



**MOUNT BARKER
DISTRICT COUNCIL**

NOTICE OF MEETING

Pursuant to Section 83 of the Local Government Act 1999 notice is hereby given that the following meeting will be conducted electronically via Zoom webinar <https://us02web.zoom.us/j/87689601112> on Monday 17 January 2022.

7.00 pm

Council Meeting

A. Stuart
CHIEF EXECUTIVE OFFICER

12 January 2022

Mount Barker District Council – Monday 17 January 2022 – 7.00pm
ORDER OF BUSINESS

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	The purpose of this report is to provide Council with an annual progress report for the implementation of the Mount Barker District Council Disability Access and Inclusion Plan (DAIP) for the year October 2020 to October 2021. Council's DAIP is called 'Access for All, Disability Access and Inclusion Plan 2020-2025.'	
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1. COUNCIL OPENING
EXPRESSION OF FAITH
ACKNOWLEDGEMENT OF COUNTRY

1.1 Leave of Absence

1.2 Apologies

2. QUESTIONS FROM THE GALLERY (15 MINUTES)

3. CONFIRMATION OF MINUTES

3.1 Recommendation

That the minutes of the meeting held on 6 December 2021 as circulated to members be confirmed as a true and accurate record of proceedings.

4. CONFLICT OF INTEREST DECLARATION

Council Members are reminded of the requirements for disclosure by Members of material, actual or perceived conflicts of interest in relation to items listed for consideration on the agenda.

5. DEPUTATIONS

5.1 Echunga Community Association

6. QUESTIONS WITH NOTICE – COUNCILLORS

NIL

7. QUESTIONS WITHOUT NOTICE – COUNCILLORS

8. MOTIONS ON NOTICE

NIL

9. MOTIONS WITHOUT NOTICE

For

- *requesting a report*
- *a simple matter with minor impact*
- *an urgent matter that without consideration by Council would result in a detriment to Council*

10. PETITIONS

NIL

11. RECOMMENDATIONS FROM COMMITTEES**11.1 Summit Sport and Recreation Park (SSRP) Board – 15 December 2021**

The recommendations of the Summit Sport and Recreation Park (SSRP) Board are provided below for consideration by Council:

11.1.1	REPORT TITLE:	QUARTERLY REPORT - JULY TO SEPTEMBER 2021
	FILE NUMBER:	DOC/21/206864
	ATTACHMENTS:	1. DOC/21/205308 SSRP FINANCIAL STATEMENT SEPTEMBER 2. DOC/21/204838 QUARTERLY REPORT JULY – SEPTEMBER 2021

[These attachments are provided separately on the Council website – Summit Sport and Recreation Park Board Agenda 15 December 2021\(click here\)](#)

Recommendation

That Council notes:

1. that the Summit Sport and Recreation Park Board endorsed Attachment 1 as the financial report for the July to September quarter of 2021/22
2. that the Summit Sport and Recreation Park Board endorsed Attachment 2 as the quarterly report for the July to September quarter of 2021/22; and
3. the SSRP quarterly report (including the financial report) at its 17 January 2022 Council meeting with an officer explanation of the utility accrual.

Executive Officer Comment

For clarity, Recommendation 1 refers to a SSRP Budgeted Financial Statement report provided by the Finance Section.

Recommendation 2 refers to a SSRP Quarterly Annual Business Plan report which includes objectives and KPIs that span the Board's role and responsibilities (including financial) as approved by Council in the Board's Terms of Reference.

Recommendation 3 is covered in the Council Officer comment below.

Greg Parker, Executive Officer to the SSRP Board

Council Officer Comment

The SSRP facility in its first year of operations is expected to have increased expenditure as the operating model matures.

The unfavourable forecast variance of \$111,000 relates largely to an increase in capital depreciation (\$75,000) and an increase in the contract for turf maintenance of the Premier Oval of \$35,000.

The operating results will continue to be monitored closely to ensure the optimal financial outcome is achieved. An example of this will be forecast revenue which will be impacted by the progress to date of the Board's commercial strategy for the whole precinct and the potential impact of public health directions.

The forecast revenue and expenditure will continue to be monitored with changes to be reflected in budget review 3.

Systems and process of accurately and timely reporting and invoicing of licensee utility consumption is in progress with invoicing to occur in January 2022. Where known, accrued revenue figures have been included in the financial statements.

Alex Oulianoff, General Manager, Corporate Services

11.1.2	REPORT TITLE:	FENCING OPTIONS BUSINESS CASE
	FILE NUMBER:	DOC/21/198473
	ATTACHMENTS:	1. DOC/21/180321 SSRP DRAFT BUSINESS CASE – FENCING This attachment is provided separately on the Council website – Summit Sport and Recreation Park Board Agenda 15 December 2021(click here)

Executive Officer Comment

Motion lapsed for want of a seconder as the Board requested that staff source further information from emergency services agencies and a major event logistics expert.

Greg Parker, Executive Officer to the SSRP Board

Council Officer Comment

Council officers are gathering further information as requested by the Board in the context of ensuring the pursuit of SSRP commercial strategy objectives.

Marc Voortman, General Manager, Planning and Development

11.1.3	REPORT TITLE:	CAPACITY AND CAR PARKING MASTERPLANNING PROJECT BRIEF
	FILE NUMBER:	DOC/21/198693
	ATTACHMENTS:	1. DOC/21/203183 PROJECT CHARTER – SSRP MASTERPLANNING FOR CAR PARKING This attachment is provided separately on the Council website – Summit Sport and Recreation Park Board Agenda 15 December 2021(click here)

Recommendations

That Council:

1. Notes that the Summit Sport and Recreation Park Board endorsed the Project Charter (Attachment 1) as being aligned to the Board's resolution on 20 October 2021.
 2.
 - a. Approves the implementation of the Project as per recommendation 1 above, subject to Council considering recommendation 2.b; and
 - b. Notes the Board's strong opinion that the future impacts of Stage 2 should be considered as part of the project because they will have a major influence on the capacity and traffic flow of the facility; and
 - c. Notes the Board's strong opinion of the future impact of public transport provision to stage 1 and 2.
-

Executive Officer Comment

The Board's intent here was to ensure that any capacity and car parking master planning exercise should be cognisant of the broader precinct (including the proposed Stage 2 of the SSRP) both in terms of development use and public transport implications.

Greg Parker, Executive Officer to the SSRP Board

Council Officer Comment

The Board endorsed the project charter (brief) as tabled at the Board meeting with a strong recommendation that the SSRP Stage 2 sports facilities be a key consideration in the master planning exercise.

The Board originally intended for the master planning exercise to include the broader Summit/Hub precinct, however, following advice at the Board meeting from the Senior Open Space and Urban Designer the Board acknowledged that this would not be possible until key development locations were known e.g. Tourist Park.

SSRP Stage 2 as originally planned was to include an additional AFL/cricket oval, 2 additional soccer pitches and tennis/netball courts all of which would necessarily have parking and traffic impacts.

The immediate priority is to ascertain the peak SSRP Stage 1 overflow car parking needs to accommodate large contemporaneous crowds at the soccer facility and at the AFL facility.

The second part of the analysis would include the potential additional SSRP Stage 2 facilities.

Marc Voortman, General Manager, Planning and Development

11.1.4	REPORT TITLE:	RECONCILIATION MURAL AT THE SUMMIT SPORT AND RECREATION PARK
	FILE NUMBER:	DOC/21/198325
	Attachments:	Nil

Recommendation

That Council:

1. Notes that the Summit Sport and Recreation Park Board endorsed the Reconciliation mural concept for the players' races at the Premier Oval facility at the Summit Sport and Recreation Park (SSRP); and
 2. Approves the Reconciliation mural concept as per Recommendation 1.
-

Executive Officer Comment

Nil

Council Officer Comment

The report to the Board sets out the background and discussion regarding the mural proposal for the players' races at the Premier Oval.

The proposed artist is David Booth, a prominent local Aboriginal artist, who is skilled in working with young people in the production of murals. Participants would be selected from Cornerstone College and mentors for the young people would include young Aboriginal footballers from the Mount Barker Football Club as well as other young Aboriginal people from the District. The negotiated design, resulting from engagement with young people will be presented to the SSRP Board and other project partners once the concept has been discussed and finalised prior to the artwork being undertaken.

A partnership agreement to detail the roles and responsibilities of the relevant organisation is currently being negotiated. The commissioning of the work is proposed for the Reconciliation Week round to be held at the SSRP.

Alison Hancock, Acting General Manager, Community Services

**11.1.5 REPORT TITLE: SUMMIT SPORT AND RECREATION PARK
BOARD - MEETING DATES FOR 2022**
FILE NUMBER: DOC/21/199541
ATTACHMENTS: NIL

Recommendation

That Council notes that the Summit Sport and Recreation Park Board approved that the Summit Sport and Recreation Park Board Meetings schedule for 2022 be:

- conducted in the Council Chamber, Local Government Centre, 6 Dutton Road, Mount Barker, until such time as construction of Stage 1 of the SSRP has been completed and suitable technology has been installed and thereafter at the Summit Sport and Recreation Park; and
- held on a Wednesday in the following months: 9 February, 13 April, 8 June, 10 August, 12 October and 14 December 2022 at 6.00pm, subject to change (including an additional meeting as required) depending on items to be considered and reporting requirements.

Officer Comment

Nil

12. REPORTS**12.1 REPORT TITLE: **LOCAL ROADS AND COMMUNITY
INFRASTRUCTURE FUNDING PHASE 3******DATE OF MEETING: 17 JANUARY 2022****FILE NUMBER: 21/212482****ATTACHMENTS: NIL****Key Contact **Brian Clancey, Deputy CEO/General Manager,
Governance******Sponsor **Andrew Stuart, Chief Executive Officer******Community Plan 2020-2035:**

Community Wellbeing

Activity and Movement

Objective 1.1 Plan for, develop, improve and maintain community facilities and infrastructure such as halls, sports grounds, play spaces and natural areas.

Annual Business Plan:

Capital Expenditure

Renewals

Purpose:

To:

- seek endorsement for the allocation of the Local Roads and Community Infrastructure Phase 3 funding to the recommended projects as shown below; and
- seek authority to execute the Federal Government Funding Deed.

Summary – Key Issues:

- The Federal Government has allocated total funds of \$1.353 million ex GST to council under the Local Roads and Community Infrastructure Program Phase 3;
- These funds are recommended to be applied to three projects as listed below in recommendation 1, to complement other funding sources and enable the three projects to all be completed in 2022/23; and

- Authority is sought to enable the required Federal Government funding agreement to be executed.

Recommendation:

That Council:

1. Endorse the use of the \$1.353 million funds available to council under the Federal Government Local Roads and Community Infrastructure Program Phase 3 as follows:
 - Keith Stephenson Park Upgrade \$600,000;
 - Stephen Street Streetscape Upgrade \$720,000; and
 - Callington Recreation Ground Improvements \$33,000
 2. Authorise the Chief Executive Officer or nominee to finalise and execute the Agreement for the Local Roads and Community Infrastructure Program Phase 3 funding allocation with the Federal Government.
-

Background:

1. The total allocation of funds from the Federal Government to council for the Local Roads and Community Infrastructure (LRCI) Program Phase 3 is \$1,353,000 ex GST.
2. LRCI funds are to be directed to local roads/community infrastructure.
3. Council is required to nominate how the total funds are proposed to be applied by 30 June 2022.
4. Projects are required to be completed by 30 June 2023.
5. Council is required to execute a funding Agreement with the Federal Government.
6. Councils are to liaise with the office of their local Federal Member which has occurred.

Discussion:

7. Consideration of the use of this funding allocation was given to a range of projects (see below) through the normal internal process which is organisation wide and culminates in the Strategic Development Group considering a range of factors and making recommendations to the Chief Executive Officer.

8. It is proposed that construction of the three recommended projects would occur in 2022/23 with preparation for construction to occur in the remainder of 2021/22.
9. As a consequence, the major budget impact would be in 2022/23 although council can receive 50% of the total allocation once the Funding Agreement has been executed and the project works schedule has been provided to the Federal Government. The remaining 50% is able to be claimed quarterly in arrears, in accordance with actual expenditure.
10. Brief supporting information for the three recommended projects follows:

Keith Stephenson Park (KSP) Upgrade \$600,000 Allocation

11. Estimated total project cost is \$795,000 being for the redesign of the KSP playground to incorporate nature play with the upgrade of play equipment.
12. To be partially funded from playground asset renewal.

Stephen Street Streetscape Upgrade \$720,000 Allocation

13. Estimated total project cost is \$920,000 being for renewal and upgrade for a streetscape appropriate to the future use of Stephen Street as the primary link from Gawler Street and the City Centre Project site.
14. Balance of \$200,000 to come from asset renewal as the road pavement and kerbing is now at end of life.

Callington Recreation Ground Improvements \$33,000 Allocation

15. Estimated total project cost is \$93,000 being for court renewal, fencing and associated recreation equipment and a pump track. Outside of scope is the upgrade of existing play equipment and the building adjacent the court.
16. Balance of \$60,000 is to be funded by: (a) the Rural City of Murray Bridge \$42,100 which has been agreed to and is contained within their Annual Business Plan; and (b) the remainder (\$17,900) by Mount Barker District Council.

Mount Barker Town Square

17. In addition to the above recommended projects, other possible projects were considered including the Mount Barker Town Square.

18. Two other grant funding applications for this project have been unsuccessful. It is anticipated that this project will be put forward for Building Better Regions Round 6 which closes in early February 2022.

Community Engagement:

Informing only	Some community engagement has been undertaken on the recommended projects Further key stakeholder engagement can occur as required
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Policy:

Asset Management Policy 2020

Long Term Financial Plan:

The endorsed Long Term Financial Plan only includes capacity for the asset renewal components of the recommended projects as indicated above.

Budget:

As above.

Statutory/Legal:

Council is required to execute a Funding Agreement with the Federal Government.

Staff Resource Requirements:

The estimated projects costs include provision for the associated project management.

Environmental:

The design for each of the recommended projects includes the consideration of environmental factors.

Social:

The delivery of the recommended projects will provide considerable social benefits for the community.

Risk Assessment:

The actual costs of the projects may exceed the above estimates of cost, particularly given current market conditions.

The Rural City of Murray Bridge reconsiders their commitment to contribute \$42,100 to the Callington Recreation Grounds improvement project.

Asset Management:

Council would be responsible for the management of the upgraded assets that would result from the recommended projects which as indicated above, includes some renewal of existing assets.

Conclusion:

Endorsement of the above recommendations will enable the delivery of three projects (in 2022/23) that will provide considerable community benefit.

Previous Decisions By/Information Reports to Council

Meeting Date	5 July 2021	CM Reference	DOC/21/82209
Title	Local Roads and Community Infrastructure (LRCI) Grant progress update (Phase 1)		
Purpose	To provide Council Members with an update of projects funded through the Federal Governments Local Roads and Community Infrastructure (LRCI) program (Phase 1).		

Meeting Date	7 September 2020	CM Reference	DOC/20/93714
Title	Local roads and community infrastructure program		
Purpose	To seek endorsement for 6 projects to receive funding via the Federal Government Local Roads and Community Infrastructure Program.		

