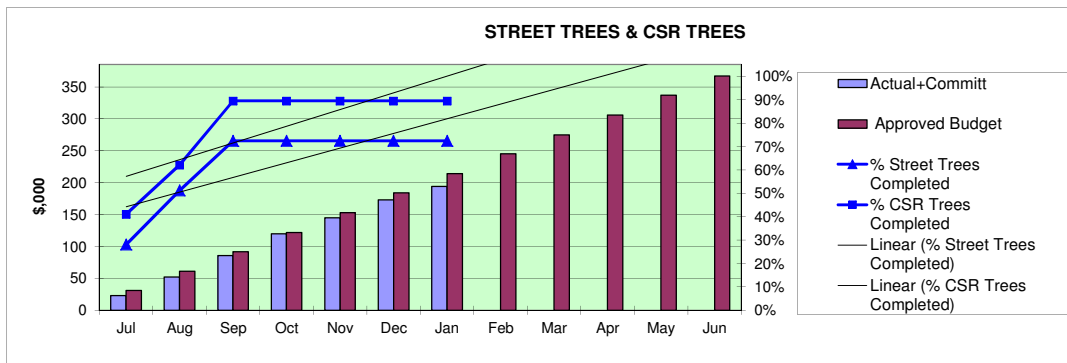
- Walking Trail program 75% completed.
- Sturt Linear Park Stage 1, Sturt Linear Park Stage 2 and Linear Park (Barramundi) completed.



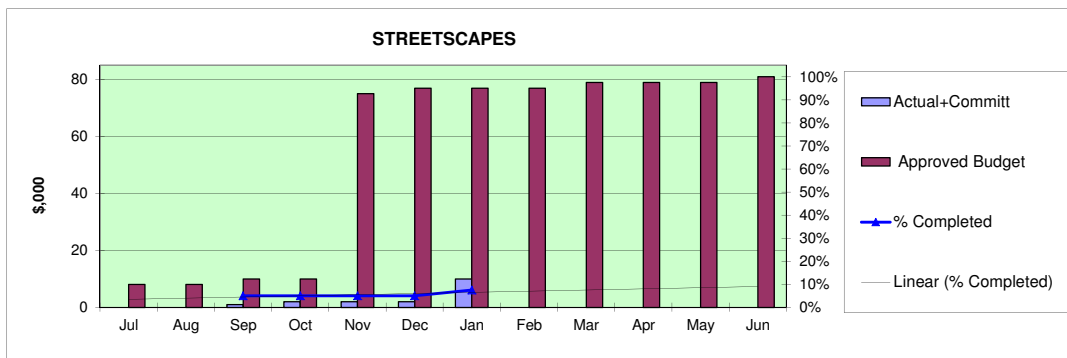
- Sports Facilities & Courts Program 50% completed.
- Mitchell Park Oval, lighting completed fitness equipment design in progress.
- Edwardstown Multipurpose Courts consultation completed, design and specification in progress.
- Cove Sports tender for change rooms and light towers completed. Construction of change rooms commenced.



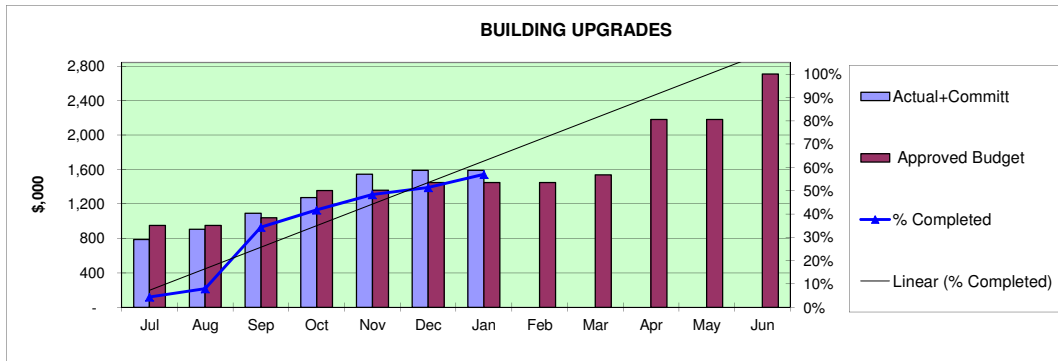
- Reserve Redevelopments program 60% completed.
- Oaklands Recreation Plaza tender awarded - construction commenced, 30% complete.
- Hallett Cove Beach Stage 1 tender awarded, 50% complete.
- Oaklands Reserve Inclusive Playspace concept and Jervois Street Reserve designs commenced.



- CSR Tree Planting Program 89% completed.
- Street Tree Planting Program 72% completed.
- Planting program will recommence in April / May 2015 depending on weather.



- Streetscape program civil construction / open space planning in progress.
- Works expected to commence early 2015.



• Building Upgrade program 57% completed.

**Completed**

- Marion Golf Park asbestos removal.
- Outdoor Pool pipework replacement, tiling and water slide.
- DDA Clovelly Park Tennis Club.
- DDA Southbank Tennis Club.
- Glandore Community Centre Clark building lighting.
- Edwardstown Rotary Club carpark.
- Seacombe Heights Tennis Club retaining wall.
- Abbeyfield House switchboard upgrade.
- Red House air-conditioning.

**In Progress**

- Marion Golf Park water tank.
- Glandore Community Buildings Fitzjames windows, Slade carpet and Malwa air-conditioning.
- Coovinda veranda, painting and doors.
- Outdoor Pool sign replacement.
- Tjilbruke Gateway renewal.
- MCC security system and cameras.
- Plympton Sports firewall.
- Hallett Cove Sports Club DDA upgrade.
- Glandore Oval lighting and scoreboard.



