

CITY OF WEST TORRENS



Notice of Council Meeting

NOTICE IS HEREBY GIVEN that due to the current restrictions on public gatherings as a result of COVID19 and the *Electronic Participation in Council Meetings Notice (No 1) 2020* issued by the Minister for Transport, Infrastructure and Local Government in exercise of his new emergency powers under Section 302B of the *Local Government Act 1999*, the Ordinary meeting of Council on

TUESDAY, 5 May 2020

will be held via electronic means only.

The meeting will commence at 7.00pm.

Terry Buss PSM
Chief Executive Officer

City of West Torrens Disclaimer

Please note that the contents of this Council Agenda have yet to be considered by Council and officer recommendations may be altered or changed by the Council in the process of making the formal Council decision.

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1 MEETING OPENED

1.1 Acknowledgement of Country

1.2 Electronic Platform Meeting

2 PRESENT

3 APOLOGIES

4 DISCLOSURE STATEMENTS

Elected Members are required to:

1. Consider Section 73 and 75 of the *Local Government Act 1999* and determine whether they have a conflict of interest in any matter to be considered in this Agenda; and
2. Disclose these interests in accordance with the requirements of Sections 74 and 75A of the *Local Government Act 1999*.

5 CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the meeting of the Council held on 21 April 2020 be confirmed as a true and correct record.

6 MAYORS REPORT

(Preliminary report for the agenda to be distributed Friday, 1 May 2020)

In the two weeks since the last Council Meeting of 21 April 2020 functions and meetings involving the Mayor have included:

Saturday 25 April

- With Hilton RSL President, Ian Gardiner laid a wreath at the Cross of Sacrifice in the Memorial Gardens for Anzac Day. It was a very solemn occasion with no formal service being able to be held due to Covid-19 restrictions.

Monday 27 April

- Participated in a webinar with Members of the GAROC and council staff in relation to current and proposed GAROC activities.

During the period since the last Council meeting, the Mayor has received regular briefings from the Acting CEO and CEO regarding the impact of Covid-19 on Council residents, community groups and businesses and staff.

The Mayor has also been reaching out to residents, community and sporting groups and businesses within our City to determine any assistance they may require at this difficult time.

RECOMMENDATION

That the Mayor's Report be noted.

7 ELECTED MEMBERS REPORTS

8 PETITIONS

Nil

9 DEPUTATIONS

Nil

10 ADJOURN TO STANDING COMMITTEES

Nil

11 ADOPTION OF STANDING COMMITTEE RECOMMENDATIONS

Nil

12 ADOPTION OF GENERAL COMMITTEE RECOMMENDATIONS

Nil

13 QUESTIONS WITH NOTICE

Nil

14 QUESTIONS WITHOUT NOTICE

15 MOTIONS WITH NOTICE

Nil

16 MOTIONS WITHOUT NOTICE

17 REPORTS OF THE CHIEF EXECUTIVE OFFICER

17.1 Land Management Agreement- Morphettville Racecourse DPA

Brief

This report seeks Council endorsement for the consent of the registration of a Land Management Agreement within the suburbs of Morphettville, Camden Park and Glengowrie, which relates to the Morphettville Racecourse Development Plan amendment.

RECOMMENDATION(S)

It is recommended to Council that:

1. Endorsement be given by the City of West Torrens to the Land Management Agreement in Attachment Three of this report, pursuant to section 57(1) of the *Development Act 1993*, to be entered into by the Minister for Planning, Minister for Transport Infrastructure and Local Government and the South Australian Jockey Club Incorporated, relating to the land comprised in Certificates of Title:
 - a) Volume 6141 Folios 561 to 563 (inclusive) and 642;
 - b) Volume 5937 Folio 888;
 - c) Volume 6105 Folio 575;
 - d) Volume 5895 Folio 399; and
 - e) Volume 5475 Folio 119.

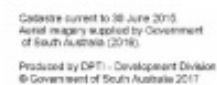
And as part of the Morphettville Racecourse Development Plan amendment, and

2. Authorisation be given to the City of West Torrens Mayor and Chief Executive Officer to sign and affix the common seal to the CONSENT of the Land Management Agreement in Attachment 1 of this report as the registered proprietor of the easements mentioned (vide TG 11232434, T 3928388, T 4162213 and T 4289144 respectively).

Introduction

The Minister for Planning has proposed to amend the Development Plans of Marion and West Torrens councils to enable new land uses on surplus racecourse land at Morphettville. The area affected comprises approximately 26 hectares of land to the north and west of the Morphettville Racecourse within the suburbs of Morphettville, Camden Park and Glengowrie (see image one, Affected Area). Consultation on Ministerial Development Plan amendments (DPA) is conducted by the State Planning Commission and on 5 September 2017, the Minister for Planning released the DPA for public consultation. A drop-in information session was held on 7 October 2017. The period for receiving written public submissions closed on 3 November 2017, followed by a public meeting held on 15 November 2017.