12.2	REPORT TITLE:	PROPOSED REVOCATION OF INFORMAL GATHERINGS POLICY (NOW INFORMATION AND BRIEFING SESSIONS)
	DATE OF MEETING:	17 JANUARY 2021
	FILE NUMBER:	DOC/21/211787
	ATTACHMENTS:	1. DOC/21/208168 - LGA SA INFORMATION SHEET ON INFORMATION OR BRIEFING SESSIONS
	<u>Key Contact</u>	Sue Miller, Risk and Governance Officer
	<u>Manager/Sponsor</u>	Deputy CEO/General Manager – Governance, Strategic Projects and Wastewater/Recycled Water

Community Plan 2020-2035:

Leadership and Good Governance

LGG Strategy 1.2 Ensure the elected body has a comprehensive understanding of its roles and responsibilities and is supported to fulfil them effectively

LGG Strategy 1.4 Enable community leadership

LGG Strategy 1.5 Demonstrate accountability through clear, relevant and easily accessible policies, corporate reporting and legislative compliance.

Annual Business Plan:

NIL

Purpose:

To recommend to Council that Council revoke the Informal Gatherings Policy following commencement on 20 September 2021 of section 52 of Statutes Amendment (Local Government Review) Act 2021 (the Review Act), inserting section 90A of the Local Government Act 1999, and endorse the continued practice of publishing information and briefing session information in advance of such a session being held for council and committee members.

Summary – Key Issues:

- Recent legislative changes mean that there is no longer provision for Informal Gatherings of council members as this has been replaced by provisions for Information or Briefing Sessions for council and committee members.
- The lengthy regulations relating to ‘designated informal gatherings’ are removed, along with the requirement for councils to have a policy that complies with those regulations.
- There are implications arising which are the subject of the recommendations below regarding existing council Policy and practice.

Recommendation:

That Council:

1. revoke Council's Informal Gatherings Policy following commencement on 20 September 2021 of section 52 of the Review Act, which inserted section 90A of the Local Government Act 1999, and remove the Informal Gatherings Policy from Council's policy register and website; and
 2. endorse the continued practice to publish on Council's website in advance the topic and date for information or briefing sessions, with the details published to be consistent with sections 90A of the Local Government Act 1999 and Regulation 8AB of the Local Government (General) Regulations 2013 (the General Regulations).
-

Background:

1. Council's existing Informal Gatherings policy was introduced in March 2016 as a result of the Local Government (Accountability and Governance) Amendment Act 2015.
2. The Statutes Amendment (Local Government Review) Bill 2021 (the Review Act) section 52 inserted section 90A of the Local Government Act 1999 and concurrently the Informal Gatherings provisions introduced in March 2016 were removed.
3. The Review Act amendments as they relate to section 52 commenced on 20 September 2021.
4. The Local Government Association of South Australia (LGA SA) information sheet (attachment 1) relates to the commencement of Section 52 of the Review Act and includes model procedure advice.
5. The background section in attachment 1 advises:
 - a. *"Section 90(8) of the Local Government Act 1999 (the Local Government Act) previously set out requirements relating to 'informal gatherings and discussions'. Those requirements were thought to be overly prescriptive, confusing and impacting the ability of council members to discuss matters between themselves without fear of being in breach of the legislative requirements."*
 - b. *The Statutes Amendment (Local Government Review) Act 2021 (the Review Act) deletes section 90(8) to (8e) inclusive and inserts a new section 90A—*

Information or briefing sessions. The lengthy regulations relating to 'designated informal gatherings' are removed, along with the requirement for councils to have a policy that complies with those regulations.

c. Regulation 8AB of the Local Government (General) Regulations 2013 (the General Regulations) is amended to revoke the previous requirements and will insert requirements for information to be published after an information or briefing session has been held for the purposes of the new section 90A(7)(b).

6. Informal gatherings (now replaced by Information or Briefing Sessions) have been held from 4.30pm to 6.15pm on each Monday (generally).
7. Current practice is to publish to the (currently named) Informal Gatherings page of Council's website the date, start time, topic and status (open to public or confidential) of the informal gathering of Council members. This information has been published in advance of the informal gathering occurring.
8. Attendance by the community has generally been minimal. On occasion, subject to the topic, an increased number of observers have been present, however, no formal record of public members attendance has been kept as it was not legislatively required.

Discussion:

9. The LGA SA's information sheet (attachment 1) summarises the implications of section 90A – *Information or briefing sessions* of the Local Government Act 1999 that commenced on 20 September 2021.
10. Consistent with previous requirements, section 90A(3) imposes an obligation to conduct information or briefing sessions in a place open to the public when a matter that is, or is intended to be, on the agenda for a formal meeting of the council is to be discussed. As an example, if a training session for council members is proposed, it is not required that this session be open to the public.
11. Section 90A(4) provides that an information or briefing session may be closed to the public to allow attendees to receive, discuss or consider any information or matter listed in section 90(3) of the Local Government Act. The decision can either be made by Council at a council meeting held prior to the information or briefing session or by the Chief Executive Officer (CEO) before or at the session.
12. Regulation 4 of the *Local Government (General) (Review) Variation Regulations 2021* revokes the previous requirements set out in Regulation 8AB of the General Regulations, and for the purposes of new section

90A(7)(b) inserts a requirement for the following information to be published on a website determined by the CEO as soon as practicable **after** the holding of an information or briefing session:

- a. the place, date and time of the session
- b. the matter discussed at the session; and
- c. whether or not the session was open to the public.

13. There are currently no regulations requiring the publication of information **before** the holding of an information or briefing session. However, councils may, at their discretion, publish information before the information or briefing session (in addition to publishing the required information after the information or briefing session is held) as a means of facilitating greater transparency and attendance at information and briefing sessions by members of the public (where the session is not closed to the public).

14. Section 90A applies to sessions held or arranged by the council or the CEO of a council:

- a. to which more than one (1) member of the council or a council committee is invited; and
- b. the purpose of which is to provide information or a briefing to attendees

15. Section 90A does not apply to formal meetings of a council or council committee held under Chapter 6 of the Local Government Act, nor does it apply to (for example):

- a. a meeting scheduled between a Mayor and a council member to discuss a constituent concern;
- b. a training session for all council members;
- c. a selection panel (with more than one council member) discussion to short list candidates for the position of independent member on the Audit and Risk Committee; and
- d. two Ward Councillors arranging and meeting for coffee to discuss ward related issues.

16. The deletion of section 90(8a) from the Local Government Act removes the obligation on councils to have a policy on the holding of informal gatherings or discussions.

17. Whilst the obligation has now been deleted, there may be some confusion regarding the application of an endorsed Informal Gatherings Policy if it is not formally revoked. For the avoidance of doubt regarding its continued application, councils are advised to revoke an Informal Gatherings Policy if previously endorsed.

18. No change is proposed to the time and day upon which information or briefing sessions are generally held (Monday, 4.30pm to 6.15pm). The

sessions will continue to be held in a place open to the public consistent with section 90A(3) and section 90A(4) unless an order is made that the session be closed to the public.

19. The practice of publishing in advance the topic and date for information or briefing sessions will continue, and remain on Council's website until replaced with the next information or briefing session details.
20. A number of Council policies and procedures will be amended in coming months as part of a suite of policies requiring updating with the commencement of the Review Act. Policies and procedures that require decision making by Council under legislation will be the subject of a council meeting agenda items.
21. Council's Informal Gatherings page will be renamed and updated to reflect the above.

Community Engagement:

Informing only	website
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Policy:

An Informal Gatherings Policy document exists and can be found on Council's website under Council, Governance, Policies and By-Laws.

Budget:

NIL

Statutory/Legal:

The Local Government Act 1999.

Statutes Amendment (Local Government Review) Bill 2021 (the Review Act) section 52.

Staff Resource Requirements:

Incorporated into the activities of the Risk and Governance Officer.

Environmental:

NA

Social:

A clear policy direction is critical to the Community, Council Members and Employees to ensure confidence and consistency in practices.

Risk Assessment:

There is a risk that policies that are not revised may no longer be relevant or be non-complying with changes to legislation.

Asset Management:

NA

Conclusion:

The deletion of section 90(8a) from the Local Government Act removes the obligation on councils to have a policy on the holding of informal gatherings or discussions. If the existing Informal Gathering Policy is not formally revoked, there may be some confusion regarding the conduct and public notification of Information or Briefing Sessions.

Previous Decisions By/Information Reports to Council

Meeting Date	6 April 2020	HPRM Reference	DOC/20/37402
Title	Changes to Council Meeting Processes		
Purpose	To advise Council that the first Notice by the Minister of Local Government has been gazetted whereby he is exercising his new emergency powers under section 302B of the Local Government Act 1999 in response to the COVID-19 coronavirus which will allow Council meetings to be conducted by electronic means and to resolve the required process changes to enable this.		

Meeting Date	21 March 2016	HPRM Reference	DOC/16/19881
Title	Informal Gatherings Policy		
Purpose	To provide a new Policy due to amendments to the Local Government Act 1999 that are expected to be in place by 31 March 2016.		

Local Government Association
of South Australia

LG Equip

Section 90A - Information or briefing sessions (previously informal gatherings)

This information sheet relates to the commencement of section 52 of the Statutes Amendment (Local Government Review) Act 2021, inserting section 90A of the Local Government Act 1999. The changes commenced on 20 September 2021.

1. Background

Section 90(8) of the *Local Government Act 1999* (the Local Government Act) previously set out requirements relating to 'informal gatherings and discussions'. Those requirements were thought to be overly prescriptive, confusing and impacting the ability of council members to discuss matters between themselves without fear of being in breach of the legislative requirements.

The *Statutes Amendment (Local Government Review) Act 2021* (the Review Act) deletes section 90(8) to (8e) inclusive and inserts a new section 90A—Information or briefing sessions. The lengthy regulations relating to 'designated informal gatherings' are removed, along with the requirement for councils to have a policy that complies with those regulations.

Regulation 8AB of the *Local Government (General) Regulations 2013* (the General Regulations) is amended to revoke the previous requirements and will insert requirements for information to be published after an information or briefing session has been held for the purposes of the new section 90A(7)(b).

2. Summary of section 90A—Information or briefing sessions

Information and briefing sessions provide a valuable opportunity to enhance council decision-making processes by providing opportunities for council members to become better informed on issues and seek further clarification prior to making decisions at formally constituted council meetings.

The new section 90A provides that the council or the chief executive officer (CEO) may arrange for the holding of an information or briefing session. To constitute an information or briefing session under the Local Government Act more than one (1) member of the council or council committee must be invited to attend or be involved in the session. The session must be convened for the purposes of providing information or a briefing to attendees (s.90A(1)).

Consistent with the previous 'informal gathering' requirements the new section 90A(2) prohibits a matter from being dealt with at an information or briefing session in such a way as to obtain, or effectively obtain, a decision on the matter outside a formal council or committee meeting.

Open and transparent council meetings and council committee meetings underpin representative democracy and ensure public confidence in council's decision-making processes. Consistent with previous requirements, section 90A(3) imposes an obligation to conduct information or briefing sessions in a place open to the public when a matter that is, or is intended to be, on the agenda for a formal meeting of the council is to be discussed.

Section 90A(4) provides that an information or briefing session may be closed to the public to allow attendees to receive, discuss or consider any information or matter listed in section 90(3) of the Local

For further information contact the Governance Team

148 Frome Street Adelaide SA 5000 | governance@lga.sa.gov.au | 08 8224 2000 | lga.sa.gov.au

ECM 766484

Local Government Association
of South Australia

LG Equip

Government Act. This decision can either be made by the council at a council meeting held prior to the information or briefing session or by the CEO before or at the session.

As with the application of section 90(3) to council or committee meeting agenda items, the relevant considerations for each of the relevant subsections in section 90(3) must be taken into account when determining to close the information or briefing session to the public and making an order to that effect.

Section 90A(5) provides that when an order is made to close an information or briefing session to the public, as soon as reasonably practicable after the making of the order a record should be made of:

- The grounds on which the order was made; and
- The basis on which the information falls within the ambit of each ground of section 90(3) on which the order was made; and
- If relevant, the reasons that receipt, consideration or discussion of the information publicly would be contrary to the public interest

Where an order is made to close an information or briefing session, a person who enters or remains in a room knowing that the order is in place will be guilty of an offence and liable to a penalty not exceeding \$500. This provision does not apply to a member of the council or a person permitted to be in the room by the council or CEO in accordance with the order made to close the information or briefing session.

Information or briefing sessions will be taken to be conducted in a place open to the public even if one or more council members participate in the session by telephone or other electronic means in accordance with any procedures prescribed by the regulations or determined by the council (provided that members of the public can hear the discussion between all council members) (s 90(7a)). A sample procedure is provided later in this information sheet.

Section 90A(7) provides that a council or CEO must comply with any requirements of the regulations relating to the publication of prescribed information as soon as practicable after:

- Resolving or determining to hold an information or briefing session;
- The holding of an information or briefing session.

Regulation 4 of the *Local Government (General) (Review) Variation Regulations 2021* revokes the previous requirements set out in Regulation 8AB of the General Regulations, and for the purposes of new section 90A(7)(b) inserts a requirement for the following information to be published on a website determined by the CEO as soon as practicable after the holding of an information or briefing session:

- The place, date and time of the session;
- The matter discussed at the session;
- Whether or not the session was open to the public.

There are currently no regulations requiring the publication of information before the holding of an information or briefing session. However, councils may, in their discretion, publish information before the information or briefing session (in addition to publishing the required information after the information or briefing session is held) as a means of facilitating greater transparency and attendance at information and briefing sessions by members of the public.

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3. Holding an electronic information or briefing session

Section 90(7a) of the Local Government Act applies to information or briefing sessions as if they were a meeting of a council committee. Accordingly, a council may adopt a procedure for the holding of information or briefing sessions by telephone or other electronic means, provided that members of the public can hear the discussion between all participants at the information or briefing session.

A model procedure for the holding of an electronic information or briefing session is provided below. This procedure could be incorporated in a council's Code of Practice for Access to Meetings and Documents or adopted as a stand-alone procedure for the holding of an electronic information or briefing session.

Model procedure for the holding of an electronic information or briefing session

Attendance at Information or Briefing Sessions Electronically

Members of the Council or a Council Committee may participate in an information or briefing session by electronic means (an *electronic information or briefing session*).

A member of the Council or Council Committee participating in electronic information or briefing session is taken to be present at the information or briefing session provided that the member:

- (a) can hear all other members present at the information or briefing session; and
- (b) can be heard by all other members present at the information or briefing session.

Form of Participation by Electronic Means

Where:

- (a) a Council or Committee member is to participate in an information or briefing session by electronic means; and
- (b) the electronic means has the functionality to allow the member to participate in electronic information or briefing session by being heard but not seen or by being both seen and heard; and
- (c) the electronic means of the Council has the functionality to allow the council member to be heard but not seen or to be both seen and heard, the member must participate by being both seen and heard.

Public Access to Electronic Information or Briefing Session

Council will make available to the public a live stream of any electronic information or briefing session which must be conducted in a place open to the public so that members of the public can hear the discussions between all persons participating in the information or briefing session.

The live stream will be published on a website determined by the chief executive officer, provided that this requirement will not apply to any part of the electronic information or briefing session that has been closed to the public.

Definitions

electronic means includes a telephone, computer or other electronic device used for communication.

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4. When does section 90A apply?

Section 90A applies to sessions held or arranged by the council or the CEO of a council:

- to which more than one (1) member of the council or a council committee is invited; and
- the purpose of which is to provide information or a briefing to attendees

Section 90A does not apply to formal meetings of a council or council committee held under Chapter 6 of the Local Government Act, nor does it apply to (for example):

- a meeting scheduled between a Mayor and a council member to discuss a constituent concern;
- a training session for all council members on meeting procedures;
- a 'walk through' of the council agenda attended by the Mayor, CEO and Governance Manager prior to the council meeting;
- a selection panel discussion to short list candidates for the position of independent member on the Audit and Risk Committee, and
- two Ward Councillors meeting for coffee to discuss ward related issues.