## Sundry Debtors Report - Aging report as at 31 January 2015

Debtor	Total Balance	Current	30 Days	60 Days	90 Days	90+ Days	Percentage of total 90+ day balance	Comments for 90+ Day balances
<b>General Total</b>	<b>35,389.54</b>	<b>25.00</b>	<b>3,025.00</b>	<b>.00</b>	<b>7,115.10</b>	<b>25,224.44</b>	15%	Predominantly relates to two debtors (\$23,284) with one being an ongoing payment regarding illegal tree removal (repayment plan is in place).
<b>Hire of Council Facilities Total</b>	<b>28,011.65</b>	<b>1,754.30</b>	<b>8,917.24</b>	<b>2,412.08</b>	<b>2,819.08</b>	<b>12,108.95</b>	7%	Made up of 24 out of 46 debtors in this category, with none individually significant.
<b>Sporting Clubs &amp; Other Leases Total</b>	<b>223,910.69</b>	<b>34,040.22</b>	<b>128,937.87</b>	<b>6,953.56</b>	<b>10,355.18</b>	<b>43,623.86</b>	26%	Made up of 9 out of 23 debtors in this category. One accounts for \$21,819 - almost 50% of the total aged debt (\$5,271 of this amount has been paid in February).
<b>Extra Works Total</b>	<b>43,337.50</b>	<b>14,180.00</b>	<b>4,265.00</b>	<b>.00</b>	<b>5,005.00</b>	<b>19,887.50</b>	12%	Made up of 14 out of 21 debtors in this category, with none individually significant.
<b>Swim Centre Debtors Total</b>	<b>28,210.90</b>	<b>9,112.95</b>	<b>18,078.35</b>	<b>.00</b>	<b>.00</b>	<b>1,019.60</b>	1%	Made up of 3 out of 24 debtors in this category, with none individually significant.
<b>Grants &amp; Subsidies Total</b>	<b>530,920.64</b>	<b>242,704.26</b>	<b>212,603.87</b>	<b>.00</b>	<b>25,000.00</b>	<b>50,612.51</b>	30%	\$33,000 relates to one debtor for Community Rec & Sports Funding - have received a total of \$143,000 for the project, with the remaining balance being actively followed up with the debtor. (In addition the amount of \$25,000 in 90 Days has been subsequently paid in February.)
<b>Environmental Health Total</b>	<b>12,349.29</b>	<b>3,909.20</b>	<b>674.60</b>	<b>.00</b>	<b>718.00</b>	<b>7,047.49</b>	4%	Made up of 48 out of 102 debtors in this category, with none individually significant.
<b>Supplier Refund Totals</b>	<b>1,791.95</b>	<b>390.00</b>	<b>1,401.95</b>	<b>.00</b>	<b>.00</b>	<b>.00</b>	0%	
<b>Tree Funds Total</b>	<b>8,218.34</b>	<b>1,980.00</b>	<b>950.00</b>	<b>247.50</b>	<b>.00</b>	<b>5,040.84</b>	3%	Made up of 15 out of 20 debtors in this category, with none individually significant.
<b>Marion Cultural Centre Total</b>	<b>12,518.42</b>	<b>7,662.25</b>	<b>1,939.17</b>	<b>157.00</b>	<b>.00</b>	<b>2,760.00</b>	2%	Made up of 1 out of 10 debtors in this category.
<b>Total</b>	<b>924,658.92</b>	<b>315,758.18</b>	<b>380,793.05</b>	<b>9,770.14</b>	<b>51,012.36</b>	<b>167,325.19</b>		
<b>Total Aging Profile</b>		<b>34%</b>	<b>41%</b>	<b>1%</b>	<b>6%</b>	<b>18%</b>		

Category	Description
General	Anything that does not fit into one of the below categories.
Hire of Council Facilities	For hire of rooms in Neighbourhood Centres, etc - usually charged out at an hourly rate. Also includes cultural workshops and tours.
Sporting Clubs & Other Leases	Rent, electricity, water, maintenance, etc charged out to lessees.
Extra Works	For repairs or modifications to infrastructure (footpaths, kerbs, driveway inverts). Can be at resident request.
Swim Centre Debtors	Outdoor Swimming Centre - used for lane hire, school visits, etc
Grants & Subsidies	Government grants and subsidies
Environmental Health	Food Inspection fees
Supplier Refunds	Where a supplier owes the City of Marion funds. This category is used to keep track to ensure we have received payment for credits.
Tree Funds	Includes contribution for the removal and/or replacement of Council Street Trees
Marion Cultural Centre	For invoices relating to the Marion Cultural Centre

## **Rates Report - Collection of Rates to 31st January 2015**

### **ANALYSIS OF OUTSTANDING RATES AS AT 31ST JANUARY 2015**

	<u>Note</u>		<b>% of Total Annual Rates</b>
CURRENT	1	\$ 27,111,851	<b>40.4%</b>
OVERDUE	2	\$ 920,508	<b>1.4%</b>
ARREARS	3	\$ 789,724	<b>1.2%</b>
POSTPONED	4	\$ 83,110	<b>0.1%</b>
LEGALS	5	\$ 25,016	<b>0.0%</b>
		<b>\$ 28,930,210</b>	<b>43.1%</b>
<b>TOTAL ANNUAL RATES FOR 2014/15</b>		<b>\$ 67,110,000</b>	

#### **Note 1: Current**

Current rates represent the total amount of rates levied in the current financial year that are not yet due for payment. For example at 1st January this represents Quarter 3 & Quarter 4 rates unpaid.

#### **Note 2: Overdue**

Overdue rates represent rates levied in the current financial year that remain unpaid past their due payment date. For example on 1st January, this represents rates from Quarter 1 and Quarter 2 that remain unpaid.

#### **Note 3: Arrears**

Rates in arrears represent rates and charges levied in previous financial years that remain unpaid .

#### **Note 4: Postponed**

Postponed rates represent any rates amount due by seniors that have been granted a deferral, until the eventual sale of their property, as allowable under the Local Government Act. Interest is charged on these deferred rates and is recoverable when the property is sold.

#### **Note 5: Legals**

Legals represent any legal fees, court costs that have been incurred by Council in the collection of rates in the current financial year. These amounts represent costs that have been on-charged to the defaulting ratepayers and are currently outstanding.

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Originating Officer:** Mayor Hanna  
**Subject:** CEO Employment Arrangements  
**Reference No:** GC240215R14

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**REPORT OBJECTIVES & EXECUTIVE SUMMARY:**

Following the resignation of the Chief Executive Officer, it is now appropriate to consider:

1. Confirmation of the minutes from the Special Council meeting held on Thursday 19 February 2015
2. Appointment of an Acting Chief Executive Officer

It is proposed that discussion be held during the meeting regarding the appointment of an Acting Chief Executive Officer from 5pm on Friday 27 March 2015.