This DPA was presented to Council at Council meetings held 7 June 2016 and 17 October 2017. To progress the DPA, a Land Management Agreement (LMA) (**Attachment 1**) and Road Infrastructure Deed (as seen in attachment three, Annexure 1 *Traffic Intervention Plan*) will be entered into between the Minister for Planning, Minister for Transport Infrastructure and Local Government and the South Australian Jockey Club Incorporated. The City of West Torrens' (CWT) consent is sought to the LMA in the capacity of being the registered proprietor of an easement/s contained within the land subject to the LMA.



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Discussion

By way of background information, the proposed policy change seeks to enable a medium to high density housing and mixed use precinct to be developed on parts of the racecourse land, including land identified by the South Australian Jockey Club (SAJC) as surplus to their needs. The DPA affects land fronting Anzac Highway between (and including) the Junction Bar and Bistro and Morphet Road, as well as land west of Morphet Road containing tram barns, residences and commercial activities.

The purpose of the DPA is to provide a zoning framework that facilitates population growth and economic development with the creation of a new inner urban mixed use neighbourhood integrated with a new permanent tram stop and upgraded racing facilities. Changes are proposed in the Marion and West Torrens council Development Plans and are as follows for CWT:

- Rezone the existing Commercial Zone land located between the Glenelg tram line and Anzac Highway to Urban Core Zone to support medium to high density mixed use and residential development.

To facilitate the DPA, the land owner, prior to the DPAs approval, must execute a LMA and road infrastructure deed, obtaining all appropriate consents and then deliver to the Minister the executed LMA (including all appropriate consents, fees and registration costs necessary) for the Minister to procure registration of the LMA.. The LMA and associated annexures are party to the Minister and SAJC.

In turn, the Minister must procure the withdrawal and rescission of the LMA registered over the Land as soon as practicable following Practical Completion of the Road Infrastructure Works Components or if the Conditions Precedent in accordance with clause 3 of the Deed are not met. The Minister will, at the completion of any development or works pursuant to this Deed, determine which instrumentality of the Crown (including the councils), should own and maintain the relevant parts of the completed development or works pursuant to the Deed and do all things necessary to vest in the instrumentality such development or works on terms acceptable to the Minister.

As stated earlier, The City of West Torrens consent (**Attachment 2**) is sought to the LMA in the capacity of being the registered proprietor of an easement/s contained within the land subject to the LMA (vide TG 11232434, T 3928388, T 4162213 and T 4289144 respectively) (**Attachments 3 and 4**).

City Assets have reviewed the documents submitted and confirm the required easements have been identified with little impact proposed.

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

There is no direct environmental impact resulting from this report.

Conclusion

It is recommended that Council endorse the consent to enable the registration of LMA between the Minister for Planning, Minister for Transport Infrastructure and Local Government and the South Australian Jockey Club Incorporated to occur and progress the Morphetville Racecourse DPA.

Attachments

1. Land Management Agreement
2. Consent Form
3. Certificate of Title (Volume 5937 Folio 888)
4. Certificate of Title (Volume 6105 Folio 575)

Land Management Agreement

DATE

20

PARTIES

MINISTER FOR PLANNING a body corporate pursuant to the *Administrative Arrangements Act 1994* (SA) of Level 5, 50 Flinders Street, Adelaide, South Australia 5000 (**Minister for Planning**)

AND

MINISTER FOR TRANSPORT INFRASTRUCTURE AND LOCAL GOVERNMENT a body corporate pursuant to the *Administrative Arrangements Act 1994* of Level 5, 50 Flinders Street, Adelaide, South Australia 5000 (**Minister**)

AND

SOUTH AUSTRALIAN JOCKEY CLUB INCORPORATED of Morphettville Racecourse 79 Morphett Road, Morphettville SA 5043 (**Land Owner**)

BACKGROUND

- A. The Land Owner is the registered proprietor of an estate in fee simple in the Land, being a portion of the Site.
- B. The Land Owner wishes for the Site to be rezoned in accordance with the Draft DPA.
- C. The parties recognise that should development of the Land proceed in the manner envisaged by the Draft DPA, certain road works will be required.
- D. The Land Owner and the Minister have entered into a Road Infrastructure Deed in the form attached as Annexure A, requiring the Land Owner to undertake or cause to be undertaken the traffic interventions listed in the Deed.
- E. Pursuant to section 57(1) of the Act, the Land Owner, the Minister for Planning and the Minister have agreed to enter into this Land Management Agreement (**Agreement**) relating to the development of the Land subject to the terms and conditions of this Agreement.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

Act means the *Development Act 1993 (SA)* or (as the context permits) any corresponding relevant or transitional provisions of the *Planning, Development and Infrastructure Act 2016*;

Business Day means a day that is not a Saturday, Sunday or public holiday in South Australia;

Development Plan means the Development Plan for Marion Council and West Torrens Council as amended by the DPA;

DPA means a Development Plan Amendment that is approved and in operation under the Act as a result of a process initiated with the Draft DPA (whether in substantially the same form as the Draft DPA or in an amended form), and for the avoidance of doubt includes any amendment made to the Draft DPA by the Minister for Planning pursuant to section 27(5) of the Act;

Draft DPA means the Ministerial Development Plan Amendment titled "Morphettville Racecourse Development Plan Amendment" prepared by the Minister for Planning and released for public consultation under the Act on 5 September 2017;