5. What rules apply to an 'information or briefing session'?

- An 'information or briefing session' must not deal with a matter in a way that obtains, or effectively obtains, a decision on a matter outside of a formally constituted council or council committee meeting (s 90A(2)).
- If the matter to be discussed at an information or briefing session will, or is intended to be, on the agenda for a formal council or committee meeting, the information or briefing session must be open to the public (noting there are grounds that may allow the council or CEO to determine to close the information or briefing session to the public – refer below) (s 90A(3)).
- As soon as practicable after the holding of an information or briefing session information relating to:
 - The place, date and time of the session;
 - The matter discussed at the session; and
 - Whether or not the session was open to the publicmust be published on a website determined by the CEO (r 8AB, the General Regulations).
- If an order is made to close an information or briefing session to the public, a record must be made of:
 - The grounds on which the order was made;
 - The basis on which the information falls within the ambit of each ground on which the order was made; and
 - If relevant, the reasons that receipt, consideration or discussion of the information in public would be contrary to the public interest (s 90A(5)).
- If a person has been lawfully excluded from an information or briefing session, it is an offence for them to remain (s 90(5)). This prohibition does not apply to council members, council committee members or people specifically permitted to remain (s 90(6)).
- A prescribed matter cannot be dealt with at an information or briefing session (s 90A(6)(b)). Note: at the time of release of this information sheet no matters had been prescribed pursuant to this section.

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- If the council has adopted procedures that allow council or committee members to participate in the information or briefing session via telephone or other electronic means, the meeting will still be regarded as open to the public, provided the members of the public can hear the discussion between all members present (s 90(7a)).
- A reference to a meeting or meetings in sections 94 and 95 of the Local Government Act includes a reference to an information or briefing session or session.

6. Closing an information or briefing session to the public

Information and briefing sessions must be open to the public during any period they are to consider a matter that is or is intended to be on the agenda for a meeting of the council or council committee. However, the council or CEO can order that an information or briefing session be closed to the public where the council or CEO considers it necessary or appropriate to close the session to the public in order to receive, discuss or consider in confidence any information or matter listed in section 90(3) of the Local Government Act.

In such a case, the council or CEO should:

- 1) before making a decision, take into account the relevant considerations set out in section 90(3);
- 2) Make an order (either by resolution, or if it is the CEO, in writing) pursuant to section 90A(4);
- 3) Either contemporaneously with making the order or as soon as reasonably practicable after making the order, make a record of:
 - a. the grounds on which the order was made; and
 - b. the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made; and
 - c. if relevant, the reasons that receipt, consideration or discussion of the information or matter publicly at the information or briefing session would be contrary to the public interest.

Model order for closing an information or briefing session to the public

Pursuant to Section 90A(4) and 90(3)(##) of the *Local Government Act 1999*, the [Council/CEO] orders that the information or briefing session to be held on [insert date] be closed to the public for item [insert item description/title], and members of the public be excluded from attendance with the exception of required [council name] staff and:

- [insert names/description of other persons who may remain, e.g. consultant/external advisor]

on the basis that the information to be received, discussed or considered relates to:

- [insert description and relationship with relevant 90(3) sub-section]

[if relevant – i.e. for s.90(3)(b), (d) & (j)] and the receipt, consideration or discussion of the information or matter in an information or briefing session open to the public would, on balance, be contrary to the public interest because [insert reasons].

Example order for closing an information or briefing session to the public

Pursuant to Section 90A(4) and 90(3)(b)(i) and (ii) of the *Local Government Act 1999*, the CEO orders that the briefing session held on 11 January 2022 be closed to the public for Item 1 – Waste management service level workshop, and members of the public be excluded from attendance with the exception of required ABC Council staff and:

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- Harry Granger, Waste Management Consultants Pty Ltd

on the basis that the information to be received, discussed or considered relates to:

- Proposed service levels and requirements for consideration as part of the proposed waste services contract request for tender, disclosure of which at this time could confer a commercial advantage on persons with whom the council is conducting, or proposing to conduct, business such as a respondent to the request for tender, or to prejudice the commercial position of the council;

and the receipt, consideration or discussion of the information or matter in an information or briefing session open to the public would, on balance, be contrary to the public interest because it is in the public interest for frank and open discussions to be held in confidence about potential service levels and requirements to be included in a request for tender without disclosing that information prior to the release of any request for tender document to ensure Council obtains the best possible outcome from the tender process.

7. Record Keeping

Section 90A(5) requires that when an order is made to close an information or briefing session to the public a record of that order must be made.

Orders made by a council to close an information or briefing session will be made by resolution at a council meeting and therefore the record of that order will be captured within the minutes of the relevant council meeting.

In relation to orders made by the CEO, the order closing the session to the public may be recorded in writing and maintained in accordance with the council's record keeping system.

There is no obligation for councils to make documents provided to council members at information or briefing sessions available to the public. In addition, documents presented to information or briefing sessions that are closed to the public because they comprise information or a matter listed in section 90(3) are confidential at law. Councils wishing to make these matters clear to the public could include words to the following effect in their Code of Practice for Access to Meetings and Documents:

Information and Briefing Sessions – Document Availability

Council will publish information about information and briefing sessions in accordance with Regulation 8AB of the Local Government (General) Regulations 2013. Absent a specific decision of the Council or Chief Executive Officer to the contrary, documents presented to information or briefing sessions are not publicly available and documents presented to information or briefing sessions that are closed to the public are confidential.

8. Informal gathering policy—deleted section 90(8a)

The deletion of section 90(8a) from the Local Government Act removes the obligation on councils to have a policy on the holding of informal gatherings or discussions. Whilst the obligation has now been deleted, there may be some confusion regarding the application of an endorsed Informal Gathering Policy if it is not formally revoked. For the avoidance of doubt regarding its continued application, councils are advised to revoke an Informal Gathering Policy if previously endorsed.

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9. Extract of section 90A—Information or briefing sessions

90A—Information or briefing sessions

- (1) A council, or the chief executive officer of the council, may hold or arrange for the holding of a session (not being a formal meeting of a council or council committee required to be held under this Chapter) to which more than 1 member of the council or a council committee is invited to attend or be involved in for the purposes of providing information or a briefing to attendees (an **information or briefing session**).
- (2) A matter must not be dealt with at a council information or briefing session in such a way as to obtain, or effectively obtain, a decision on the matter outside a formal meeting of the council or a council committee.
- (3) A council information or briefing session must be conducted in a place open to the public during any period in which a matter that is, or is intended to be, on the agenda for a formal meeting of the council or a council committee is discussed at the session.
- (4) However, the council or chief executive officer may order that an information or briefing session be closed to the public to the extent (and only to the extent) that the council or chief executive officer (as the case requires) considers it to be necessary and appropriate for a matter of a kind referred to in subsection (3) to be discussed in a session closed to the public in order to receive, discuss or consider in confidence any information or matter listed in section 90(3) (after taking into account any relevant consideration under that subsection).
- (5) If an order is made under subsection (4), the council or chief executive officer (as the case requires) must, as soon as reasonably practicable after the making of the order, make a record of—
 - (a) the grounds on which the order was made; and
 - (b) the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made; and
 - (c) if relevant, the reasons that receipt, consideration or discussion of the information or matter publicly at the information or briefing session would be contrary to the public interest.
- (6) If an information or briefing session is organised or held by a council or chief executive officer of a council, the following provisions apply:
 - (a) sections 90(5), (6) and (7a) apply to the information or briefing session as if it were a meeting of the council or council committee;
 - (b) a prescribed matter cannot be dealt with at an information or briefing session; and
 - (c) a reference to a meeting or meetings in sections 94 and 95 includes a reference to an information or briefing session or sessions.
- (7) A council or the chief executive officer of the council must comply with any requirements of the regulations relating to the following:
 - (a) the publication of prescribed information as soon as practicable after resolving or determining to hold an information or briefing session;
 - (b) the publication of prescribed information as soon as practicable after the holding of an information or briefing session.

This resource has been prepared by the Local Government Association of SA (LGA) to assist councils with implementation of legislative changes arising from Local Government Reforms, incorporating advice from Norman Waterhouse, for the guidance of and use by member councils.

Last updated: 20/09/2021

For further information contact the Governance Team

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ECM 766484

12.3	REPORT TITLE:	CARETAKER POLICY REVIEW
	DATE OF MEETING:	17 JANUARY 2021
	FILE NUMBER:	DOC/21/211636
	ATTACHMENTS:	1. DOC/21/211463 REVISED CARETAKER POLICY 2. DOC/21/211430 CARETAKER GUIDELINES FOR LOCAL GOVERNMENT ELECTIONS
	<u>Key Contact</u>	Sue Miller, Risk and Governance Officer
	<u>Manager/Sponsor</u>	Brian Clancey , Deputy CEO/General Manager – Governance, Strategic Projects and Wastewater/Recycled Water

Community Plan 2020-2035:

Leadership and Good Governance

LGG Strategy 1.2 Ensure the elected body has a comprehensive understanding of its roles and responsibilities and is supported to fulfil them effectively

LGG Strategy 1.4 Enable community leadership

LGG Strategy 1.5 Demonstrate accountability through clear, relevant and easily accessible policies, corporate reporting and legislative compliance.

Annual Business Plan:

NIL

Purpose:

To provide a revised policy Caretaker Policy to satisfy the statutory caretaker period requirements under Section 91A of the Local Government (Elections) Act 1999, in preparation for the November 2022 local government general election.

Summary – Key Issues:

1. Section 91A provides that a council must prepare and adopt a caretaker policy governing the conduct of the council and its staff during the election period for a general election.
2. This policy implements the statutory caretaker period requirements under section 91A of the Local Government (Elections) Act 1999.
3. Commencement of section 188 of the Statutes Amendment (LG Review) Bill 2021 (the Review Act) on 10 November 2021 amended section 91A of the LG (Elections) Act and as a consequence the Caretaker Policy has been reviewed and a revised Caretaker Policy has been prepared (attachment 1).

Recommendation:

That Council adopt the revised Caretaker Policy as provided in attachment 1.

Background:

1. It is good administrative practice to revise Policies (as necessary) as their review date arises or when legislation changes.
2. Commencement of section 188 of the Statutes Amendment (LG Review) Bill 2021 (the Review Act) amended section 91A of the LG (Elections) Act.
3. Section 91A provides that a council must prepare and adopt a caretaker policy governing the conduct of the council and its staff during the election period for a general election.

Discussion:

4. Previously, section 91A(2) provided that a council's caretaker policy must, as a minimum, prohibit the making of a designated decision during the election period, with a designated decision defined to include a decision allowing the use of council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of council resources by all candidates for election).
5. A change to subsection 91A(2) has now elevated a decision allowing the use of council resources for the advantage of candidates to a standalone minimum requirement of the Caretaker Policy. In practice there is no new obligation imposed by this change, however council policies will need to ensure the minimum requirement is appropriately referenced.
6. A new subsection 91A(2a) has been inserted and provides that the prohibition on the use of council resources for the advantage of a particular candidate or group of candidates does not prevent a decision to allow the equal use of council resources by all candidates for election.
7. The Local Government Association SA has prepared the resources to assist members in understanding and implementing the changes. The revised policy (attachment 1) is based on the LGA's model Caretaker policy, and includes as an attachment the LGA's Caretaker Guidelines document.
8. Proposed changes in the revised Caretaker Policy are shown as follows in attachment 1:
 - a. amended or new text is shown in red text
 - b. deleted text is shown in blue text; and
 - c. minor formatting changes have been included but not highlighted (headings, layout).
9. Council's Council Members' Access to Information Policy and Procedure will require amending to reflect the above and will be the subject of a council

meeting agenda item in coming months, as part of a suite of policies requiring updating with the commencement of the Review Act.

10. Council staff have already commenced consideration of the potential implications of the Caretaker Policy and managing the scheduling/timing of any required decision making accordingly.

Upgrading of the Wastewater Treatment Plant Stage 1

11. The Caretaker Policy includes a definition of a “designated decision” which relates to specified matters that are prohibited from decision making during the caretaker period. That definition is prescribed pursuant to the Local Government (Elections) Regulations made under the Local Government Elections Act.
12. The definition of a “designated decision” includes matters that are exempt; one such matter is “relates to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the Council”.
13. The required stage one major upgrade to the wastewater treatment plant on Springs Road will require decision making by council meeting resolution such as in relation to the procurement of required services and contracts that typically will involve the roles of design, construction, project management and superintendent (of the construction contract).
14. A program (inclusive of target time frames for decision making) for the procurement of the stage one major upgrade to the wastewater treatment plant on Springs Road is currently being firmed up. That will inform to what extent that the timing of the caretaker period may impact decision making on this project. As previously indicated to council members, the proposed procurement strategy for this project will be the subject of a future council meeting agenda item.
15. Notwithstanding this, there is the possibility of delays in processes impacting the timing of council decision making as recently evidenced by the award of the tender for the new sewer main and inlet pump station.
16. The upgrade to the wastewater treatment plant is in part required to provide a sewer service to the Mount Barker growth area. There isn't any definition of “Community Wastewater Management Systems”. In the absence of that, it could reasonably be interpreted that the upgrade to the wastewater treatment plant does fall within that definition as it does relate (in part) to the Community Wastewater Management Systems provided to the townships of Nairne, Littlehampton and Mount Barker (excluding the growth area). This requires clarification.

17. Interestingly, the SA Public Health Act contains a definition of a “wastewater system” being “means a system for collecting and managing wastewater (including through treatment, reuse and disposal),”
18. Clarification will also be required in relation to the practical application to the upgrade of the wastewater treatment plant on Springs Road project of what can be approved by council meeting resolution prior to the election period.
19. Given the scale and importance of the project, it is necessary to gain further clarity on the interpretation and application of the “designated decision” wording and staff will proceed to obtain this.

Community Engagement:

Informing only	website
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Policy:

Caretaker Policy
Code Of Conduct Council Members
Employee Code of Conduct

Long Term Financial Plan:

NA

Budget:

NA

Statutory/Legal:

Local Government Act (Elections) 1999
Statutes Amendment (LG Review) Act 2021
Local Government Act 1999 (SA)
Section 188 of the Review Act, amending section 91A of the LG (Elections) Act.
Section 91A provides that a council must prepare and adopt a caretaker policy governing the conduct of the council and its staff during the election period for a general election.

Staff Resource Requirements:

Within activities of the Risk and Governance Officer. Advice regarding the implications on decision making will be provided to all council staff and council members.

Environmental:

NA

Social:

Refraining from designated and significant decisions prior to an election is expected by the community.

Risk Assessment:

An updated Caretaker Policy should minimise the risk of making a decision which is contrary to legislative requirements.

Asset Management:

NA

Conclusion:

The revised Caretaker Policy should be adopted and the Caretaker Guidelines attached to the Policy noted.

Previous Decisions By/Information Reports to Council

Meeting Date	4 June 2018	CM Reference	DOC/18/52986
Title	Review of Policies		
Purpose	To provide revised policies related to the Caretaker period; Access to Information by Council Members and to remove an irrelevant policy.		

Meeting Date	16 June 2014	HPRM Reference	14/43062
Title	Revised Caretaker Policy		
Purpose	To provide a revised Caretaker Policy.		