3. A proposed process for the recruitment of a new CEO.

Very broadly, the process could consist of:

- Council to appoint a CEO Recruitment Panel for the purposes of facilitating the recruitment process. If considered appropriate, the CEO Review Committee could undertake this role.

It is proposed that discussion be held during the meeting regarding the appointment of a Panel of this nature.

- Seek proposals, and then engage a recruitment firm to facilitate the recruitment process
- Undertake recruitment process, select preferred candidate
- Negotiate terms and conditions, seek legal advice as necessary
- Employ preferred candidate

**RECOMMENDATIONS:**

**That:**

- 1. The minutes of the Special Council meeting held 19 February 2015 be confirmed as a true and correct record of proceedings.**
- 2. Council appoints xxx as Acting Chief Executive Officer commencing from close of business Friday 27 March 2015 until such time as a permanent appointment is made and a new Chief Executive Officer commences employment with the City of Marion.**
- 3. The Mayor be authorised to execute an Agreement with xxx to undertake the role of Acting Chief Executive Officer.**
- 4. Council's Chief Executive Review Committee, currently comprising the Mayor, Deputy Mayor and Councillor Telfer provide oversight to the Chief Executive Officer recruitment process. Council notes that the Chief Executive Review Committee has no delegated authority, and will make recommendations to Council at various junctures in the process.**

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Question Received from:** Councillor Luke Hutchinson

**Subject:** Street Tree Planting

**Ref No:** GC240214Q01

**File No:** 9.33.3.24

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**QUESTION:**

What mechanisms are in place to initiate street tree planting following a developer payment for the replacement street trees?

**COMMENTS:**

**Peter Patterson, Manager Open Space & Facilities**

Development Services raise the street tree removal and replacement requests as part of the Development Application Submission for a new development, which is reviewed by our Tree Planning Officer.

Once the fees have been paid, the request for removal and subsequent re-planting is forwarded to Open Spaces. The planting generally occurs well after the completion of the development to prevent damage to the tree during construction.

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Notice Received from:** Councillor Nick Kerry

**Subject:** Development Assessment Panel Operations

**Ref No:** GC240215M01

**File No:** 9.24.1.4 & 9.33.3.27

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**MOTION:**

"That the Council write to the Presiding Member of the City of Marion DAP (with a courtesy copy to other DAP members), with a request that its letter be tabled at the next DAP meeting, advising that the Council is of the view that it is preferable that discussions, deliberations & the determination of applications by the DAP take place in public & that it only exclude the public from attendance during so much of a meeting as is necessary to receive, discuss or consider in confidence that information or those matters set out in Section 56A(12)(a) of the Development Act 1993. The Council recommends that the DAP consider adopting such an approach & incorporating this in its procedures when they are reviewed at the next DAP meeting in accordance with the DAP resolution. The Council's recommendation is in the interests of raising accountability & promoting transparency in local government decision making & is consistent with its submission to the Planning Minister in relation to the Report of the SA Expert Panel on Planning Reform of December 2014 that, in the public interest, any planning authority should adopt procedures that ensure transparency of deliberations & decision making."

**COMMENTS: Councillor Kerry**

Nil

**COMMENTS: Steve Hooper, Manager Development Services**

The appropriateness of Council conveying its views with respect to openness & transparency in development application decision making to its DAP has been confirmed by Council's legal adviser.

Should Council so resolve, a letter as outlined in the proposed motion will be prepared and forwarded to Ms Rebecca Thomas as the current Presiding Member of the DAP, with a courtesy copy to Ms Wendy Bell, Mr Phil Smith, Ms Jenny Newman and Councillors Appleby, Westwood and Kerry.

For Council's further information, it is anticipated that the DAP will be reviewing its General Operating Procedures at their 4 March 2015 meeting. This review is in line with a resolution passed by the DAP on 10 December 2014 as follows:

*“The Development Assessment Panel resolve to review its “General Operating Procedures” – last adopted by the Panel on 3 August 2011 at the first available meeting, at which all Members are present, after four Development Assessment Panel meetings.*

*This shall include a review of the current practice of excluding the public from attendance during the part of the meeting that consists of its discussion or determination of any application or other matter that falls to be decided by the Panel (Section 56A(12)(b) of the Development Act 1993).*

*The Development Assessment Panel resolve to review the Council’s “Terms of Reference” – last adopted by Council on 25 October 2011 at the same time it reviews the General Operating Procedures and make recommendations to the Council on any changes it considers appropriate.”*

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Notice Received from:** Councillor Janet Byram

**Subject:** Closure of the Repatriation General Hospital

**Ref No:** GC240215M02

**File No:** 9.24.1.4 & 9.33.3.34

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**MOTION:**

- 1. That Council express concern at the plans to close the Repatriation General Hospital**
- 2. Council requests an urgent and extensive briefing on the planned closure and its impact on the City of Marion's residents and especially veterans - to be provided by the Minister for Health.**

**COMMENTS: Councillor Byram**

Points that particularly concern me at present are the proposals to move the Palliative care into existing hospitals and the talk of establishing new services at Flinders hospital eg the Psychogeriatric ward and the nurse led recuperation centre. These need to have a home type feel and have the ability to train people in using household appliances.

Flinders already has tired old wards and needs updating further, how are we going to have palliative care effectively incorporated into these areas. Not only are the needs of the client met at the Repat Hospital but also the needs of the family during these emotional times.

**COMMENTS: Margi Whitfield, Manager Community Participation**

Should Council choose to support this motion, staff will make the necessary arrangements.



**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Notice Received from:** Councillor Ian Crossland

**Subject:** Hallett Cove Foreshore

**Ref No:** GC240215M03

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**MOTION:**

That Council:

1. Include the wording 'lest we forget' on the commemorative wall at Hallett Cove foreshore and remove the words "Southern Cross" and the associated aboriginal translation. Any additional cost will be offset by the \$23,000 federal grant fund recently received by the City of Marion which was not included in the original Council budget.
2. Attach the official ANZAC centenary logo to the commemorative wall.
3. Investigate alternative funding options to deliver the next stage of the project being the embankment works.
4. Request and work with administration to review the master plan and provide options to scale back the size of the master plan so that the redevelopment can be delivered within the provisions in the Long Term Financial Plan as well as seeking alternative funding options should such funding become available.