Land means that portion of the Site identified in the Morphettville Intervention Map as the "Core Area (North)", "Core Area (South)" and "Non-Designated Area" owned by the Land Owner, being land comprised in Certificate of Title Volume 5937 Folio 888 and portion of Certificate of Title Volume 6105 Folio 575;

Land Owner means the registered proprietor in fee simple of the Land and includes a transferee or assignee of the Land Owner from time to time;

Morphettville Intervention Map means the map attached as Annexure B to this Agreement (and attached as Annexure 2 to the Road Infrastructure Deed);

Road Infrastructure Deed means the Road Infrastructure Deed, entered into by the Minister for Transport Infrastructure and Local Government and the Land Owner, in the form attached as Annexure A of this Agreement;

Road Infrastructure Works has the same meaning as in the Road Infrastructure Deed;

Site means the whole of the land comprised in Certificates of Title:

- a) Volume 6141 Folios 561 to 563 (inclusive) and 642;
- b) Volume 5937 Folio 888;
- c) Volume 6105 Folio 575;
- d) Volume 5895 Folio 399; and
- e) Volume 5475 Folio 119.

1.2 Interpretation

In this Agreement, unless the context otherwise requires:

- 1.2.1 headings do not affect interpretation;
- 1.2.2 singular includes plural and plural includes singular;
- 1.2.3 words of one gender include any gender;
- 1.2.4 a reference to a party includes its executors, administrators, successors and permitted assigns;
- 1.2.5 a reference to the Land Owner includes each person registered or entitled to be registered as a proprietor of an estate in fee simple of the Land.
- 1.2.6 a reference to a person includes a partnership, corporation, association, government body and any other entity;
- 1.2.7 an agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- 1.2.8 an agreement, representation, warranty, or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) benefits them jointly and severally;
- 1.2.9 a reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- 1.2.10 a provision is not construed against a party only because that party drafted it;
- 1.2.11 an unenforceable provision or part of a provision may be severed, and the remainder of this Agreement continues in force, unless this would materially change the intended effect of this Agreement;
- 1.2.12 the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- 1.2.13 an expression defined in the Act has the meaning given by the Act at the date of this Agreement.

1.3 Background

The Background forms part of this Agreement and is correct at the date of this Agreement.

1.4 Legislation

The requirements of this Agreement are to be construed as additional to the requirements of the Act and any other legislation affecting the Land.

2. UNDERTAKINGS OF THE LAND OWNER

- 2.1 The Land Owner must comply with all of the Land Owner's obligations under this Agreement and the Road Infrastructure Deed.

3. CONTRAVENTION OF AGREEMENT

- 3.1 The Land Owner acknowledges and agrees that:
- 3.1.1 a contravention or threatened contravention of this Agreement is regarded as a breach of Part 11, Division 1, section 83(b) of the Act and that the Minister for Planning whether on his own accord or at the request of the Minister, is entitled to exercise any enforcement mechanism provided for and in accordance with the Act or at law;
 - 3.1.2 the Minister for Planning may or the Minister may request the Minister for Planning to enter and inspect the Land, the Site or any building on the Site and exercise any of the powers conferred and in accordance with section 19 of the Act.
- 3.2 The Minister for Planning may delegate any of his powers under this Agreement to any person.
- 3.3 The Minister may delegate any of his powers under this Agreement to any person.

4. VARIATION AND WAIVER

- 4.1 This Agreement may not be varied except by a supplementary agreement signed by the Minister for Planning, the Minister and the Land Owner.
- 4.2 The Minister for Planning and the Minister together, may waive compliance by the Land Owner with the whole or any part of the obligations on the Land Owner's part herein contained provided that no such waiver is effective unless expressed in writing and signed by the Minister and the Minister for Planning.

5. WITHDRAWAL AND RESCISSION OF THIS AGREEMENT

The Minister for Planning must procure the withdrawal and rescission of this Agreement registered over the Land as soon as practicable following practical completion of the Road Infrastructure Works or as soon as practicable if the Conditions Precedent in accordance with clause 3 of the Road Infrastructure Deed are not satisfied.

6. CONSENTS

The Land Owner warrants that no person has a legal interest in the Land except the persons whose consents to this Agreement appear in Annexure C.

7. TRANSFER OF LAND OR ASSIGNMENT OF AGREEMENT

- 7.1 If the Land Owner intends to transfer any portion of the Land prior to developing the Land and undertaking the Road Infrastructure Works, the Land Owner must, prior to any such transfer, procure the intended transferee of that portion of the Land to enter into a land management agreement on the same terms as this Agreement and deliver that signed agreement to the Minister.
- 7.2 The Land Owner indemnifies the Minister from and against all loss and damage resulting from a breach of clauses 7.1 of this Agreement by the Land Owner.
- 7.3 Without limiting the indemnity in clause 7.2, the Minister is entitled to seek orders from a Court for specific performance of the obligations specified in this clause 7, whether in accordance with the Act or at law.
- 7.4 A transfer of any portion of the Land does not breach clause 7.1 if the transmission of the title relating to any portion of the Land occurs as a result of enforcement of a will or by intestacy for that portion of the Land.
- 7.5 If the Owner transfers any portion of the Land having met the obligations specified in clause 7.1, then the Minister will release the Land Owner in respect of the Land Owner's obligations under this Agreement except for the obligations of indemnity contained in clauses 7.2 and 7.3.