Attachment 1 to Item 12.3



Red text – new text

Blue text – deleted text

TITLE: CARETAKER POLICY

1. PURPOSE

To satisfy the statutory caretaker period requirements under Section 91A of the Local Government (Elections) Act 1999.

2. SCOPE – APPLICATION OF THIS POLICY

This policy applies throughout the election period for a general election. For the purposes of the Local Government Elections of **November 2022**, the policy commences on **6 September 2022** and ends at the conclusion of the election, when results have been declared.

This policy applies to:

- a. the council; and
- b. council staff

3. POLICY PRINCIPLES – OUR COMMITMENT

This policy implements the statutory caretaker period requirements under section 91A of the *Local Government (Elections) Act 1999*.

4. DEFINITIONS

In this Policy:

Chief Executive Officer means the appointed Chief Executive Officer or Acting Chief Executive Officer or nominee.

council staff means any person that is employed full-time, part-time or casually by the Council who receives remuneration for their work.

Council Member means an elected member of the Mount Barker District Council.

election period means the period commencing on the day of the close of nominations for a general election and expiring at the conclusion of the general election.

designated decision means a decision:

- a. relating to the employment or remuneration of the Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer or to suspend the Chief Executive Officer for serious and wilful misconduct;
- b. to terminate the appointment of the Chief Executive Officer;
- c. to enter into a contract, arrangement or understanding (other than a contract for road construction, road maintenance or drainage works) the total value of which exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates in the preceding financial year being **\$469,324**, except if the decision:
 - i. relates to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004* (SA), or under section 298 of the *Local Government Act 1999* (SA);
 - ii. is an expenditure or other decision required to be taken under an agreement by which funding is provided to the Council by the Commonwealth or State Government or otherwise for the Council to be eligible for funding from the Commonwealth or State Government;
 - iii. relates to the employment of a particular Council employee (other than the Chief Executive Officer);
 - iv. is made in the conduct of negotiations relating to the employment of Council employees generally, or a class of Council employees, if provision has been made for funds relating to such negotiations in the budget of the Council for the relevant financial year and the negotiations commenced prior to the election period; or
 - v. relates to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the Council;

~~(b) allowing the use of Council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of Council resources by all candidates);~~

general election means a general election of council members held:

- a. under section 5 of the *Local Government (Elections) Act 1999*; or
- b. pursuant to a proclamation or notice under the *Local Government Act 1999* (SA).

Minister means the Minister for Local Government or other minister of the South Australian government vested with responsibility for the Local Government (Elections) Act.

5. ROLES & RESPONSIBILITIES

Council:

- Approve a Policy that clarifies Council's responsibilities during the Caretaker period.

Chief Executive Officer:

- Avoid scheduling significant decisions for consideration during the election period

General Managers:

- Ensure staff are aware of their responsibilities within the Caretaker Policy

6. POLICY STATEMENT

6.1 PROHIBITION ON DESIGNATED DECISIONS

- 6.1.1 The Council is prohibited from making a designated decision during an election period.
- 6.1.2 A decision of the Council includes a decision of:
 - c. a committee of Council; and
 - d. a delegate of Council.

6.2 TREATMENT OF OTHER SIGNIFICANT DECISIONS

- 6.2.1 So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling significant decisions (including major policy decisions) for consideration during an 'election period' and ensure that such decisions:
 - a. are considered by Council prior to the 'election period'; or
 - b. are scheduled for determination by the incoming Council.
- 6.2.2 A 'significant decision' is any major policy or other decision which will significantly affect the Council area or community or will bind the incoming Council.
- 6.2.3 A 'major policy' decision includes any decision (not being a designated decision):
 - a. to spend unbudgeted monies;
 - b. to conduct unplanned public consultation;
 - c. to endorse a new policy;
 - d. to dispose of Council land;
 - e. to approve community grants or ward donations;
 - f. to progress any matter which has been identified as an election issue; and

- e. any other issue that is considered a major policy decision by the Chief Executive Officer.

6.2.4 The determination as to whether or not any decision is significant will be made by the Chief Executive Officer, after consultation with the Mayor.

6.2.5 The Chief Executive Officer must keep a record of all such determinations made by Chief Executive Officer and make this list available to candidates upon request.

6.2.6 Where the Chief Executive Officer has determined that a decision is significant, but circumstances arise that require the decision to be made during the election period, the Chief Executive Officer will report this to the Council.

6.2.7 The aim of the Chief Executive Officer's report is to assist Council Members assess whether the decision should be deferred for consideration by the incoming Council.

6.2.8 The Chief Executive Officer's report to Council will address the following issues (where relevant):

- a. why the matter is considered 'significant';
- b. why the matter is considered urgent;
- c. what are the financial and other consequences of postponing the matter until after the election, both on the current Council and the incoming Council;
- d. whether deciding the matter will significantly limit options for the incoming Council;
- e. whether the matter requires the expenditure of unbudgeted funds;
- f. whether the matter is the completion of an activity already commenced and previously endorsed by Council;
- g. whether the matter requires community engagement;
- h. any relevant statutory obligations or timeframes; and
- i. whether dealing with the matter in the election period is in the best interests of the Council area and community.

6.2.9 Council will consider the Chief Executive Officer's report and determine whether or not to make the decision.

6.3 PROHIBITION ON THE USE OF COUNCIL RESOURCES

6.3.1 Council resources must not be used for the advantage of a particular candidate or group of candidates.

- 6.3.2 For clarity, neither the Local Government (Elections) Act 1999 nor this Caretaker Policy prohibits a council providing resources to all members of the public, which incidentally includes all candidates for election.
- 6.3.3 The following council resources must not be used for the advantage of a particular candidate or group of candidates and may only be used by council members, where necessary, in the performance of their ordinary duties as a council member:
- a. Mobile phones
 - b. Council-provided landline phones, computers and other office equipment beyond that provided to members of the public (e.g. in a public library)
 - c. Council-provided business cards
 - d. Requests for service to council to perform tasks which would confer an advantage on a candidate or group of candidates
 - e. The ability to issue invitations to council events
 - f. Council travel arrangements (e.g. access to council-negotiated rates for flights, accommodation or hire cars)
 - g. Access to areas that members of the public cannot access, including areas within the property of third parties (e.g. a 'Mayor's Parlour' at a suburban football oval)
 - h. Council produced promotional brochures and documents.

6.4 CONSEQUENCES OF CONTRAVENTING THIS POLICY

- 6.4.1 A designated decision made by Council during an election period is invalid, except where an exemption has been granted by the Minister.
- 6.4.2 Any person who suffers loss or damage as a result of acting in good faith on a designated decision made by the Council in contravention of this policy is entitled to compensation from the Council for that loss or damage.
- 6.4.3 A breach of this Policy is a breach of the Code of Conduct for Council Members and Code of Conduct for Council Employees.

6.5 APPLICATION FOR EXEMPTION

- 6.5.1 If the Council considers that it is faced with extraordinary circumstances which require the making of a designated decision during an election period, the Council may apply in writing to the Minister for an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the Local Government (Elections) Act 1999 and this policy.

- 6.5.2 If the Minister grants an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the Local Government (Elections) Act 1999 and this policy, then the Council and Council staff will comply with any conditions or limitations that the Minister imposes on the exemption.

7. TRAINING / EDUCATION

Training will be provided to staff and council members.

8. REVIEW

This Policy will be reviewed:

- every three four; or
- the frequency dictated in legislation; or
- earlier in the event of changes to legislation or related Policies and Procedures; or
- if deemed necessary by the Risk & Governance Officer.

9. ACCESS TO THE POLICY

The Policy is available for public inspection at the Customer Service Centre, at the Local Government Centre, 6 Dutton Road, Mount Barker, South Australia and on the Council's website www.mountbarker.sa.gov.au

10. FURTHER INFORMATION

For further information on this Policy, please contact:

Title: Risk & Governance Officer
Address: PO Box 54, Mount Barker
South Australia, SA, 5251
Telephone: 8391 7200
Email: council@mountbarker.sa.gov.au

**11. ATTACHMENT LOCAL GOVERNMENT ASSOCIATION SA
CARETAKER GUIDELINES DECEMBER 2021**

REFERENCE NUMBER	DOC/21/211463		
PREVIOUS DOCUMENT NUMBER:	DOC/18/51464		
INTERNAL GOVERNANCE:			
Author	Sue Miller	Risk & Governance Officer	21 December 2021
Responsible General Manager:	Brian Clancey	Deputy CEO	January 2022
Reviewed by CEO	Andrew Stuart		January 2022
REVIEWED BY CGG			January 2022
APPROVED BY (DOCUMENT OWNER):	Council		
	[meeting minute #]		[meeting date]
APPLICABLE LEGISLATION AND RELATED DOCUMENTS:	Local Government Act (Elections) 1999 Statutes Amendment (LG Review) Act 2021 Local Government Act 1999 (SA) LGA Caretaker Guidelines (attached) Code Of Conduct Council Members Employee Code of Conduct		
COMMUNITY PLAN 2020-2035 REFERENCE:	Leadership and Good Governance		
REVIEW CYCLE	It is recognised that from time to time circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a State or Federal Department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council (if statutory) or the Chief Executive Officer (if administrative).		
NEXT REVIEW DATE	May 2026		
DOCUMENT HISTORY:			
DOCUMENT VERSION	DATE	AUTHOR (PERSON TO WHOM CHANGES ARE TO BE RECOMMENDED)	NATURE OF CHANGE
VERSION 1.0	17 January 2022	Sue Miller	Updated to reflect Statutes Amendment (LG Review) Act 2021
VERSION 2.0			

VERSION 3.0			
DOCUMENT LOCATION:	Council website [publication date] Available for inspection, downloading or printing from our website www.mountbarker.sa.gov.au		
	This Policy is available for inspection, during business hours at: Mount Barker District Council, Level 1, 6 Dutton Road, Mount Barker		

DRAFT



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Attachment 2 to Item 12.3

Caretaker Guidelines

December 2021



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This resource has been prepared by the Local Government Association of SA (LGA) to assist councils with implementation of legislative changes arising from Local Government Reforms, incorporating advice from Norman Waterhouse Lawyers, for the guidance of and use by member councils.

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For further information contact the Governance Team

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1 Introduction

Section 91A of the *Local Government (Elections) Act 1999* (the Elections Act) requires councils to prepare and adopt a caretaker policy to govern the conduct of the council and its staff during the election period for a general election.

On 10 November 2021, section 188 of the *Statutes Amendment (Local Government Review) Act 2021* (the Amendment Act) commenced, which amended section 91A—Conduct of council during election period of the Elections Act.

Section 91A(2) of the Elections Act stipulates that the caretaker policy must at a minimum:

- (a) prohibit the making of a designated decision; and
- (b) prohibit the use of council resources for the advantage of a particular candidate or group of candidates,

during an election period.

The Local Government Association of SA (LGA) has prepared a model caretaker policy on the basis of meeting the minimum legislative obligations under section 91A of the Elections Act. Councils may wish to incorporate additional requirements within any caretaker policy adopted.

These Caretaker Guidelines (the Guidelines) provide an overview of the scope and meaning of the legislative requirements under section 91A of the Elections Act and should be read in conjunction with the model caretaker policy. Terms which are defined in the model caretaker policy have the same meanings in the Guidelines.

2 Overview

Section 91A(2) of the Elections Act sets minimum standards for council caretaker policies.

Caretaker policies must at a minimum:

- prohibit the making of a designated decision during the election period; and
- prohibit the use of council resources for the advantage of a particular candidate or group of candidates during the election period.

In considering how the policy applies to the prohibition on making designated decisions, regard must be had to three separate elements. In particular the following must be present:

- 1) a decision of council;
- 2) made during an election period;
- 3) which is a designated decision.

The caretaker policy must also prohibit the use of council resources for the advantage of a particular candidate or group of candidates during the election period.

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2.1 Decision of the council

Section 91A of the Elections Act applies to a decision of the council. This will include decisions made directly by the council at a meeting or indirectly through a council committee or other delegate or sub-delegate.

2.2 Election period

During an election period councils are prohibited from making designated decisions. The use of council resources for the advantage of a particular candidate or group of candidates is also prohibited. Council may apply in writing to the Minister for an exemption from the application of this section to a designated decision.

An election period:¹

- (a) commences on either:
 - (i) the day on which nominations for a general election close; or
 - (ii) if a council's caretaker policy specifies an earlier date, that date; and
- (b) expires at the conclusion of the general election.

Section 91A of the Elections Act does not apply to a decision that is announced during the election period but was made prior to the election period.

3 Designated decisions

Only specific types of decisions will be designated decisions under section 91A of the Elections Act. The designated decisions are outlined below.

The Elections Act stipulates that any designated decision made by a council during an election period without a ministerial exemption is invalid.

Any person who suffers loss or damage as a result of acting in good faith on a designated decision made in contravention of section 91A of the Elections Act is entitled to compensation from the council for that loss or damage.

3.1 Decisions relating to the employment of the Chief Executive Officer

Any decision relating to the employment, remuneration or termination² of the Chief Executive Officer, other than a decision to:

- (a) appoint an acting Chief Executive Officer; or
- (b) suspend a Chief Executive Officer for serious and wilful misconduct,³

will be a designated decision.

¹ Section 91A(8) *Local Government (Elections) Act 1999*

² Section 91A(8) *Local Government (Elections) Act 1999*

³ Regulation 12(1)(b) *Local Government (Elections) Regulations 2010*



3.2 Specific contracting decisions

Certain council decisions regarding specific types of contracts made during an election period will be designated decisions.

Generally, a decision to enter into a contract, arrangement or understanding (other than a 'prescribed contract') the total value of which exceeds whichever is the greater of \$100,000 or 1% of the council's revenue from rates in the preceding financial year⁴ will be a designated decision. However, there are exclusions from this general position provided in section 91A of the Elections Act and the *Local Government (Elections) Regulations 2010* (the Elections Regulations).

3.2.1 Prescribed contracts

Prescribed contracts are expressly excluded from the types of contracts which are able to be the subject of a designated decision. A 'prescribed contract' is defined in section 91A of the Elections Act to mean a contract entered into by a council for the purpose of undertaking road construction, road maintenance or drainage works.

3.2.2 Exemptions

Other types of contracts are excluded from being the subject of a designated decision by the Elections Regulations. These types of decision are decisions:

- (a) relating to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004* or under section 298 of the *Local Government Act 1999* (the Local Government Act);
- (b) for an expenditure or other decision required to be taken under an agreement by which funding is provided to the council by the Commonwealth or State Government or otherwise for the council to be eligible for funding from the Commonwealth or State Government;
- (c) relating to the employment of a particular council employee (other than the Chief Executive Officer);
- (d) made in the conduct of negotiations relating to the employment of council employees generally, or a class of council employees, if provision has been made for funds relating to such negotiations in the budget of the council for the relevant financial year and the negotiations commenced prior to the election period; or
- (e) relating to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the council.

As set out above, the legislation does not prohibit a council from making a type of decision listed in the Elections Regulations. Councils should be mindful however of community perceptions and are encouraged to exercise care before proceeding with such a decision during a Caretaker Period.

⁴ Section 91A(8) *Local Government (Elections) Act 1999*

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4 Prohibition on the use of council resources to give selective advantage

4.1 Scope of the prohibition

A council's caretaker policy must prohibit the use of council resources for the advantage of a particular candidate or group of candidates during an election period. A caretaker policy may however allow the equal use of resources by all candidates for election.

The prohibition does not prevent all candidates, including council members utilising council resources that are available to all members of the public.