**COMMENTS: Councillor Crossland**

At its General Meeting of 25 March 2014 Council resolved to endorse the Master Plan for Hallett Cove Foreshore and progress with the commemorative elements of the plan to be delivered for the 2015 ANZAC centenary. The full scope of the works in the master plan is approximately \$3.76m which will require grant funding or alternative funding sources to deliver. It seems appropriate to revisit the master plans regarding the size and scale to see if community outcomes can be delivered within the current provisions within the Long Term Financial Plan.

Additionally, the commemorative works are progressing in time for the ANZAC centenary with the City of Marion's ANZAC Day youth vigil and Lion Club Dawn service being organised at this location. As part of these works, it is appropriate to recognise that this is a remembrance space through the appropriate wording and logo on the memorial wall.

**COMMENTS: Peter Patterson, Manager Open Space & Recreation**

1. **Include the wording 'lest we forget' on the commemorative wall at Hallett Cove foreshore and remove the words "Southern Cross" and the associated aboriginal translation. Any additional cost will be offset by the \$23,000 federal grant fund recently received by the City of Marion which was not included in the original Council budget.**

The master plan endorsed by Council (GC250314M03) incorporates a commemorative space that will provide the community with a space that can accommodate traditional ceremonies as well as local smaller scale community or family events.

Council endorsed the development of partial commemorative space, north of Heron Way (GC080714R01) with an estimated capital construction cost of \$340,000. The initial estimates were for the total package of works to be delivered for \$340,000 with or without grant funding.

The scope includes the development of the memorial wall, feature garden bed, 2 x flag poles and lighting, paving, memorial seats, earthworks and grading, new shelter structure, BBQ and picnic tables and associated turf and planting. The works also include the relocation of the Kurna stone cairn to the south of the site.

These works are currently under construction and due for completion at the end of March 2015.

The wording proposed on top of the wall capping '*Southern Cross Wilrtu Tidna and ANZAC Centenary April 25<sup>th</sup> 2015*' in addition to the southern cross symbol, provides reference to the master plan development of the commemorative space which is symbolised by the Southern Cross. The master plan illustrates the commemorative space to incorporate Grand Central reserve in the future to which the constellation of the Southern Cross is imprinted in the ground connecting the space which is currently under construction.

The wording proposed to be sand blasted on the capping of the wall is reflective of the master plan development and the concepts of creating a commemorative space that facilitates community use for individuals or group commemoration throughout the year, inclusive but not exclusive to ANZAC Day.

In recognition of the importance of the dreaming and in line with Councils Reconciliation Action Plan (RAP), consultation was conducted with Kurna Warra Pintyandi (KWP) to facilitate the translation of the language to which they have provided authority to use. During the master plan process council staff engaged with a Kurna elder to work through the concepts and the sites sensitive response to the landscape and coastal edge.

The works on the sand blasted text for the capping are currently on hold.

Three options available for Council consideration (Refer Appendix A) are:

1. No change – continue with the existing adopted approach using the wording proposed on top of the wall capping '*Southern Cross Wilrtu Tidna and ANZAC Centenary April 25<sup>th</sup> 2015*' in addition to the southern cross symbol.
2. Include the wording 'Lest We Forget' on the commemorative wall at Hallett Cove foreshore and remove the words "Southern Cross" and the associated aboriginal translation in line with the motion, with an additional estimated quoted cost of \$2,270 ex GST.

3. Include the wording 'Lest We Forget' on the commemorative wall in addition to the words *Southern Cross, Wilrtu Tidna and the ANZAC Centenary Logo*, with an additional estimated quoted cost of \$2,820 ex GST.

There have been some unanticipated additional costs with the project that have been incurred throughout the construction phase. These costs are associated with the works required to the existing power box and heritage monitors for the initial earth works phase and were not included in the original budget of \$340,000. This has resulted in an estimated cost increase to the project in the order of \$10,000.

The intention of the 8 July 14 Council report (GC080714R01), as outlined in Table 2 of that report, was that Council would provide the balance of funds required for the project up to a maximum of \$340,000. In other words, should Council be successful in receiving the \$23,000 from the ANZAC Centenary Fund this would be used accordingly to reduce Council's contribution (ie. Council's contribution would be limited to a maximum of \$317,000).

It is recommended that should Council endorse either Options 2 or 3 the necessary funding required, together with any additional cost increases incurred, be funded from the \$23,000 ANZAC Centenary Fund received from the Federal Government. This would result in Council's funding contribution being in the order of \$330,000 (ie. \$340,000 + \$10,000 estimated extra costs incurred to date + \$3,000 extra costs of option 2 or 3 rounded up less grant funding of \$23,000). Should Council however chose to endorse option 1 this would result in Council's funding contribution being in the order of \$327,000.

## **2. Attach the official ANZAC centenary logo to the commemorative wall.**

This work will be included within the current scope. The logo will be laser etched on a stainless steel marine grade plate 400x400mm chemically anchored to the face of the wall.

## **3. Investigate alternative funding options to deliver the next stage of the project being the embankment works.**

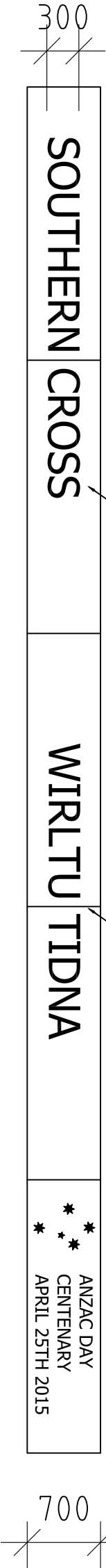
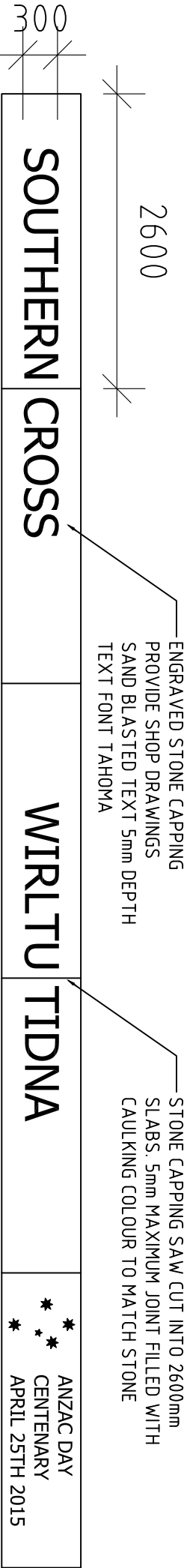
Staging and funding options available for implementation of the Hallett Cove Foreshore Masterplan are being investigated with a report to be prepared for Council consideration in mid 2015 in accordance with GC250314M03:-