8. REGISTRATION OF THIS AGREEMENT

Subject to clause 11, each party must at its own cost do and execute all such acts documents and things as are necessary to ensure that as soon as is practicable after the execution of this Agreement by all necessary parties this Agreement is registered against the Certificates of Title for the Land under section 57(5) of the Act.

9. MISCELLANEOUS

9.1 Waiver

A waiver of a provision of or right under this Agreement:

- 9.1.1 must be in writing signed by the part giving the waiver;
- 9.1.2 is effective only to the extent set out in the written waiver.

9.2 Exercise of power

- 9.2.1 The failure, delay, relaxation or indulgence by a party in exercising a power or right under this deed is not a waiver of that power or right.
- 9.2.2 An exercise of a power or right under this Agreement does not preclude a further exercise of it or the exercise of another right or power.

9.3 Survival

Each indemnity, obligation of confidence and other term capable of taking effect

after the expiration or termination of this Agreement, remains in force after the expiration or termination of this Agreement.

9.4 Governing law

This Agreement is governed by the law of South Australia.

9.5 Severance

Part or all of any provision of this Agreement that is illegal or unenforceable may be severed from this Agreement however the remaining provisions of this Agreement will continue in full force and effect.

10. NOTICES

10.1 A notice, demand, consent, approval or communication under this Agreement **(Notice)** must be:

10.1.1 in writing, in English and signed by a person authorised by the sender; and

10.1.2 hand delivered or sent by pre-paid post to the recipient's address specified in this Agreement, as varied by any Notice given by the recipient to the sender.

10.2 A Notice is deemed to be received:

10.2.1 if hand delivered, on delivery; and

10.2.2 if sent by prepaid mail, two Business Days after posting (or seven Business Days after posting if posting to or from a place outside of Australia)

however if the Notice is deemed to be received on a day that is not a Business Day or after 5:00pm, the Notice is deemed to be received at 9:00am on the next Business Day.

10.3 If two or more persons comprise a party, Notice to one is effective Notice to all.

11. COSTS

11.1 The parties will bear their own costs of and incidental to preparing and negotiating this Agreement.

11.2 The Land Owner will bear the cost of any consent fees, stamp duty and registration costs for this Agreement.

EXECUTED**LAND OWNER****EXECUTED** by **THE LAND OWNER**).....
Signature of Authorised Officer.....
Signature of Authorised Officer.....
Name of Authorised Officer.....
Name of Authorised Officer**MINISTER FOR TRANSPORT, INFRASTRUCTURE AND LOCAL GOVERNMENT****SIGNED** for and on behalf of the)
MINISTER FOR TRANSPORT,)
INFRASTRUCTURE AND)
LOCAL GOVERNMENT)
by his duly constituted Attorney)
pursuant to Power of Attorney)
No _____ in the presence of:).....
Witness.....
Full name of Attorney.....
Full Name of Witness.....
Office Held**MINISTER FOR PLANNING****THE COMMON SEAL** of the **MINISTER FOR**)
PLANNING was hereunto affixed in the)
presence of:).....
Witness.....
Print Name

ANNEXURE A

Road Infrastructure Deed

DATED _____ **DAY OF** _____ **20** _____

ROAD INFRASTRUCTURE DEED

BETWEEN

SOUTH AUSTRALIAN JOCKEY CLUB INCORPORATED
("Land Owner")

-AND-

MINISTER FOR TRANSPORT INFRASTRUCTURE AND LOCAL GOVERNMENT
("Minister")

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THIS DEED is made on _____ day of _____ 20____

BETWEEN:

SOUTH AUSTRALIAN JOCKEY CLUB INCORPORATED of Morphettville Racecourse PO
Box 707 Park Holme SA 5043 ("**Land Owner**")

AND

MINISTER FOR TRANSPORT INFRASTRUCTURE AND LOCAL GOVERNMENT a body corporate pursuant to the *Administrative Arrangements Act 1994* (SA) of Level 5, 50 Flinders Street, Adelaide, South Australia 5000 ("**Minister**")

BACKGROUND:

- A. The Land Owner owns and intends to cause, suffer or permit the Land (being portion of the Site) to be developed in a form and for purposes generally of the kinds of development envisaged for the Land in the Draft DPA (including in a form and for purposes generally in accordance with the Objectives of the zoning applicable to the Land as set out in the Draft DPA) (**Proposed Development**)
- B. The Draft DPA to the Development Plans for the City of Marion and the City of West Torrens respectively are yet to be approved by the Minister for Planning.
- C. It is a condition precedent to this Deed that the Minister for Planning approves the DPA.
- D. The parties recognise that should the Land be developed for purposes generally of the kinds of development envisaged in the Draft DPA (including purposes generally in accordance with the Objectives of the zoning applicable to the Site as set out in the Draft DPA) certain road works external to the Site will need to be undertaken.
- E. A Traffic Intervention Plan has been prepared which identifies the affected roads and traffic interventions that need to be undertaken, and is **attached** as Annexure 1 to this Deed.
- F. The methodology by which the Traffic Intervention Plan was prepared was via a comparison of the impact on the existing transport network if the Site were developed to its full potential according to the Existing Development Plans compared to the impact of additional vehicle movements that would be caused by the full development of the Site as permitted by the Draft DPA.
- G. The Land Owner is prepared to undertake, at its cost the traffic interventions in accordance with the terms of this Deed if the Land is developed in a form and for purposes generally of the kinds of development envisaged in the Draft DPA (including in a form and for purposes generally in accordance with the Objectives for the zoning applicable to the Land as set out in the Draft DPA).

OPERATIVE PROVISIONS

1. ACKNOWLEDGEMENT

The parties agree both that the matters referred to in the Background of this Deed are true and correct in every material particular and that the Background will form part of this Deed.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

Unless the subject or context requires otherwise in this Deed:

- 2.1.1 **Base Area** means the Gross Leasable Area existing on the relevant portion of the Land as at the date of this Deed;
- 2.1.2 **Business Day** means a day that is not a Saturday, Sunday or a public holiday in Adelaide, South Australia;
- 2.1.3 **Commissioner of Highways** means the body corporate pursuant to the *Highways Act 1926* of Level 5, 50 Flinders Street, Adelaide SA 5000;
- 2.1.4 **Development Act** means the *Development Act 1993*;
- 2.1.5 **Development Plans** means the Development Plans for Marion Council and West Torrens Council as amended by the DPA;
- 2.1.6 **DPA** means a Development Plan Amendment that is approved and in operation under the Development Act as a result of a process initiated with the Draft DPA (whether in substantially the same form as the Draft DPA or in an amended form), and for the avoidance of doubt includes any amendment made to the Draft DPA by the Minister for Planning pursuant to section 27(5) of the Development Act;
- 2.1.7 **DPA Gazettal** means a notice published in the South Australian Government Gazette pursuant to section 25(17) of the Development Act approving the DPA;
- 2.1.8 **DPA Amendment Gazettal** means a notice published in the South Australian Government Gazette pursuant to section 27(5)(a) of the Development Act amending the DPA;
- 2.1.9 **Draft DPA** means the Ministerial Development Plan Amendment titled "Morphettville Racecourse Development Plan Amendment" prepared by the Minister for Planning and released for public consultation under the Development Act on 5 September 2017;
- 2.1.10 **Existing Development Plans** means the City of West Torrens Development Plan consolidated on 12 July 2018 and the City of Marion Development Plan consolidated on 29 November 2018;
- 2.1.11 **Gross Leasable Area** means the gross leasable area of the relevant building or development (so long as the relevant building or development is not residential) measured in accordance with the

Property Council of Australia's Method of Measurement in existence at the time of this Deed;

- 2.1.12 **Land** means that portion of the Site identified in the Morphetville Intervention Map as the "Core Area (North)", "Core Area (South)" and "Non-Designated Area" owned by the Land Owner, being the land comprised in Certificate of Title Volume 5937 Folio 888 and portion of Certificate of Title Volume 6105 Folio 575;
- 2.1.13 **Morphettville Intervention Map** means the map attached as Annexure 2 to this Deed.
- 2.1.14 **PDI Act** means the *Planning, Development and Infrastructure Act 2016*;
- 2.1.15 **Planning and Design Code** means the Planning and Design Code as established pursuant to section 65(1) of the PDI Act;
- 2.1.16 **Practical Completion** means practical completion of the relevant Road Infrastructure Works Component as determined under the construction contract pursuant to which the Road Infrastructure Works Component is or is to be carried out;
- 2.1.17 **Proposed Development** has the meaning given to that term in Paragraph A of the Background;
- 2.1.18 **Road Infrastructure Works** means the works described in the Traffic Intervention Plan;
- 2.1.19 **Road Infrastructure Works Component** means a component of the Road Infrastructure Works outlined in the Traffic Intervention Plan;
- 2.1.20 **Site** means the whole of the land comprised in Certificates of Title:
- (a) Volume 6141 Folios 561 to 563 (inclusive) and 642;
 - (b) Volume 5937 Folio 888;
 - (c) Volume 6105 Folio 575;
 - (d) Volume 5895 Folio 399; and
 - (e) Volume 5475 Folio 119.
- 2.1.21 **Traffic Intervention Plan** has the meaning given to that term in paragraph D of the Background.