Examples of this include a candidate using a council library public computer to design election campaign material and produce copies for distribution on a council photocopier (that is available to the general public). Candidates should not be given access to council facilities that are not available to other candidates.

There are constraints on the personal use of council resources under the Local Government Act and the Code of Conduct for Council Members. These provisions are discussed in section 4.5 of these guidelines.

4.2 What are 'council resources'?

'Council resources' is a broad concept which is undefined in the Elections Act. A general definition of the term 'resources' provided in the *Macquarie Dictionary* is '*the collective wealth and assets of a country, organisation, individual*'. Applying this definition, any asset or information owned or controlled by a council is a 'council resource'.

Council resources may include:

- (a) materials published by council;
- (b) facilities and goods owned by the council;
- (c) attendance and participation at functions and events;
- (d) access to council information; and
- (e) media services.

Council staff and contractors engaged by a council are also council resources.

4.3 Meaning of 'advantage'

The concept of 'advantage' is broad and is defined in the *Macquarie Dictionary* as '*any state, circumstance, opportunity, or means especially favourable to success, interest, or any desired end*'. In the context of section 91A of the Elections Act, the relevant advantage is in respect of being elected or re-elected.

An advantage will be conferred where council resources can be used, or the permissible uses of the resource favours, one (or some) candidates over others. An advantage arises when a candidate utilises resources, information or support that is not available to a candidate in an election who is not an existing council member.

The Ombudsman has given 'advantage' a broad interpretation. The Ombudsman's view is that any activity that gives a perception of favouring one candidate over another is an advantage.

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In previous decisions of the Ombudsman:

- (a) A decision to engage an independent contractor to conduct a section 270 review of a procurement decision did not involve the use of council resources for the advantage of a particular candidate, even though one possible outcome of the review would have assisted or harmed the electoral chances of particular candidates.
- (b) A decision to include a mayor's review of the achievements of the council in an 'Annual Review' document sent to households did provide such an advantage.

Whether the scope of the 'advantage' under section 91A of the Elections Act extends to a perceived advantage is likely to be a matter for debate. Councils should, however, be aware of this view when making council resources available during an election period.

4.4 Normal council business or campaigning?

A breach of the prohibition on using council resources for the advantage of a particular candidate:

- (a) can occur inadvertently; and
- (b) does not require a specific council decision.

For example, if existing members of council are provided with a card which enables them to make copies of documents using council photocopiers (including copiers in a public library) and other candidates are not provided with this council resource, this would provide the council member with a (prohibited) advantage if they were permitted to use it for campaigning.

Other examples of council resources that, if used during the election period for campaign purposes, or purposes that would otherwise provide a genuine advantage to the candidate, which would contravene a council caretaker policy include:

- (a) Mobile phones
- (b) Council vehicles
- (c) Council-provided landline phones, computers and other office equipment beyond that provided to members of the public (eg in a public library)
- (d) Council-provided business cards
- (e) Requests to council employees to perform tasks
- (f) The ability to issue invitations to council events
- (g) Council travel arrangements (eg access to council-negotiated rates for flights, accommodation or hire cars)
- (h) Access to areas that members of the public cannot access, including areas within the property of third parties (eg a 'Mayor's Parlour' at a suburban football oval).
- (i) Councils printed materials (e.g. brochures or other documents)

It is reasonable for councils to continue to provide resources where these are necessary for a council member to perform their duties as a council member, *provided* these resources are not used to advantage a candidate or group of candidates. For example:

- (a) Access to council facilities, for the purpose of a council meeting. This may include refreshments, if usually provided as an adjunct to council meetings
- (b) Access to a secure area of the council website, where council agendas, minutes and other council documents can be obtained.

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Where council members are standing for re-election, the council should consider whether the continued provision of council resources during the election period will provide an advantage to existing council members (or other particular candidates) in their election campaigns.

Reasonable minds are likely to differ over whether the use of particular council resources will advantage particular candidates. A council's Caretaker Policy should consider all of the resources made available to council members and should set out which of these will not be available during an election period.

Specific scenario advice is provided in section 4.6 of this Guideline.

4.5 Use of council resources for personal benefit

The use of council resources for personal benefit is distinct from the prohibition against the use of council resources for the advantage of a particular candidate or group of candidates.

The use of council resources for personal benefit is regulated by legislation other than section 91A of the Elections Act. However, as the use of council resources by a council member for the purposes of an election campaign will be a use of those resources for personal benefit, the same activity may be regulated by both sets of rules.

Council members standing for re-election to council must take care that they only use council resources for normal council business and not to assist them in campaigning.

The general duties on council members under section 62 of the Local Government Act include offences for improper use of information⁵ or position⁶ to gain personal advantage for the council member or another person.

Section 78 of the Local Government Act provides for the use of council resources by council members. Section 78(3) of the Local Government Act states:

A member of a council must not use a facility or service provided by the council under this section for a purpose unrelated to the performance or discharge of official functions or duties (unless the use has been approved by the council and the member has agreed to reimburse the council for any additional costs or expenses associated with this use).

The Code of Conduct for Council Members prohibits the use of council resources for private purposes without authorisation.

The use of council resources for personal benefit in breach of these requirements could be corruption in public administration for the purpose of the *Independent Commission Against Corruption Act 2012* (SA) or maladministration or misconduct for the purpose of the *Ombudsman Act 1972* (SA) and be the subject of a complaint to the office of Public Integrity (**OPI**) or Ombudsman respectively.

Conduct of a public officer that results in a substantial mismanagement of public resources may also be the subject of a complaint to the Ombudsman.

Disciplinary consequences or prosecutions may ultimately result from the unauthorised use of council resources for private purposes.

⁵ Section 62(3) *Local Government Act 1999*

⁶ Section 62(4) *Local Government Act 1999*



4.6 Specific council resource scenarios

The business of a council does not cease during an election period. Council resources will continue to be used during the election period. There is a distinction between the use of council resources in the ordinary course of council operations and the use of council resources by a candidate or group of candidates for campaigning purposes. Where resources are used for campaign purposes, this will be the use of council resources for personal benefit.

During an election period, council members and council staff must take care that council resources are not used for the purpose of election campaigning. Some specific scenarios are discussed below where this issue may arise.

4.6.1 Council publications during an 'election period'

The publication by a council of information for the advantage of a particular candidate or group of candidates is prohibited by section 91A of the Elections Act. Publishing includes publication by any medium, including but not limited to leaflets, newspapers, posters, email, websites, radio or television.

Councils have a statutory responsibility to publish certain information regarding general elections. Under section 12(b) of the Elections Act, each council is responsible for the provision of information, education and publicity designed to promote public participation in the electoral processes for its area, to inform potential voters about the candidates who are standing for election in its area and to advise its local community about the outcome of the elections and polls conducted in its area.

All election materials published by a council should fall within the types of material described in section 12(b) of the Elections Act and not contain any material which would advantage a particular candidate or candidates.

'Electoral material' is defined in the Elections Act as *'an advertisement, notice, statement or representation calculated to affect the result of an election or poll'*. Given that the purpose of electoral material is to persuade voters towards a particular candidate or group of candidates, it will not be appropriate for a council to publish electoral material.

Councils may publish other material during an election period. If council is considering publishing or distributing material during the election period, the council should consider whether or not the material would confer an advantage on a particular candidate or group of candidates for election. If an advantage would be conferred, then the material should not be published or distributed.

Where a council publication made in the ordinary course of council operations would be published during an election period, care should be taken as to the contents of these publications, to ensure that the council and council members are not criticised for publishing information which may assist or hinder the electoral prospects of particular candidates.

Council members are able to publish electoral material on their own behalf (provided that they comply with sections 27 and 28 of the Elections Act). Council members should not assert or imply that the electoral material originates from or is endorsed by the council. A council member also should not use council resources (not available to the general public) to create or distribute his or her electoral material, including through the use of council stationery, computers, printers, photocopiers or staff or the application of council logos.

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4.6.2 Attendance at Events and Functions

Events and functions can take many forms including conferences, workshops, forums, launches, promotional activities, and social occasions (such as dinners, receptions and ceremonies).

Council members can continue to attend events and functions in their capacity as a council member during an election period provided that their attendance is consistent with the ordinary course of a council member's duties and is not used for campaigning.

Council members should consider whether or not their attendance at an event or function is likely to be viewed as campaigning. In part, this may depend on the conduct of the council member while in attendance at the event or function. Care should particularly be taken by council members if they are asked to give a speech at an event or function during an election period.

4.6.3 Access to council information

Section 61 of the Local Government Act provides council members with a right to access council documents in connection with the performance or discharge of the functions or duties of the member. This right of access continues during an election period.

Council members should take care that access to council documents is in connection with the performance or discharge of their functions or duties of the member. Access to council documents for the purpose of campaigning or to gain an advantage in an election is an improper use of information gained by virtue of the council member's position as a member of council.

4.6.4 Media Services

Council's media services should be used to promote council activities or initiatives or community activities or initiatives which are endorsed or otherwise supported by council.

Media services should, during the election period, be used in the ordinary course of council operations. Care should be taken that media services will not be used to advantage a particular council member in his or her re-election campaign by profiling that member or activities which are closely associated with that member.

Council members should not use their position as an elected representative or their access to council staff and other council resources to gain media attention in support of an election campaign. To do so, would contravene section 62(4) of the Local Government Act which prohibits a council member improperly using his or her position as a council member to gain, directly or indirectly, an advantage for himself or herself or for another person. Council members can be prosecuted for this offence.

Access to media monitoring is likely to confer a campaigning advantage on recipients of monitoring reports. Media monitoring can be useful to council members in the performance of their official duties but is not usually essential. Councils should carefully consider suspending the access of council members to media monitoring during an election period.



4.6.5 Public consultation during an election period

Public consultation (sometimes called 'community engagement') must be undertaken during an election period if the consultation is mandated by legislation.

Where consultation is discretionary then the consultation can occur during the election period. Consideration should be given prior to the consultation being scheduled as to whether or not the consultation will influence the outcome of the election. If the matter subject to the consultation is likely to be closely associated in the minds of voters with a particular candidate or group of candidates, then it may be prudent to delay the consultation until after the election period.

4.6.6 Expenses incurred by council members

Payment or reimbursement of costs relating to council members' out-of-pocket expenses incurred during an election period will only apply to necessary costs that have been incurred in the performance of normal council duties. This is consistent with general requirements applying to the reimbursement of council members under section 77 of the Local Government Act.

No reimbursements should be provided for campaign expenses or for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

4.6.7 Council branding and stationery

Councils should not endorse particular candidates for election. Council logos, letterheads, or other council branding or council resources or facilities should not be used for a candidate's election campaign.

4.6.8 Support staff to council members

Council staff who provide support to council members should not be asked to undertake any tasks connected directly or indirectly with an election campaign for a council member, except where similar support is provided to all candidates.

In some councils, Mayor's will have access to support staff for assistance with email and diary management and coordination of activities related to the performance of their role. During an election period it is important to ensure clear separation of 'business as usual' (e.g. acknowledging or responding to emails received, coordinating calendar appointments) and campaigning activity (e.g. preparation and distribution of campaign flyers) and that council staff do not provide any assistance with the latter.

4.6.9 Equipment and facilities

Council resources such as council computers, stationery and business cards can continue to be used by council members during an election period for **normal council business**. For example, use of a council provided device to receive and read an electronic copy of the council agenda and use of the device during the council meeting. Council resources should not be used for campaign purposes, for example, use of the council provided email address and the council device to email a newsletter to community groups seeking their support in the election, as this will contravene the Local Government Act and the Code of Conduct for Council Members.

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5 Council staff activities during an election period

Council staff should not undertake any activity that may influence the outcome of an election, except where the activity is required to facilitate the conduct of a fair election process and is authorised by the Chief Executive Officer.

Council staff should not authorise, use or allocate a council resource for any purpose which may influence voting in the election, except where it is required to facilitate the conduct of a fair election process and is authorised by the Chief Executive Officer. This includes making council resources available to council members for campaign purposes.

Council staff must not assist a council member with the member's election campaign during hours of work. Whilst it is not illegal for council staff to assist a council member with the member's election campaign in their own time, such campaign assistance creates reputational risks for the staff member, the candidate, the council and for the integrity of the election process.

Where the use of council resources could be construed as being related to a candidate's election campaign, the incident must be reported to the Chief Executive Officer.

6 Equity of assistance to candidates

6.1 Candidate Assistance and Advice

Councils should not favour a candidate or group of candidates for election, over other candidates.

Any assistance or advice provided to candidates as part of the conduct of an election will be provided equally to all candidates.

For example, if a council intends to provide information sessions for potential candidates, as far as practicable, the same information should be provided to all candidates.

Existing council members or other candidates should not be provided with additional information that would confer an electoral advantage (eg a heads up about a State MP's street meeting or information about an agenda item coming up on the agenda of a meeting of an influential community group).

The types of assistance that are available will be documented and communicated transparently to all candidates in advance.

6.2 Election Process Enquiries

All election process enquiries from candidates, whether current council members or not, are to be directed to the Electoral Commissioner as the returning officer or, where the matter is outside of the responsibilities of the returning officer, to the Chief Executive Officer or his or her nominee.



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12.4	REPORT TITLE:	WARD DONATIONS
	DATE OF MEETING:	17 JANUARY 2022
	FILE NUMBER:	DOC/21/94956
	ATTACHMENTS:	NIL
	<u>Key Contact</u>	Ashleigh Norton, Executive Assistant to Chief Executive Officer
	<u>Manager/Sponsor</u>	Andrew Stuart, Chief Executive Officer

Mount Barker 2035 – District Strategic Plan:

Governance and Leadership

Annual Business Plan:

Nil

Purpose

To allocate ward donation funds to individuals or organisations.

Summary – Key Issues

- Council has budgeted an amount for 2021/22 of \$16,417 which equates to \$1492 for each Council Member to allocate to individuals and/or groups at the Council Members' discretion. This is known as a Ward Allowance.
- Council Members may nominate groups or individuals to receive a Ward donation from their allowance at each Council meeting.

Recommendation

That Council will make the following donations, given that each Member nominating the donation has given careful consideration to whether there is a conflict of interest:

Council Member	Amount	Group/Individual/Purpose

Background

1. Council receives many requests for assistance from individuals, community members and community groups. Requests may be received by Council Members via telephone, letter or via email, or direct to Council.
2. Council has budgeted an amount for 2021/22 of \$16,417 which equates to \$1492 for each Council Member to allocate to individuals and groups at the Council Members' discretion. This is known as a Ward Allowance.
3. The Representation Review process (completed in September 2013) ensures equal representation (Council Member per elector) in each Ward. No change was made to the number of Councillors in each Ward. This process ensures the amount of Ward Allowance available to the community is equal between each of the Wards. The Minister for Local Government has specified (by way of notice published in the Government Gazette on 9 July 2020) that Council is required to undertake and complete a Representation Review during the period October 2020 to October 2021.
4. At the end of each financial year, a report of the expenditure of Ward Allowances will be reported to Council.

Ward Donation Procedures

5. Members receive a print-out indicating how much is still to be spent.
6. Individual members of the community or community groups may require small financial assistance for projects/initiatives of community interest and benefit from Council.
7. These requests should be made directly to the Mayor and/ or Council Members for their consideration / assessment.
8. Any requests received directly by Council will be acknowledged by the Executive Assistant to the Chief Executive Officer and Mayor, and advised that any such requests received will be provided to all Council Members who may choose to contribute some funds from their annual Ward Allowance.
9. When determining donations, Council Members should consider the community interest / benefit to be received and enjoyed by the community at large as a result of that donation.
10. As per section S73-75A of the Local Government Act 1999 Council Members should also consider and assess any material, actual or perceived conflict of interest as a result of making a particular donation or voting on the donations.