*"6. A report be bought back to Council to explore future funding options and staging of the project."*

## **4. Request and work with administration to review the master plan and provide options to scale back the size of the master plan so that the redevelopment can be delivered within the provisions in the Long Term Financial Plan as well as seeking alternative funding options should such funding become available.**

Whilst Council has adopted the Hallett Cove Foreshore Masterplan (GC250314M03) and has some funding set aside within the LTFP, it has always been expected that external funding will be required in order to fully deliver this Precinct Level plan.

The masterplan outlines the vision for the site however there is opportunity to further consider and work through with Council the scale and size of stages of the masterplan through the detail design phase of each stage of work as Council considers the implementation, staging and funding available in the LTFP for the project into the future.

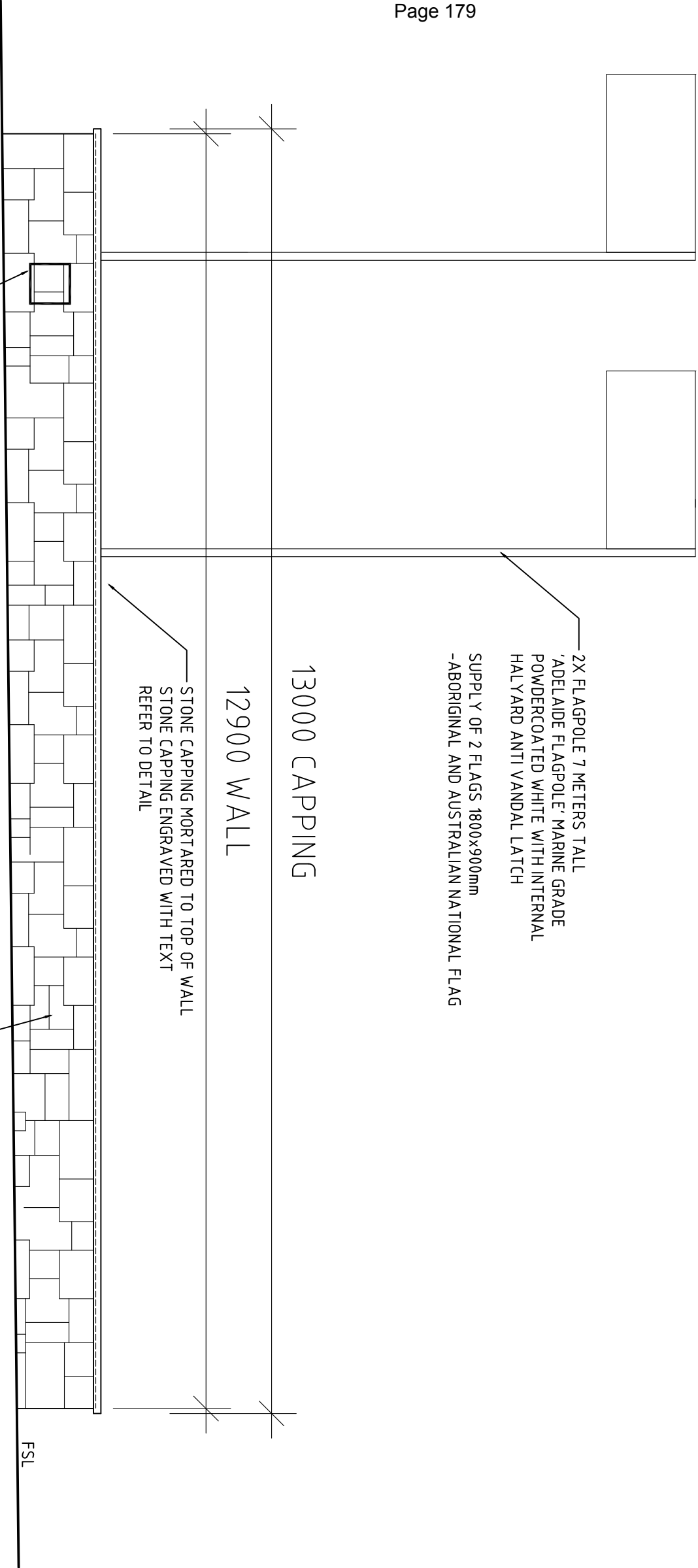


OPTION 1

-

STONE MEMORIAL WALL CAPPING:PLAN TEXT LAYOUT

SCALE 1:50



-

STONE MEMORIAL WALL:ELEVATION TEXT

SCALE 1:50

FOR INFORMATION

No.	-	-	-
DESCRIPTION			
AMENDMENTS		APPROVED	DATE

THE CORPORATION OF THE CITY OF MARION			
PROJECT No.		Drawn	---
HALLETT COVE FORESHORE		Designed	---
DETAILS		Checked	BG
Plan	SHOWN	Approved By	
Scales:		Surveyed	---
		Level Book	
		Computer Name	

Date	13/08/2014
REVISION No.	-
HCF_WD11	11

2600

STONE CAPPING SAW CUT INTO 2600mm  
SLABS. 5mm MAXIMUM JOINT FILLED WITH  
CAULKING COLOUR TO MATCH STONE

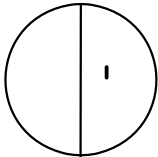
OPTION 2



700

STONE MEMORIAL WALL CAPPING:PLAN LAYOUT

SCALE 1:50



2X FLAGPOLE 7 METERS TALL  
'ADELAIDE FLAGPOLE' MARINE GRADE  
POWDERCOATED WHITE WITH INTERNAL  
HAL YARD ANTI VANDAL LATCH