2.2 Interpretation

Unless expressed to the contrary, in this Deed:

- 2.2.1 words denoting the singular or plural number include the plural number and the singular respectively;
- 2.2.2 words denoting a gender refer to both genders;
- 2.2.3 headings are for convenience only and will not affect the interpretation of this Deed;

-
- 2.2.4 words denoting individuals include corporations and vice versa;
- 2.2.5 a reference to a party, the Background, clause, schedule, annexure or plan is a reference to a party, the Background, clause, schedule, annexure or plan of this Deed;
- 2.2.6 a reference to any act, regulation or by-law will be deemed to include all amendments to them and all statutory provisions substituted thereafter;
- 2.2.7 a reference to a party includes a reference to that party's executors, administrators, successors and permitted assigns;
- 2.2.8 the use of **or** will be that of the inclusive **or**, that is meaning one, some or all of a number of possibilities or alternatives;
- 2.2.9 an agreement on the part of or in favour of 2 or more persons binds or is for the benefit of each person jointly and individually;
- 2.2.10 a reference to a matter, act or thing includes the whole event or any part of that matter, act or thing and reference to a group of matters, acts, things or persons includes each matter, act, thing or person in that group;
- 2.2.11 no rule of construction will be applied in interpreting or construing this Deed *contra proferentem* against a party or otherwise to the disadvantage of a party on the basis that the party proposed or drafted this Deed or any provision of this Deed;
- 2.2.12 reference to a corporation, organisation or other body (whether or not incorporated), but excluding the parties is:
- (a) if that corporation, organisation or other body is replaced by another corporation, organisation or other body, then to refer to that other corporation, organisation or other body; and
 - (b) if that corporation, organisation or other body ceases to exist, then to refer to the corporation, organisation or other body which most closely or substantially fulfil the same purposes or objects as the first mentioned corporation, organisation or other body;
- 2.2.13 the word **including** where used is deemed to be followed by the words **without limitation**; and
- 2.2.14 reference to **month** means calendar month.
- 2.3 **Relationship between the parties**
- 2.3.1 The parties acknowledge and agree that their relationship pursuant to this Deed will be exclusively that of independent contractors with the rights, liabilities, duties and obligations set out in this Deed or, subject to this Deed, at law.
- 2.3.2 Nothing contained in this Deed will be deemed or construed to constitute a party to be a partner, joint venturer, principal, agent, trustee (whether expressed, implied or constructive), beneficiary, lender, borrower, lessor, lessee, or fiduciary of another party.

- 2.3.3 No party has the authority to act for or incur any liability or obligation pursuant to this Deed as agent for or on behalf of any other party except as expressly provided in or contemplated by this Deed.

2.4 Proper law and jurisdiction

- 2.4.1 The proper law of this Deed will be the law of South Australia and accordingly this Deed will be governed by and construed in accordance with the laws of South Australia.
- 2.4.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of South Australia and the courts of appeal from them for determining any dispute concerning this Deed. Each party waives any right it has to object to an action being brought in those courts, to claims that action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.
- 2.4.3 The parties agree that none of them will institute or attempt to institute any proceedings in relation to any dispute or any other matter or thing arising out of or in connection with this Deed other than in a court of South Australia or, in respect of any proceedings in a Federal court, in the Adelaide registry of the relevant Federal court.
- 2.4.4 Without preventing any other mode of service, any documents in an action (including any writ of summons or other originating process or any third or other party notice) may be served on a party by being left or left for that party at its address for service of notices pursuant to this Deed.

2.5 Waiver

- 2.5.1 A waiver of a provision of this Deed must be both in writing and be signed by the party or parties granting the waiver and the party or parties benefiting by or from the waiver or by a person duly authorised to execute such a document on behalf of each such party.
- 2.5.2 No waiver by a party of a performance or observance of a provision or a breach of this Deed will operate as a waiver of the performance observance or breach of any other provision of this Deed.
- 2.5.3 No forbearance, delay, indulgence or partial exercise by a party in enforcing the provisions of this Deed will be a waiver of or prejudice or restrict the rights of that party in any way.

2.6 Reading down and severance

- 2.6.1 If a provision of this Deed is reasonably capable of an interpretation which would render that provision to be unenforceable, illegal, invalid or void and an alternative interpretation would not have one of those consequences, then that provision will be interpreted or construed so far as is possible, to be limited and read down such that its meaning is that which does not render it unenforceable, illegal, invalid or void.
- 2.6.2 Subject to clause 2.6.1, if a provision of this Deed is for any reason illegal, void, invalid or unenforceable, then that provision will be severed from this Deed without effecting the legality, validity or enforceability of the remainder of this Deed.

- 2.6.3 If a provision of this Deed is severed under clause 2.6.2, the parties agree to negotiate in good faith to reach agreement upon an amended provision as a replacement for the severed provision.

2.7 Cumulative rights

A right, power, remedy, entitlement or privilege given or granted to a party pursuant to this Deed is cumulative with, without prejudice to and not exclusive of any right, power, remedy, entitlement or privilege granted or given pursuant to this Deed or by the operation of law.

2.8 Employees or agents

Any act, matter or thing which is either required to be performed or done by a party may be performed or done by that party's duly authorised employees, agents, delegates or contractors.

2.9 Entire agreement

2.9.1 This Deed contains the entire agreement between the parties in respect of the subject matter of this Deed and the parties agree that this Deed supersedes and extinguishes any prior agreement or understanding (if any) between the parties in respect of the subject matter of this Deed.

2.9.2 No other agreement, whether collateral or otherwise, will be taken to have been formed between the parties by reason of any promise, representation, inducement or undertaking (if any) given or made by one party to the other prior to the date of this Deed.