11. At each Council Meeting, Council Members may nominate members of the community or community groups to receive a donation from their Ward Allowance. These donations are reflected in the Council meeting minutes, available on Council's website www.mountbarker.sa.gov.au
12. Council Members are encouraged to advise the Executive Assistant to the Chief Executive Officer and Mayor as soon as possible of any requests for ward donations received in advance of Council meetings in order for such requests to be included in the Council meeting agenda. The form can be found on the extranet under Forms.
13. When making a donation in the Council Meeting, the Council Member should:
 - a. Declare who the donation is to be made to, the amount and the purpose of the donation; and
 - b. Complete and submit a Ward Donation Form to the Minute Secretary (Sue Miller).

Community Engagement

Informing only	Notification by way of Council minutes. Recipients will be notified of any donation.
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Policy

There are currently no Council Policies in relation to Ward Donations.

Long Term Financial Plan:

Nil

Budget

The budget allocation for Ward Donations is \$16,417 which equates to \$1492 recommended expenditure by each Council Member. Any unallocated ward allowance balance is not carried over to the next financial year.

Statutory/Legal

There are no statutory/legal implications or requirements in relation to Ward Donations.

Section 73-75A of the Local Government Act 1999:

However, Council Members should be mindful of material, actual or perceived conflict of interest that may arise as a result of making a ward donation.

Staff Resource Requirements

This is incorporated into the existing responsibilities of the finance staff.

Environmental

There are no environmental implications arising from this report or its recommendations.

Social

Ward donations enable individual members of the community and community groups to request small donations to assist with their endeavours.

Risk Assessment:

It is the responsibility of each Council Member to assess the risks association with the ward donations.

Asset Management:

There are no asset management implications arising from this report or its recommendations.

Conclusion

Council Members have the opportunity to make ward donations.

13. INFORMATION REPORTS**Recommendation:**

That the following information reports be noted en bloc.

**13.1 REPORT TITLE: PERIODICAL ELECTOR REPRESENTATION
REVIEW – CERTIFICATION****DATE OF MEETING: 17 JANUARY 2022****FILE NUMBER: DOC/22/692****ATTACHMENT: 1. DOC/22/717 – GAZETTE NOTICE AS
PUBLISHED 16 DECEMBER 2021****Key Contact** Sue Miller, Risk & Governance Officer/EA to Mayor**Manager/Sponsor** Brian Clancey Deputy CEO/General Manager –
Governance, Strategic Projects and
Wastewater/Recycled Water**Purpose:**

To advise Council that the Electoral Commissioner, having assessed the Council's Periodical Elector Representation Review report, determined that the requirements of section 12 of the Local Government Act 1999 (the Act) have been satisfied.

Summary – Key Issues:

1. Mount Barker District Council undertook a periodical elector representation review during the period October 2020 – October 2021 in accordance with Section 12(4) of the Local Government Act 1999 (the Act).
2. Council retains the current 3 ward structure, an elected Mayor and 10 councillors, however all ward boundaries have been adjusted and the South and North Wards which each have 3 councillors with the town of Hahndorf shifting from being in the North Ward to the South Ward, whilst the Central Ward will continue to have 4 councillors.
3. The revised representation arrangements for Council will take effect from the Local Government election in November 2022.
4. The notice showing that Council has reviewed their structure and composition was published in the Government Gazette 16 December 2021 (attached).

Background:

5. A Representation Review is held to determine whether a Council's community would benefit from an alteration to its composition or ward structure.
6. Mount Barker District Council undertook a periodical elector representation review during the period October 2020 – October 2021 in accordance with Section 12(4) of the Local Government Act 1999 (the Act).
7. The current ward structure cannot be retained because the elector ratios in the existing Central and South wards breach the specified 10% quota tolerance limit prescribed under Section 33(2) of the Local Government Act (1999).
8. Significant population growth is anticipated across parts of the Council area, in particular Mount Barker.
9. An independent consultant Craig Rowe & Associates was engaged by Council to examine demographic data and prepare the Periodical Elector Representation Review Options Paper and Periodical Elector Representation Review Report, conduct informal gatherings/workshops with Council Members, and conduct public consultation sessions.
10. Detailed background information was provided to Council at the Council meetings held 1 February 2021, 3 May 2021, 7 June 2021 and 2 August 2021.

Discussion:

11. At the Council meeting held 2 August 2021 Council resolved as per minute number OM20210802.10:

That Council pursuant to Sections 12 (7) & (8) of the Local Government Act 1999:

- 1. receive the independent consultant's Second Public Consultation report (attachment 1) including the one (1) submission received from the community;*
- 2. determine that the future composition and structure for the Mount Barker District Council be as follows:*
 - a. The principal member of Council continue to be a Mayor elected by the community;*
 - b. The future elected body of Council comprise the Mayor and ten (10) ward councillors; and*

- c. *The Council area be divided into three (3) wards as per the ward structure presented in the Representation Review Report, with two (2) wards each being represented by three (3) ward councillors and the remaining ward being represented by four (4) ward councillors (as per attachment 2);*
 3. *determine that there be no changes to ward names and that they remain as South, Central and North; and*
 4. *authorise the Chief Executive Officer (or nominee) to prepare and forward the necessary report and documents (in accordance with the above recommendations) to the Electoral Commissioner, pursuant to the provisions of Sections 12(11) and 12 (12) of the Local Government Act 1999.*
12. The final report and documents containing the prescribed information and consistent with the resolutions of the Council meeting 2 August 2021 were subsequently forwarded to the Electoral Commissioner on 27 September 2021.
13. In a letter dated 1 December 2021 Council was advised that the Electoral Commissioner, having assessed the Council's report, determined that the requirements of section 12 of the Local Government Act 1999 (the Act) were satisfied; the letter served as the required certificate.
14. The letter further advised that Section 12(18) of the Act provides that the revised representation arrangements for Council will take effect from the first day after the first periodic election held following the publication of the notice in the Government Gazette.
15. The notice showing that Council has reviewed their structure and composition was published in the Government Gazette 16 December 2021 and is provided as an attachment to this information report.
16. The first periodic election to be held following the publication of the notice in the Government Gazette will be held in November 2022.
17. Whilst the certified ward structure provides more consistent levels of representation within wards with elector ratios in those wards within specified quota tolerance limits, and allows limited capacity for likely fluctuations in elector numbers primarily as a consequence of future population growth and residential development, it should be noted the current level of significant population growth across parts of the Council area, in particular Mount Barker, is anticipated to continue and may well trigger a representation review sooner rather than later.

18. That is, it is unlikely the current structure to apply for the 2022 election will endure for the next 8-year legislated representation review cycle. Therefore, in future Council may wish to consider a 'no ward' structure, for a period of time, in the event a representation review is triggered by quota tolerance limits being breached by more than 20%.
19. A community awareness strategy will be developed as part of the broader promotion of the 2022 council election. To include as an example the shift of the area of the township of Hahndorf area from the North ward to the South ward.

Conclusion:

Council has completed the periodical elector representation review in accordance with Section 12(4) of the Local Government Act 1999 (the Act). The revised representation arrangements for Council will take effect from the first day after the periodic Local Government election in November 2022.

Previous Decisions By/Information Reports to Council

Meeting Date	2 August 2021	CM Reference	DOC/21/114620
Title	Periodical Elector Representation Review – Submissions Received and Next Steps		
Purpose	To: 1. provide to Council the submission received and the independent consultant's report in response the prescribed consultation on the Periodical Elector Representation Review In Principle Preferred Structure and Composition Draft Report; and 2. to seek determination of the proposed future composition and structure of the Mount Barker District Council and authorisation for the Chief Executive Officer to prepare and finalise the necessary report for forwarding to the Electoral Commissioner.		

Meeting Date	7 June 2021	HPRM Reference	DOC/21/80178
Title	Elector Representation Review Report		
Purpose	To: 1. receive the draft Elector Representation Review Report prepared by the independent consultant as per Council's resolution of 3 May 2021 indicating Council's preferred composition and structure; and 2. endorse the draft Elector Representation Review Report prepared by the independent consultant indicating Council's preferred composition and structure for community consultation for a period of 5 weeks.		

Meeting Date	3 May 2021	HPRM Reference	DOC/21/59477
Title	Elector Representation Review Report		
Purpose	To: 1. provide to Council all of the submissions received and the independent consultant's summary report on submissions received in response to the Periodical Elector Representation Review Options Paper; and 2. for Council to provide an indication to the independent consultant as to Council's preferred position for the independent consultant to prepare a draft Elector Representation Review Report for consideration and endorsement at a future council meeting for community consultation.		

Meeting Date	1 February 2021	HPRM Reference	DOC/21/11289
Title	Elector Representation Review Report		
Purpose	To endorse the draft Periodical Elector Representation Review Options Paper prepared by an independent consultant for community consultation for the prescribed period of 6 weeks, and outline the steps in the process to undertake the Representation Review..		

Meeting Date	16 September 2013	HPRM Reference	DOC/13/082311
Title	Approval of the Representation Review		
Purpose	To provide an update on the progress of the Elector Representation Review report.		

Attachment 1 to Item 13.1

MOUNT BARKER DISTRICT COUNCIL*Review of Elector Representation*

NOTICE is hereby given that the Mount Barker District Council has reviewed its composition and elector representation arrangements in accordance with the requirements of Section 12 (4) of the Local Government Act 1999 (the Act).

Certification

Pursuant to Section 12 (13) (a) of the Act, the Electoral Commissioner has certified that the review undertaken by Council satisfies the requirements of Section 12 of the Act. As such, the following arrangements will take effect as from polling day of the periodic Local Government election to be held in November 2022.

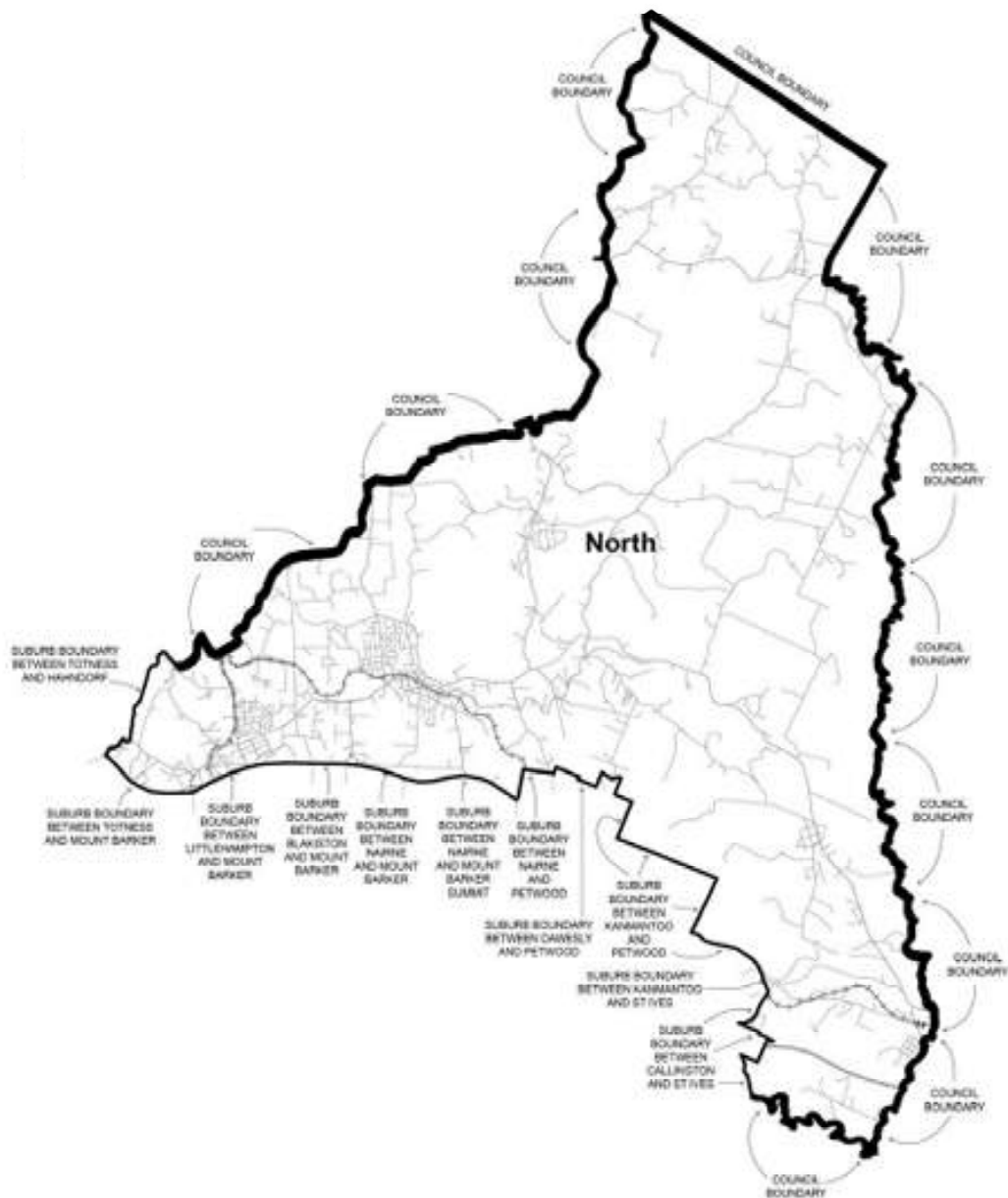
- The principal member of Council shall continue to be a Mayor elected by the community.
- The elected body of Council shall comprise the Mayor and ten (10) ward councillors.
- The Council area shall be divided into three (3) wards, as defined in Schedules One to Three inclusive.
- The wards shall continue to be identified as North, Central and South.
- The Central Ward shall be represented by four (4) ward councillors; and the North and South Wards shall each be represented by three (3) ward councillors.

Andrew Stuart
Chief Executive Officer

SCHEDULE 1

North Ward

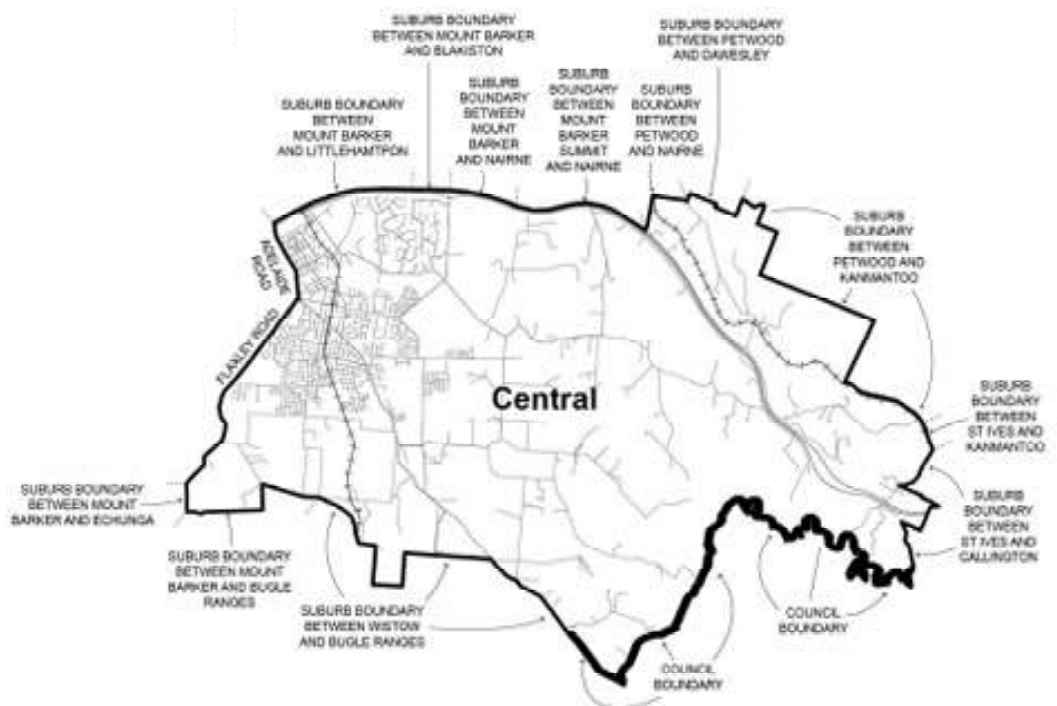
Comprising the districts/localities of Blakiston, Brukunga, Callington, Dawesley, Harrogate, Hay Valley, Kanmantoo, Littlehampton, Mount Barker Junction, Mount Torrens, Nairne, Oakbank, Totness and Woodside.