SUPPLY OF 2 FLAGS 1800x900mm  
- ABORIGINAL AND AUSTRALIAN NATIONAL FLAG

13000 CAPPING

12900 WALL

LEST WE FORGET

MARINE GRADE  
SS PLATE WITH  
ANZAC OFFICIAL LOGO  
4,00x4,00mm

STAINLESS STEEL 6mm MARINE GRADE 316  
LASER CUT LETTERING WITH WELDED LUGS  
ON BACK DRILLED AND CHEMSET INTO WALL  
FONT TAHOMA 300mm HIGH

ASHLAR COURSED RANDOM SQUARE  
BASKET RANGE BUSH HAMMERED

FSL

FOR INFORMATION

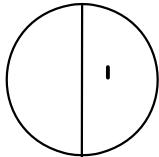
No.	-	-	-	-
DESCRIPTION	AMENDMENTS			APPROVED
				DATE

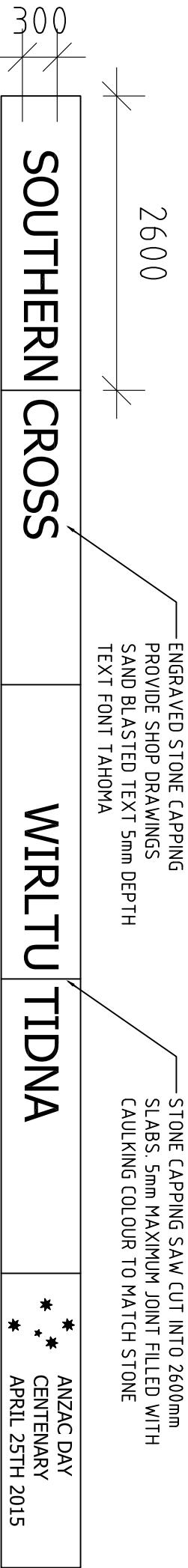
THE CORPORATION OF THE CITY OF MARION

PROJECT No.		Drawn	--	Date	13/08/2014
HALLETT COVE FORESHORE		Designed	--	REVISION No.	--
DETAILS		Checked	BG	Surveyed	--
Plan		SHOWN	Approved By		Level Book
Scales:		Manager		Computer Name	

STONE MEMORIAL WALL:ELEVATION TEXT

SCALE 1:50



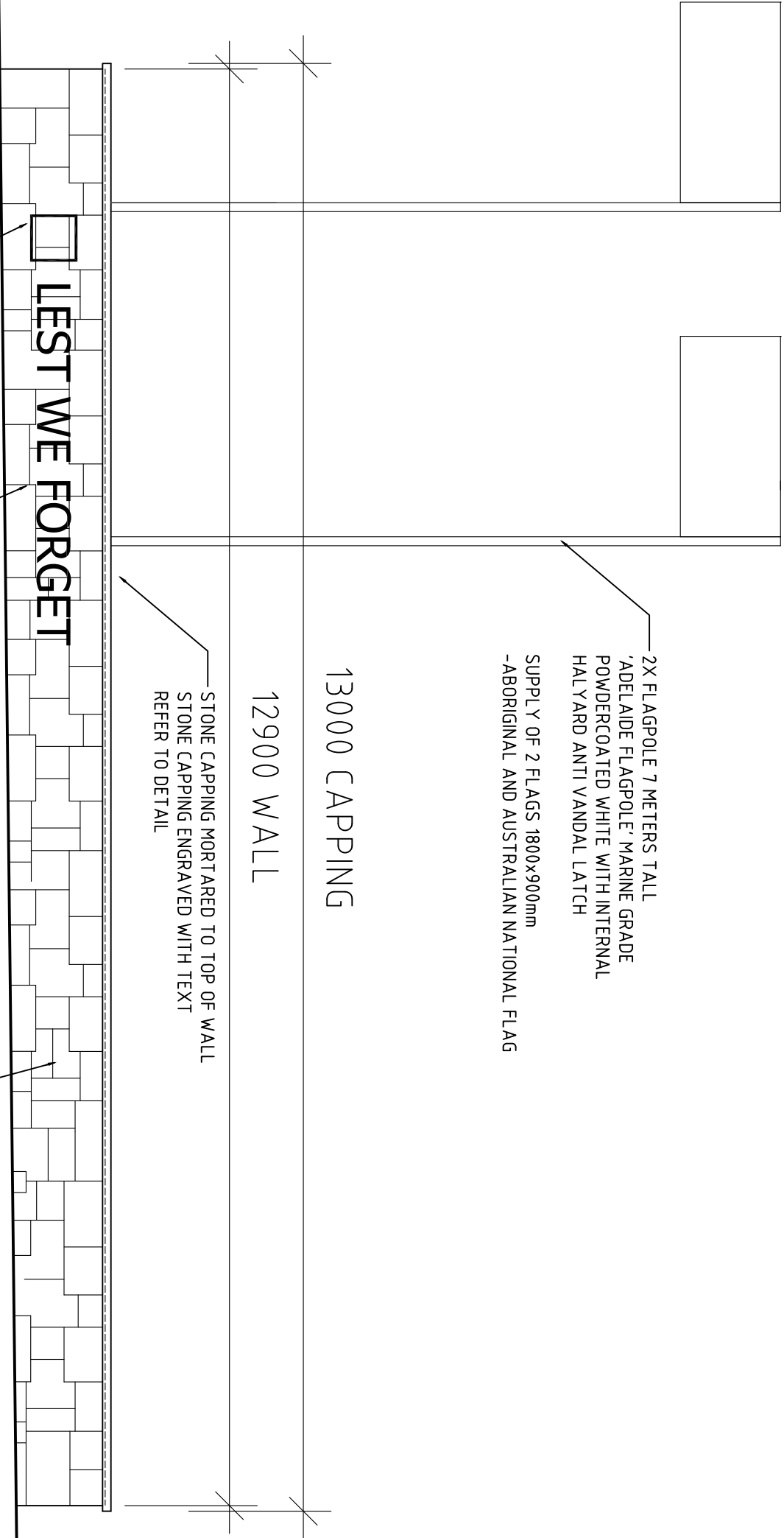


OPTION 3

-

STONE MEMORIAL WALL CAPPING:PLAN TEXT LAYOUT

SCALE 1:50



STONE CAPPING MORTARED TO TOP OF WALL  
STONE CAPPING ENGRAVED WITH TEXT  
REFER TO DETAIL

13000 CAPPING  
12900 WALL

2X FLAGPOLE 7 METERS TALL  
'ADELAIDE FLAGPOLE' MARINE GRADE  
POWDERCOATED WHITE WITH INTERNAL  
HALYARD ANTI VANDAL LATCH  
SUPPLY OF 2 FLAGS 1800x900mm  
-ABORIGINAL AND AUSTRALIAN NATIONAL FLAG