2.10 Auditor-General

Nothing in this Deed derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987* (SA).

3. CONDITIONS PRECEDENT – DPA

3.1 The obligations of the parties under this Deed are subject to and conditional on:

3.1.1 the Minister for Planning publishing on or before 30 June 2020 (or such later date as the parties may agree), the DPA Gazettal or in the event that the Planning and Design Code is in operation under the PDI Act on or before 30 June 2020, the Planning and Design Code substantially reproducing the Draft DPA;

3.1.2 the validity of the DPA not being subjected to any challenge in a court of competent jurisdiction within six months of the Minister for Planning having published the DPA Gazettal or in the event that the Planning and Design Code is in operation under the PDI Act on or before 30 June 2020, the validity of the Planning and Design Code with respect to the Land not being subjected to any challenge in a court of competent jurisdiction within six months of the operation of the Planning and Design Code; and

3.1.3 the DPA not being disallowed by either House of Parliament under section 27 of the Development Act within six months of the date of publication of the DPA Gazettal or in the event that the Planning and

Design Code is in operation under the PDI Act on or before 30 June 2020, the Planning and Design Code not being disallowed by either House of Parliament under section 74 of the PDI Act within six months of the date of the operation of the Planning and Design Code.

- 3.2 The following provisions of this Deed take effect immediately upon execution of this Deed and are not subject to the condition referred to in clause 3.1:
- 3.2.1 clause 1 (Background);
 - 3.2.2 clause 2 (Interpretation and Definitions);
 - 3.2.3 clause 3 (Conditions Precedent - DPA); and
 - 3.2.4 clause 14 (Land Management Agreement).
- 3.3 The Parties will be bound by this Deed notwithstanding any variations between the terms of the DPA or the terms of the Planning and Design Code and the Draft DPA.
- 3.4 If the Land Owner considers it has been materially adversely affected by variations between the Draft DPA and the DPA, or between the Draft DPA and the Planning and Design Code (as originally published or as amended in accordance with the PDI Act), it may give notice to the Minister within:
- 3.4.1 45 days of the publication of the DPA Gazettal or the date of operation of the Planning and Design Code or amendment of the Planning and Design Code in accordance with section 73 of the PDI Act (unless the Land Owner waives, by notice to the Minister, its entitlement to give such notice); and
 - 3.4.2 30 days of the publication of any DPA Amendment Gazettal or in the case of the Planning and Design Code publication of the amendment in accordance with section 74(9)(a) of the PDI Act (unless the Land Owner waives, by notice to the Minister, its entitlement to give such notice).
- 3.5 If the Land Owner considers it has been materially adversely affected by variations between the DPA or the Planning and Design Code and any future (but currently unanticipated) amendment to the Development Plans or Planning and Design Code and the Land Owner has not, at the time of the approval of such amendment to the Development Plans or the Planning and Design Code, caused, suffered or permitted an application to be made to the relevant planning authority for development approval for the Proposed Development with respect to the Land, it may give notice to the other Party within 45 days of the publication of the approval of such a DPA or the date of the approval of such an amendment to the Planning & Design Code (unless the Land Owner waives, by notice to the Minister, its entitlement to give such notice).
- 3.6 The Land Owner may only issue a notice under clause 3.4 and clause 3.5 of this Deed if the Land Owner reasonably forms the opinion that the DPA or Planning and Design Code materially adversely affects (alone or in combination with any other facts or circumstances) the:
- 3.6.1 commercial viability of the Proposed Development to the Land Owner;
 - 3.6.2 value of the Proposed Development to the Land Owner; or

3.6.3 cost, revenue, cash flow, finance, sales rate, allotment yield, risk, market attraction or profit associated with the Proposed Development,

and such notice must include or be accompanied by information in sufficient detail to reasonably support the Land Owner's opinion.

3.7 Subject to clause 3.8, in the event of a notice being given by the Land Owner the Parties must negotiate in good faith towards agreeing variations to this Deed to address the impact of the variations made to the DPA (or if the Planning and Design Code is in operation, variations made to the Planning and Design Code) on the Land Owner, using the same methodology described in paragraph F of the Background to this Deed as was used in preparing the Traffic Intervention Plan contained in Annexure 1 of this Deed.

3.8 Nothing in this Deed obliges or will be construed as obliging the Minister for Planning to approve the Draft DPA.

4. **RESPONSIBILITY TO UNDERTAKE ROAD INFRASTRUCTURE WORKS**

4.1 The Land Owner must undertake or cause to be undertaken the Road Infrastructure Works Components, within the time specified in the Traffic Intervention Plan.

4.2 Before a party undertakes a Road Infrastructure Works Component, it must enter into, with the Commissioner of Highways, a deed or agreement for the undertaking of works on the Commissioner of Highways' roads, in such form as the Commissioner of Highways reasonably requires.