SCHEDULE 2

Central Ward

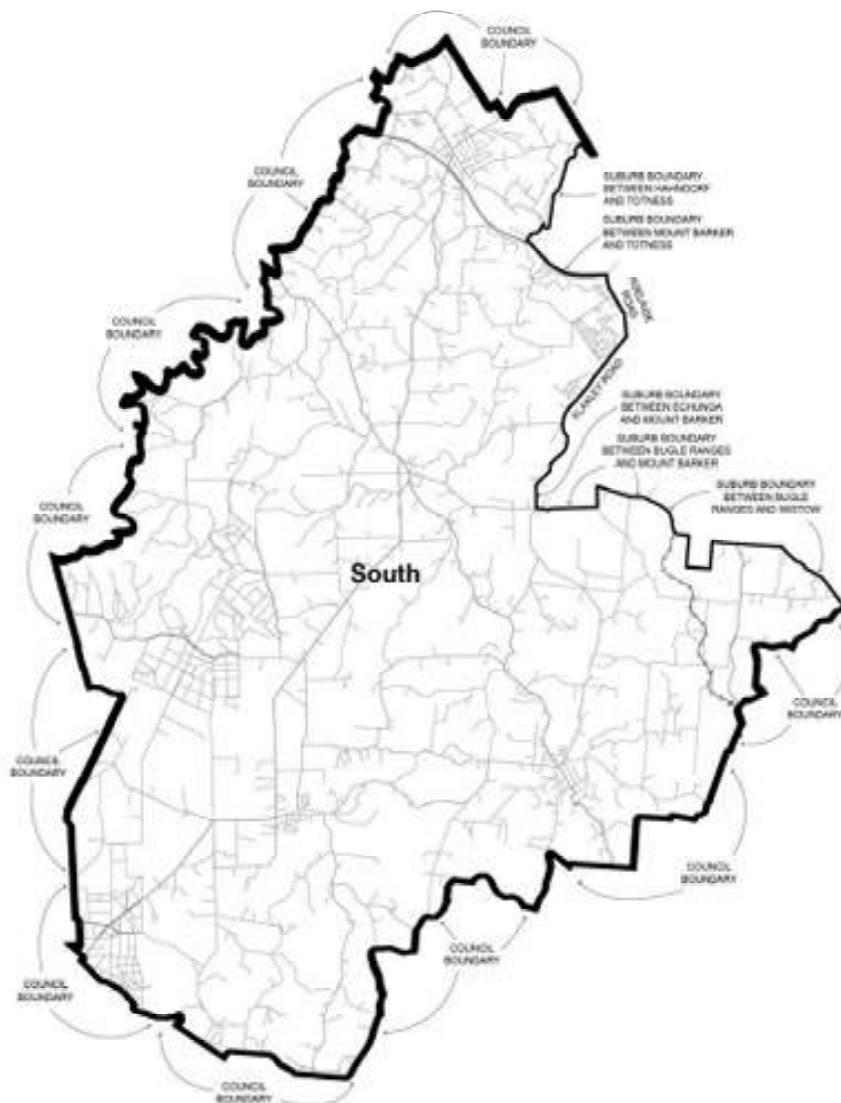
Comprising part of Mount Barker (east of Adelaide Road and Flaxley Road) and the districts/localities of Mount Barker Springs, Mount Barker Summit, Petwood, St Ives and Wistow.



SCHEDULE 3

South Ward

Comprising part of Mount Barker (west of Adelaide Road and Flaxley Road) and the districts/localities of Biggs Flat, Bradbury, Bridgewater, Bugle Ranges, Bull Creek, Chapel Hill, Dorset Vale, Echunga, Flaxley, Green Hills Range, Hahndorf, Jupiter Creek, Kangarilla, Kuitpo, Macclesfield, Meadows, Mylor, Paechtown, Paris Creek, Prospect Hill and Verdun.



13.2	REPORT TITLE:	ANNUAL REPORT ON INTERNAL REVIEWS OF A COUNCIL DECISION IN 2021
	DATE OF MEETING:	17 JANUARY 2022
	FILE NUMBER:	DOC/22/589
	<u>Key Contact</u>	Sue Miller, Risk & Governance Officer
	<u>Manager/Sponsor</u>	Brian Clancey, Deputy CEO / General Manager Governance, Strategic Projects, Wastewater/Recycled Water

Purpose:

To provide the number of applications received in accordance with Section 270 of the Local Government Act for an internal review of a council decision in 2021.

Summary – Key Issues:

- Nineteen requests for an internal review of a council decision were received in 2021.
- One of the 19 requests related to a decision to approve a development application for a sub division; the other 18 requests related to Council decision making to declare the increase in total general rates revenue (excluding growth) for 2021/22 .
- Matters outside of the scope of Council’s Internal Review of a Council Decision Policy (the Policy) are not considered.
- Decisions made by Council under the Planning, Development and Infrastructure Act constitutes one of the matters outside of the scope of Council’s policy.

Background:

1. Council has an Internal Review of a Council Decision Policy (the Policy) as required under the Local Government Act (“the Act”).
2. Section 270(8) of the Act requires an annual report on the number of applications received, the kind of matters to which the applications relate; and the outcome of the application.
3. Matters outside of the scope of Council’s Internal Review of a Council Decision Policy will not be considered.
4. There is no budget provision for s270 internal reviews.

Discussion:

5. In 2021 Council received 19 requests for an internal review of a council decision.
6. Requests 1 – 18 related to a complaint about Council decision making to declare the increase in total general rates revenue (excluding growth) for 2021/22.
7. Council appointed Kelledy Jones Lawyers to conduct an independent review of the 18 complainants' requests rather than conduct 18 individual reviews.
8. The internal review conducted by Kelledy Jones Lawyers concluded that Council processes were valid, appropriate and lawful and that given this finding, there was no further action required of Council.
9. The internal review report prepared by Kelledy Jones Lawyers and the associated council meeting agenda items and minutes are publicly available via the council website, as per the council meeting resolution, on the Released Confidential Items page of Council's website (item number 165.)
10. A further 7 complainants regarding the subject matter of requests 1 to 18 did not specifically request a review but were advised of the review outcome. The 7 complainants have been excluded in the total figure referenced at item 4 above.
11. The Kelledy Jones Lawyers review cost \$22,906 excluding GST; this exceeded the initial indicative quote, and reflected additional costs associated with reviewing the substantial amount of documentation provided for review, and in particular, responding individually to further communications from some complainants during the review process. That additional requirement was not something that was foreseen.
12. The direct cost from Kelledy Jones Lawyers excluded the substantial council staff time associated with the review. Actual hours and hence the direct cost of staff time has not been captured/recorded in terms of hours and dollars.
13. The actual hours required was very significant and applied for an extended period.
14. Request number 19 was for an internal review related to a decision made by Council under the Planning, Development and Infrastructure Act to approve the sub-division of a property.
15. Council's Internal Review of a Council Decision Policy at clause 3.2 provides that matters outside of the scope of the policy will not be considered, and includes other legislation that has its own prescribed appeal procedures.

16. Legal advice was obtained by Council regarding decisions made pursuant to the Development Act 1993 and the new Planning, Development and Infrastructure Act 2016 (PDI Act 2016) and transitional provisions from the Development Act to the PDI Act 2016 in the supporting Regulations.

17. The legal advice confirmed that a decision made under the Development Act and PDI Act 2016 cannot be overturned by Council including under a section 270 review of the Local Government Act 1999. That is not a determination of Council but the Parliament of South Australia and Council is obliged to operate within that legal framework.

18. Number of Internal Review Requests received in previous years:

2020	2 requests
2019	NIL
2018	1 ineligible request*
2017	2 requests
2016	1 request

** decision of Council's Development Assessment Panel cannot be reviewed by Council*

Conclusion:

Internal reviews of a Council decision are an important part of the complaint handling process. Whilst it is acknowledged there is an opportunity cost associated with responding to complaints and requests for review, such requests can present opportunities for continuous improvement in Council processes and decision making.

Previous Decisions By/Information Reports to Council

Meeting Date	18 January 2021	CM Reference	DOC/20/186109
Title	Annual Report on Internal Reviews of a Council Decision in 2020		
Purpose	To provide the number of applications received for an internal review of a council decision in 2020.		

Meeting Date	4 February 2019	HPRM Reference	DOC/19/5141
Title	Annual Report on Internal Reviews of a Council Decision in 2018		
Purpose	To provide the number of issues reviewed as part of the Internal Review of Council decisions process in 2018.		

Meeting Date	15 January 2018	HPRM Reference	DOC/18/846
Title	Annual Report on Internal Reviews of a Council Decision in 2017		
Purpose	To provide the number of issues reviewed as part of the Internal Review of Council decisions process in 2017.		

13.3	REPORT TITLE:	DISABILITY ACCESS AND INCLUSION PLAN PROGRESS REPORT
	DATE OF MEETING:	17 JANUARY 2022
	FILE NUMBER:	DOC/21/202678
	<u>Key Contact</u>	Yelaina Eaton, Senior Community Development Officer, Community Services
	<u>Manager/Sponsor</u>	Alison Hancock, Acting General Manager Community Services

Purpose:

The purpose of this report is to provide Council with an annual progress report for the implementation of the Mount Barker District Council Disability Access and Inclusion Plan (DAIP) for the year October 2020 to October 2021. Council's DAIP is called '*Access for All, Disability Access and Inclusion Plan 2020-2025.*'

Summary – Key Issues:**Key Points**

1. The first year of DAIP implementation is complete, with 36 of 42 actions that were scheduled for completion in 2021, either completed or on track for completion by June 2022.
2. The South Australian Disability Inclusion Act 2018 (the Act) required that each State Authority report the annual progress on implementation of their DAIPs to the Department of Human Services (DHS) by 31 October 2021. An annual progress report was submitted to DHS within the required time frames.

Background:

1. A draft DAIP was developed over February to June 2020 through staff and community consultation (phase 1), in accordance with the Act.
2. At Council's meeting on 20 June 2020, Council resolved to endorse the draft DAIP for publication on Council's website and further community consultation (phase 2).
3. It was also resolved that an amended edition of the DAIP incorporating further community and stakeholder feedback on the draft DAIP (received during phase 2) be referred back to the Council for consideration and adoption at a future meeting.
4. The draft DAIP was formally endorsed at the meeting on 6 October 2020.

Discussion:

5. The DAIP is reported on annually and must be reviewed every four years.
6. The DAIP sets out actions Council will take over the period October 2020 to October 2024 to achieve a more accessible and inclusive organisation and district for people living with disability.
7. DAIP actions align with the four key themes in the State Disability Inclusion Plan 2019-2023: Inclusive SA (the State Plan):
 - a. Inclusive communities for all
 - b. Leadership and collaboration
 - c. Accessible communities
 - d. Learning and employment
8. Mount Barker District Council has made progress against most actions in year 1 of our first DAIP. Key achievements include regional projects that built staff capacity in:
 - a. Creating accessible information and website content.
 - b. Planning, designing and constructing important public places like main streets, town centres using universal design principles and approaches.

Other notable achievements have included:

- All-staff training in Disability and Inclusion,
- Continuation of the Disability and Inclusion Reference Group,
- Establishment of a Disability and Inclusion online Engagement Group, and
- Staff training and funding to deliver a Youth Leadership Program for young people with disability in 2022.

9. The DAIP has a total of 83 actions to be delivered in the life of the plan.
10. During 2020-2021, 31 of the 42 committed actions for this financial year were completed and 5 are still in progress, expected to be completed by June 2022.
11. Council's CEO received a request from the Chief Executive on DHS in August 2021 requesting information on Council's progress in supporting relevant actions within the State Plan and on implementation of Council's DAIP. This information was requested to enable DHS to report to the Minister for Human Services and prepare the 2020-21 Inclusive SA Annual Report.

Conclusion:

Council resolves that the report be received and noted.

Previous Decisions By/Information Reports to Council

Meeting Date	6 October 2020	CM Reference	DOC/20/99595
Title	Disability Access and Inclusion Plan 2020-2024 (DAIP)		
Purpose	To present the analysis/ amendments following consultation on the draft Disability Access and Inclusion Plan (DAIP). To endorse the final Disability Access and Inclusion Plan.		

Meeting Date	1 June 2020	CM Reference	DOC/20/5093
Title	Disability Access and Inclusion Plan 2020-2024		
Purpose	To provide Council Members with the Draft Disability Access and Inclusion Plan (DAIP) and seek authorisation to commence a 4 week period of public and stakeholder consultation on the draft.		

Meeting Date	3 February 2020	CM Reference	DOC/20/5950
Title	Information Report, Disability and Inclusion Plan 2020-2024		
Purpose	To inform Council of the development of a Disability and Inclusion Plan 2020-2024 (DAIP).		

14. QUARTERLY REPORTS**Recommendation:**

That the following report be noted.

**14.1 REPORT TITLE: ADELAIDE HILLS REGION WASTE MANAGEMENT
AUTHORITY QUARTERLY REPORT – JUNE TO
SEPTEMBER 2021**

DATE OF MEETING: 17 JANUARY 2022

FILE NUMBER: DOC/22/1873

**ATTACHMENT: 1 - DOC/22/1643 - AHRWMA KEY OUTCOMES
SUMMARY**

**Key Contact Greg Parker, Executive Officer to Summit Sport
and Recreation Park Board**

Manager/Sponsor Andrew Stuart, Chief Executive Officer

Purpose:

To provide Council with a quarterly report from its regional subsidiary, the Adelaide Hills Region Waste Management Authority (AHRWMA).

Summary – Key Issues:

1. AHRWMA held a Board meeting on 19 November 2021 which reviewed the first quarter (to date) operations.
2. The 2021/22 1st quarter operations report is attached (Attachment 1).

Background:

1. Attachment 1 provides a routine report of the AHRWMA's activities for the quarter June to September 2021 plus the AHRWMA Board and Audit Committee's considerations relating to that quarter.

Discussion:

1. The AHRWMA Board considered at its 19 November 2021 meeting the following;
 - The first quarter 2021/22 finances, budget review and statistics were received and adopted.
 - A performance report from the Executive Officer was received.
 - A Board Membership and Charter implementation update was received. (further information on Board member recruitment will be provided to Mt Barker District Council Elected Members at an Information Briefing Session on 17 January 2022).
 - The report on FY2021 financial results was received and adopted.