MARINE GRADE  
S/S PLATE WITH  
ANZAC OFFICIAL LOGO  
400x400mm  
STAINLESS STEEL 6mm MARINE GRADE 316  
LASER CUT LETTERING WITH WELDED LUGS  
ON BACK DRILLED AND CHEMSET INTO WALL  
FONT TAHOMA 300mm HIGH

ASHLAR COURSED RANDOM SQUARE  
BASKET RANGE BUSH HAMMERED

LEST WE FORGET

FSL

FOR INFORMATION	No.	-	-	-	-/-/-
	DESCRIPTION			APPROVED	DATE
	AMENDMENTS				

THE CORPORATION OF THE CITY OF MARION					
PROJECT No.		Drawn	--	Date 13/08/2014	
HALLETT COVE FORESHORE		Designed	--	REVISION No.	
DETAILS		Checked	BG	Sheet No.	
Plan SHOWN		Approved By	HCF-WD13		13
Scales:		Manager	Level Book		Computer Name

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Notice Received from:** Councillor Luke Hutchinson

**Subject:** Demolition Applications for Local Heritage Places

**Ref No:** GC240215M04

**File No:** 9.24.1.4 & 9.33.3.24

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**MOTION:**

That City of Marion:

1. Ensure the Marion Historical Society and History Centre are aware of all demolition applications for local heritage places and any buildings pre-1950; And
2. Provide the opportunity to make contact with owners of properties that have applied for demolition application in order seek permission for internal photographs to also be captured.

**COMMENTS: Councillor Hutchinson**

Overtime buildings are renewed across the city, while this is a necessary fact of life, it is important to educate future generations, and those who perhaps might to reflect, on our history of built form. To achieve this our community volunteers who dedicate themselves to this mission require our assistance, in order to photographically capture these properties before they are only memories.

**COMMENTS: Steve Hooper – Manager Development Services**

Council has no records of the age of buildings being demolished and receives approximately 300 applications for demolition of buildings each year.

Given this, one mechanism which could be adopted to facilitate the intent of this motion would be to amend the application forms for demolition applications such that the applicant is asked if the building being demolished pre-dates 1950. In the event that the applicant responds in the affirmative, the consent of the applicant could be requested such that they are contacted by the Marion Historical Society and History Centre for permission to take internal photographs. Administration could then notify each of the above.

Whilst this mechanism would capture some demolition applications, not all applications are lodged using the City of Marion application forms. Some applications utilise generic application forms across metropolitan Adelaide. In this respect a note could be placed on the demolition approval requesting that the applicant contact the Marion Historical Society or History Centre with their consent for internal photographs to be taken when the buildings pre-date 1950.

Demolition of Local Heritage Places is extremely rare and only occurs in extenuating circumstances where it can be demonstrated that the place is beyond reasonable repair or its local heritage setting is irreversibly compromised.

Council is only aware of one such occurrence over the past 10 years, namely the demolition of "Bleak House" at Edwardstown. In this instance, internal photographs were taken of the property to record the history of the site.

Where a property owner seeks to demolish a Local Heritage Place, a development application would be submitted. This application would undergo public consultation. Any such application would then be referred to the Development Assessment Panel for decision.

With respect to Bleak House, the requirement for internal photographs to be taken was a condition of the approval of the demolition. Such a requirement is considered appropriate. Any future application (should one arise) would include the same conditions and requirements as applied for Bleak House. These photographs could then be circulated to the Marion Historical Society and Council's History Centre.



**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 February 2015**

**Notice Received from:** Councillor Tim Gard

**Subject:** Distribution of Funding and Regular Expenditure in Wards

**Ref No:** GC240215M05

**File No:** 9.24.1.4 & 9.33.3.31

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**MOTION:**

That:

1. The City of Marion take steps to establish greater equity in the distribution of regular services between Wards, having regard for priorities within the City at large.
2. As a management measure of control, future works, categorised as regular services, be recorded for each Ward separately, as well as collectively.
3. That in future budgeting and allocation of expenditure, Council Members and management have regard for equity in works allocation from Ward to Ward.

**COMMENTS: Councillor Gard**

Using the sports and community centres project as an example, it is obvious that the distribution of funding and regular expenditure can become lop-sided over time, if at least notional Ward expenditure allocations are not recorded on a continuing basis.

Considering the huge budget allocations over any one decade, the resultant shortfall in value for money for residents in some areas versus others can be great.

Additionally, it leaves Council in positions from time to time, as it does at present, to qualify and attend to such shortfalls, a situation that is quite undesirable from a planning point of view.

This is a matter of degrees but the process in principle clearly needs to be addressed if the City is to govern fairly and responsibly.

**COMMENTS: Vincent Mifsud, Director**

Capital and maintenance works programs for Council's infrastructure are underpinned and supported by Council's Asset Management Plans (AMP's), with priority of works being determined on a City wide basis. Regular asset audits are conducted by engineering staff and independent infrastructure experts to assess and rate the condition of infrastructure assets across the Council's entire network. This data is used, together with various relevant key criteria (eg. technical, environmental, economic and social), to develop a condition index with weighted scores that are incorporated in matrices to determine the priority of necessary capital and maintenance programs required across Council. This is a best practice approach that has the objective of ensuring that infrastructure life is optimised and is based on works decisions being made in the best interest of serving the community as a whole. Some examples are:-

- Drainage – a drainage matrix has been developed to prioritise stormwater projects. Criteria have been developed whereby weighted scores are given to provide a project by project prioritised score.
- Road Reseal Program – the condition of the entire network is assessed and rated to provide a segment by segment condition index. Intervention levels have been developed to determine the appropriate treatment type at certain intervention levels.

This existing prioritisation and whole of Council approach, based on asset life cycles and condition assessments, already has the effect of ensuring equity in service distribution.

An approach aligned with wards is likely to result in service provision being out of sync with asset life cycles and therefore works prioritisation requirements as determined in Council's AMP's. This will ultimately result in increased infrastructure renewal costs being incurred by Council. Concern with such an approach is evident through action taken in Western Australia where it has in fact been specifically banned by legislation. Refer the Western Australia Local Government Act 1995, Local Government (Financial Management) Regulations 1996, Part 2 Clause 7:-

*“A local government is to have regard to the needs of the inhabitants of the district as a whole and is not to —*

*(a) keep separate ward accounts; or*

*(b) determine expenditure on the basis of revenue from a ward.”*

Council's current systems are aligned with a whole of Council approach. The capacity, cost and practicalities of changing this would be significant.

Our recommendation is that the approach suggested would not result in a fair and equitable use of community funds.

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 FEBRUARY 2015**

**CONFIDENTIAL REPORT**

**Originating Officer:** John Valentine, Manager Strategic Projects  
**Corporate Manager:** John Valentine, Manager Strategic Projects  
**Director:** Heather Montgomerie  
**Subject:** Cove Civic Centre – Cost and programme management  
**Reference No:** GC240215F01

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If the Council so determines, this matter may be considered in confidence under Section 90(3)(b)(i)(ii) of the *Local Government Act 1999* on the grounds that the report contains information relating to information the disclosure of which 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 would, on balance, be contrary to the public interest.



**Mark Searle**  
Chief Executive Officer

**RECOMMENDATION:**

That pursuant to Section 90(2) and (3)(b)(i)(ii) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Mark Searle, Kathy Jarrett, Heather Montgomerie, John Valentine, Kate McKenzie, Craig Clarke, Jaimie Thwaites and Victoria Moritz, Campbell Mackie and Nathan Hawkes, be excluded from the meeting as the Council receives and considers information relating information the disclosure of which 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 would, on balance, be contrary to the public interest.

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 FEBRUARY 2015**

**CONFIDENTIAL REPORT**

**Corporate Manager:** Abby Dickson, Manager Libraries & Cultural Development

**Director:** Kathy Jarrett

**Subject:** Marion Leisure & Fitness Centre  
Lease to CASA Leisure Pty Ltd

**Reference No:** GC240215F02

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If the Council so determines, this matter may be considered in confidence under Section 90(3)(b), (i) and (k) of the Local Government Act 1999 on the grounds that the report contains information relating to commercial information of a commercial nature the disclosure of which (i) could reasonably confer a commercial advantage on a third party or prejudice the position of the Council; could relate to potential litigation between Council and a third party, and could impact on a proposed tender for the supply of goods or services and, (ii) would, on balance, be contrary to the public interest.



**Mark Searle**  
Chief Executive Officer

**RECOMMENDATION:**

1. That pursuant to Section 90 (2) and (3)(d) of the Local Government Act 1999, the Council orders that all persons present, with the exception of the following persons: Mark Searle, Kathy Jarrett, Abby Dickson, Mark Gibson, Heather Michell, Dave Barrett, Ray Barnwell, Colin Heath, Kate McKenzie and Craig Clarke be excluded from the meeting as the Council receives and considers information relating to the Marion Leisure Fitness Centre Lease to CASA Leisure Pty Ltd, 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 of a commercial nature the disclosure of which (i) could reasonably confer a commercial advantage on a third party or prejudice the position of the Council; could relate to potential litigation between Council and a third party; and could impact on a proposed tender for the supply of goods or services and, (ii) would, on balance, be contrary to the public interest..

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 FEBRUARY 2015**

**CONFIDENTIAL REPORT**

**Originating Officer:** John Valentine, Manager Strategic Projects  
**Corporate Manager:** John Valentine, Manager Strategic Projects  
**Director:** Heather Montgomerie  
**Subject:** Surplus land associated with City Services Redevelopment  
**Reference No:** GC240215F03

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If the Council so determines, this matter may be considered in confidence under Section 90(3)(b)(i)(ii) and (d)(i)(ii) of the *Local Government Act 1999* on the grounds that the report contains information that could (b)(i) 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 commercial information of a confidential nature (not being a trade secret) the disclosure of which, (d)(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 (b) and (d)(ii) would, on balance, be contrary to the public interest.



**Mark Searle**  
Chief Executive Officer

**RECOMMENDATION:**

That pursuant to Section 90(2) and (3)(b) and (d) (i)(ii) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Mark Searle, Kathy Jarrett, Vincent Mifsud, John Valentine, Kate MacKenzie, Jaimie Thwaites, Craig Clarke and Victoria Moritz be excluded from the meeting as the Council receives and considers information relating to potential disposal of Council land, 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 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 commercial information of a confidential nature (not being a trade secret) the disclosure of which, (d)(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 (b) and (d)(ii) would, on balance, be contrary to the public interest.

**CITY OF MARION  
GENERAL COUNCIL MEETING  
24 FEBRUARY 2015**

**CONFIDENTIAL REPORT**

**Originating Officer:** David Barrett, Unit Manager Cultural Facilities  
**Corporate Manager:** Abby Dickson, Manager Libraries & Cultural Development  
**Director:** Vincent Mifsud  
**Subject:** Signatures Café  
**Reference No:** GC240215F04

If the Council so determines, this matter may be considered in confidence under Section 90(2) and (3)(d) of the *Local Government Act 1999* on the grounds that the report contains information relating to commercial operations of a confidential nature the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.



**Mark Searle**  
Chief Executive Officer

**RECOMMENDATION:**

1. That pursuant to Section 90(2) and (3)(d) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Mark Searle, Chief Executive Officer; Kathy Jarrett, Director; Vincent Mifsud, Director; Abby Dickson, Manager Libraries and Cultural Development; Kate McKenzie, Manager Governance; David Barrett, Unit Manager Cultural Facilities; Victoria Moritz, Governance Officer; Craig Clarke, Unit Manager Communications, be excluded from the meeting as the Council receives and considers information relating to Signatures Café, 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 operations of a confidential nature the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.