- An information report from the Strategic Resource Recovery Coordinator was received.
 - Two confidential reports were received;
 - Competitive Neutrality Review
 - Murraylands /Riverland LGA Regional Tender
2. The Board received an update on the first quarter financial results and budget review. Other income was reduced by \$500,000 as this income was booked as known income in the 20/21 financial year and therefore will be removed from the 21/22 budget. As a result the net surplus will be adjusted from \$517,000 to \$17,000.
3. Key Managerial/Operational Items
- a. The Competitive Neutrality Review has been finalised, which fulfils an item raised via the Auditor General's Governance Report.
 - b. A Business Continuity Plan has been drafted and will be presented to the Board at a future meeting.
 - c. An AHRWMA tender submission was made in response to the Murraylands and Riverland LGA Tender for Collection, Bulk Transport and Processing/Disposal of Kerbside and Public Place Bins for Participating Councils.
 - d. Following an RFQ process Rawtec Consulting was selected to complete a Regional Waste and Resources Management Plan for the AHRWMA and Member Councils. Rawtec undertook site visits on Tuesday 30 November 2021.
 - e. The Environment Protection Authority (EPA) are implementing new legislative changes regarding waste levy collection at landfills, commencing 1 December 2021. The EPA visited the Authority's Brinkley Landfill to discuss the implications of the waste levy at landfills legislation and as a result the Authority submitted a request for approved use of waste fill for capping and final landform. The full implications of the changes are currently unknown, however at this stage the Executive Officer (EO) informed the Board they will be minimal for the AHRWMA if the required approvals are granted and daily cover is managed adequately.
 - f. Internal financial controls continue to be implemented and reported to the Audit Committee.
 - g. The contract for bulk bin collection for Mount Barker District Council has been finalised.
 - h. A workshop was held with Member Councils regarding the Strategic Resource Recovery Coordinator Position, where a Service Level Agreement was discussed and drafted. The previous incumbent has resigned from this position and therefore a further meeting has been held with Member Council staff regarding the position moving forward and discussions are still underway.
 - i. A meeting and site visit was undertaken with Foodland at Woodside – this shop has implemented compostable bags within the fresh food section –

replacing plastic bags, they have also discontinued plastic bags in store with only paper bags available and they have introduced plastic bag recycling stations in store. The cost of implementing these measures is somewhat prohibitive. However the EO will continue discussions with the hills Foodland stores to see how the AHRWMA may be able to assist with obtaining ongoing funding from State Government to keep this great initiative going; expand it and assist with communicating the initiatives to Elected Members and the community.

Conclusion:

Quarterly reports from the AHRWMA keep member Councils regularly updated on matters involving the Authority's core business.

Previous Decisions By/Information Reports to Council

Meeting Date	1 November 2021	CM Reference	DOC/21/161781
Title	Adelaide Hills Region Waste Management Authority Annual Report 2020/21		
Purpose	To provide Council the Adelaide Hills Region Waste Management Authority's (AHRWMA) Annual Report 2020/21 for adoption and subsequent inclusion as an attachment to Council's Annual Report 2020/21.		

Meeting Date	3 May 2021	CM Reference	DOC/21/59285
Title	Adelaide Hills Region Waste Management Authority Quarterly Report		
Purpose	To provide Council with a quarterly report from its regional subsidiary, the Adelaide Hills Region Waste Management Authority (AHRWMA).		

Meeting Date	18 January 2021	CM Reference	DOC/21/1079
Title	Adelaide Hills Region Waste Management Authority Quarterly Report		
Purpose	To provide Council with a quarterly report from its regional subsidiary, the Adelaide Hills Region Waste Management Authority (AHRWMA).		

Meeting Date	2 November 2020	CM Reference	DOC/20/139604
Title	Adelaide Hills Region Waste Management Authority (AHRWMA) Annual Report 2019/2020		
Purpose	To provide to Council the Adelaide Hills Region Waste Management Authority (AHRWMA) Annual Report 2019/20.		

Meeting Date	6 April 2020	CM Reference	DOC/20/32142
Title	Adelaide Hills Region Waste Management Authority Quarterly Report		
Purpose	To provide a quarterly report on the outcomes of the Adelaide Hills Region Waste Management Authority (AHRWMA) Board meeting on 28 February 2020.		

Meeting Date	20 January 2020	CM Reference	DOC/19/157970
Title	Adelaide Hills Region Waste Management Authority Quarterly Report		
Purpose	To provide a quarterly report on the outcomes of the Adelaide Hills Region Waste Management Authority (AHRWMA) Board meeting on 14 November 2019.		

Attachment 1 to Item 14.1

**Adelaide Hills Region Waste Management Authority
Key Outcomes Summary
Board Meetings: 19th November****Audit Committee Meeting**

The Audit Committee met on 12th November 2021 and reviewed the following reports;

- First Quarter Finances, Budget Review & Stats - BR1 FY 2022
- Significant Transactions Report BR1 FY 2022
- External Audit Management Report – Internal Financial Controls
- Audit Matters Report
- Policies and Procedures Implementation Report Board Membership update
- Board Membership Update
- Confidential - Draft Competitive Neutrality Review Report
- Confidential – Murraylands and Riverland Tender Submission
- Report on FY2021 Financial Results

Budget Review One

The Board received an update on the first quarter financial results and budget review. Other income was reduced by \$500,000 as this income was booked in the 20/21 financial year and therefore will be removed from the 21/22 budget. As a result the net surplus will be adjusted from \$517,000 to \$17,000.

Board Decisions

The Board resolved the following;

- The first quarter 2021/22 finances, budget review and statistics were received and adopted.
- A performance report from the Executive Officer was received.
- A Board Membership and Charter implementation update was received.
- The report on FY2021 financial results was received and adopted.
- An information report from the Strategic Resource Recovery Coordinator was received.
- Two confidential reports were received;
 - Competitive neutrality review
 - Murraylands Riverlands LGA Regional Tender

Managerial/Operational

- The Competitive Neutrality Review has been finalised, which fulfills an item raised via the Auditor General Governance Report.
- A Business Continuity Plan has been drafted and will be presented to the Board at a future meeting.
- A submission was made in response to the Murraylands and Riverlands Tender.
- The Operations Supervisor position was advertised and filled.
- The position of hook-lift driver, which was being filled by labour hire was advertised and the appointment is being finalised with the successful applicant.
- Following an RFQ process Rawtec Consulting was selected to complete a Regional Waste and Resources Management Plan for the AHRWMA and Member Councils. Rawtec will be undertaking site visits on Tuesday Nov 30th.
- The EPA's mass balance reporting requirements came into effect July 1 2021 and we have adapted our weighbridge software to meet EPA reporting requirements.
- The EPA are implementing new legislative changes regarding waste levy collection at landfills, commencing 1st December 2021. The EPA visited the Brinkley Landfill to discuss the implications of the waste levy at landfills legislation and as a result we have submitted a request for approved use of waste fill for capping and final landform. The full implications of the changes are currently unknown, however at this stage we believe they will be minimal for the AHRWMA if the required approvals are granted and daily cover is managed adequately. Additional operational management will be essential to ensure approvals are requested and

granted prior to using waste fill on site.

- The end of year financial statements were finalised and presented to the September board meeting.
- A number of HR policies and procedures were consulted and implemented with staff.
- Internal financial controls continue to be implemented and reported to the Audit Committee.
- The contract for bulk bin collection for Mount Barker Council has been finalised.
- A workshop was held with Member Councils regarding the Strategic Resource Recovery Coordinator Position, where a Service Level Agreement was discussed and drafted. Sarah Barret has advised that she will be resigning from this position and therefore a further meeting has been held with Member Council staff regarding the position moving forward and discussions are still underway.
- A meeting and site visit was undertaken with Foodland at Woodside – this shop has implemented compostable bags within the fresh food section – replacing plastic bags, they have also discontinued plastic bags in store with only paper bags available and they have introduced plastic bag recycling stations in store. The cost of implementing these measures is a barrier going forward. We will continue discussions with the hills Foodland stores to see how the AHRWMA may be able to assist with obtaining ongoing funding from State Government to keep this great initiative going/expand it and assist with communicating the initiatives to Elected Members and the community.

Next meeting

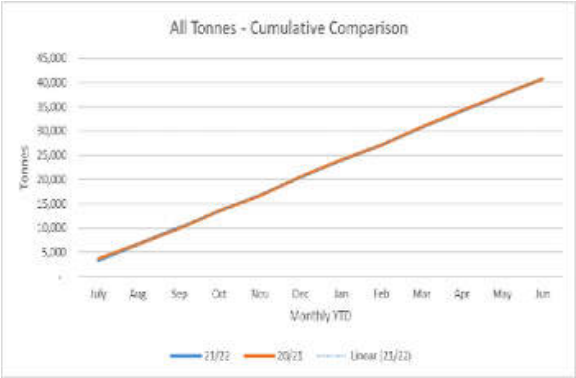
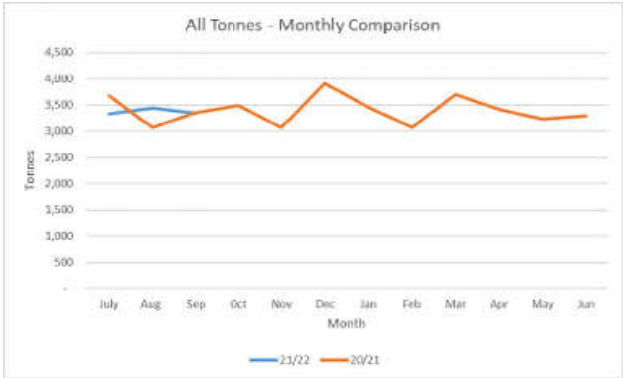
Thursday 17th February 2022

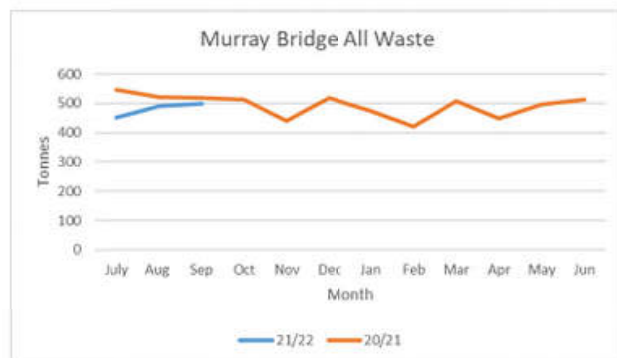
Adelaide Hills Regions Waste Management Authority
Brinkley Landfill Waste Statistics 2021-22

Month	Mount Barker Kerbside	Mount Barker Windmill Hill Transfer Station	Mount Barker Other	Adelaide Hills Council Kerbside	Adelaide Hills Council Heathfield Transfer Station	Alexandrina Council Kerbside	Alexandrina Council Strathalbyn Transfer Station	Murray Bridge Kerbside	Murray Bridge Brinkley Transfer Station	Murray Bridge Other	Non Member Local Gvt	Commercial	Other	Total	Waste Fill
July	668	142	1	639	117	145	77	371	66	14	487	190	416	3,333	1,397
Aug	638	187	-	616	167	112	80	367	103	19	502	216	438	3,444	794
Sep	662	197	-	588	157	107	49	361	117	20	483	176	432	3,349	831
YTD Total	1,968	526	1	1,843	441	364	206	1,099	286	53	1,471	582	1,285	10,126	3,021
TOTALS			2,495		2,284		570			1,438	1,471	582	1,285		

	Mt Barker District Council	Adelaide Hills Council	Alexandrina Council	Rural City of Murray Bridge	Non Member Local Gvt	Commercial	Other	Total
Budget FY2022 - Original	9,735	8,843	2,370	5,679	6,193	2,411	5,201	40,432
YTD FY2022	2,495	2,284	570	1,438	1,471	582	1,285	10,126
Projected Total	9,979	9,135	2,281	5,752	5,886	2,329	5,142	40,503

20/21	9,686	8,855	2,259	5,908	5,926	2,824	5,309	40,767
19/20	8,903	8,611	2,281	5,403	5,699	7,587		38,384
18/19	8,239	8,423	2,255	6,647	5,715	6,962		38,241
17/18	8,256	8,501	2,428	6,641	5,724	6,810		38,360
16/17	8,326	9,403	2,503	6,971	3,836	5,912		36,951
15/16	7,850	9,371	2,881	6,004	6,732	4,361		37,199
14/15	7,470	9,665	2,785	5,370	6,792	8,267		40,348
13/14	7,289	9,231	678	4,726	6,710	3,810		32,443





15. MAYOR'S REPORT

16. MEMBERS' REPORTS

17. QUESTIONS ARISING FROM COUNCIL MEETING

18. CONFIDENTIAL REPORTS

**18.1 REPORT TITLE: CONFIDENTIAL ITEM: FULFORD TERRACE,
LITTLEHAMPTON DEVELOPMENT SITE -
INFRASTRUCTURE ARRANGEMENTS**

DATE OF MEETING: 17 JANUARY 2022

FILE NUMBER: 21/166241

Recommendation:

That Council:

Section 90 (3) (d) Order Pursuant to Section 90(3)(d)

1. Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer; Deputy Chief Executive Officer; General Manager Corporate Services; General Manager, Infrastructure; Acting General Manager, Planning and Development; Acting General Manager, Community Services; and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.1 Fulford Terrace, Littlehampton Development Site - Infrastructure Arrangements.

The Council is satisfied that pursuant to Section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to :

- prejudice the commercial position of the person who supplied the information and
- to confer a commercial advantage on a third party.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information may result in a competitor receiving the information to the detriment of the developer.

Section 91(7) Order Pursuant to Section 91(7)

8. That having considered Agenda Item 18.1 Fulford Terrace, Littlehampton Development Site - Infrastructure Arrangements in confidence under 90(2) and 3(d) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the Council report, attachment and all minutes be retained in confidence until 17 January 2023 or such lesser period as may be determined by the Chief Executive Officer.
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18.2	REPORT TITLE:	APPOINTMENT OF INDEPENDENT MEMBERS TO THE SUMMIT SPORT AND RECREATION PARK BOARD
	DATE OF MEETING:	17 JANUARY 2022
	FILE NUMBER:	DOC/21/207842
	ATTACHMENTS:	NIL

Recommendation:**1. Pursuant to Section 90(3)(a)**

Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except (Chief Executive Officer, Deputy Chief Executive Officer/General Manager Governance, Strategic Projects, Wastewater/Recycled Water, General Manager Corporate Services, A/General Manager Planning and Development, A/General Manager Community Services, General Manager Infrastructure, Risk and Governance Officer, Executive Officer to the SSRP Board and the Minute Secretary) be excluded from attendance at the meeting for Agenda Item 18.2 Appointment of Independent Members to the Summit Sport and Recreation Park Board.

The Council is satisfied that pursuant to Section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of people who expressed an interest in membership of the Summit Sport and Recreation Park Board in that their identity and details included in their resumes will be discussed.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of details relating to personal information of people who expressed an interest in membership of the Board will be discussed.

Section 91(7) Order**3. Pursuant to Section 91(7)**

That having considered Agenda Item 18.2 Appointment of Independent Members to the Summit Sport and Recreation Park Board in confidence under 90(2) and 3(a) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the report and minutes be retained in confidence until all appointees have accepted their position and unsuccessful applicants have been notified or such lesser period as may be determined by the Chief Executive Officer.