5. **TRANSFER OF SITE OR ASSIGNMENT OF DEED**

If the Land Owner intends to transfer the whole of the Land or its interest in the Land or assign or novate its interest in this Deed, it must procure the transferee and/or assignee to enter into a deed of assignment and/or novation to the satisfaction of the Minister which shall not be unreasonably withheld, undertaking with the Minister to meet the obligations of the Land Owner under this Deed in respect of the Land and the Site.

6. **GOODS AND SERVICES TAX**

6.1 Unless specifically described in this Deed as "GST inclusive", any sum payable (or amount included in the calculation of a sum payable), or consideration to be provided, under or in accordance with this Deed does not include any amount on account of GST.

6.2 Where any supply to be made by one party (**Supplier**) to another party (**Recipient**) under or in accordance with this Deed is subject to GST (other than a supply the consideration for which is specifically described in this Deed as "GST inclusive"):

6.2.1 the consideration payable or to be provided for that supply but for the application of this clause 6 (**GST Exclusive Consideration**) will be increased by, and the Recipient will pay to the Supplier, an amount equal to the GST payable by the Supplier in respect of that supply; and

- 6.2.2 the Recipient must pay that additional amount at the same time and in the same manner as the GST Exclusive Consideration payable or to be provided for that supply.
- 6.3 If any payment to be made to a party under or in accordance with this Deed is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that party, then the amount of the payment must be reduced by the amount of any input tax credit to which that party is entitled for that expense or other liability, such reduction to be effected before any increase in accordance with clause 6.
- 6.4 The Recipient need not make any payment for a taxable supply made by the Supplier under or in accordance with this Deed until the Supplier has given the Recipient a valid tax invoice in respect of that taxable supply.
- 6.5 If an adjustment event has occurred in respect of a taxable supply made under or in accordance with this Deed, any party that becomes aware of the occurrence of that adjustment event must notify each other party to that taxable supply as soon as practicable, and all of those parties agree to take whatever steps are necessary (including to issue an adjustment note), and to make whatever adjustments are required, to ensure that any GST or additional GST on that taxable supply, or any refund of GST (or part thereof), is paid no later than 28 days after the Supplier first becomes aware that the adjustment event has occurred.
- 6.6 A word or expression used in this clause 6 which is defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the same meaning in this clause 6.

7. DISPUTE RESOLUTION

7.1 Disputes to be dealt with under this clause

Unless otherwise provided in this Deed all disputes or differences between the parties in connection with:

7.1.1 this Deed; or

7.1.2 any other matter in any way relating to this Deed,

(**Dispute**) will be dealt with in accordance with this clause 7 whenever the Dispute is raised.

7.2 Notice of Dispute

Any party (**Disputing Party**) may within 30 days after the Dispute arises, give a notice to the other parties (**Non-Disputing Parties**):

7.2.1 setting out details of the Dispute, the reason the Dispute should be resolved in favour of the Disputing Party, and any other matter that may, in the reasonable opinion of the Disputing Party, be relevant to the resolution of the Dispute; and

7.2.2 requiring the Non-Disputing Parties to, in good faith, seek to resolve the Dispute within 21 days of the date of the notice.

7.3 Referral of Dispute to an Expert

Subject to clause 7.7, if the Dispute is not resolved by agreement between the parties following notice given under clause 7.2, the determination of the Dispute (**Determination**) may be referred for determination by any party to any independent person (**Expert**) agreed between the parties (or in the absence of agreement within 7 days of any party proposing in writing an Expert, then the Expert will be nominated at the request of any party by the President (or if there is not a President, then Chief Executive Officer or other person of like status) for the time being of The Law Society of South Australia (or if that body has ceased to exist then a body fulfilling substantially the same functions as the first mentioned body)).

7.4 Expert

The Expert is an expert and not an arbitrator.

7.5 Final

The Determination of the Expert is final and binding on the parties.

7.6 Conduct of Determination

Unless otherwise agreed by the parties in writing:

- 7.6.1 the place of the proceedings for purposes of the Determination will be Adelaide, South Australia;
- 7.6.2 each party is entitled to legal representation at all stages of the Determination;
- 7.6.3 the proceedings for the purposes of the Determination will be conducted in accordance with the laws of evidence;
- 7.6.4 each party will bear its own costs and expenses in relation to the Determination;
- 7.6.5 the parties will pay in equal shares the Expert's fees and expenses and the cost of the Determination including room hire (if any);
- 7.6.6 the parties must comply with all reasonable requests and produce all necessary documentation to the Expert to enable the Expert to make the Determination;
- 7.6.7 the parties may make submissions which the Expert must take into account when making the Determination;
- 7.6.8 the Expert must provide its Determination to the parties in writing, with reasons for the Determination and within 21 days of the appointment of the Expert; and
- 7.6.9 the provisions of the *Commercial Arbitration Act 1986* (SA) do not apply to the resolution of any Dispute under the provisions of this clause 7

7.7 Legal proceedings

Nothing in this clause 7 prevents a party from issuing, or requires a party to delay issuing, legal proceedings in a court in respect of a Dispute if:

- 7.7.1 it is reasonably necessary for that party to seek urgent injunctive or other interlocutory relief in order to reasonably protect its position; or
- 7.7.2 the nature of the Dispute is such that it is not reasonably suitable for expert determination (for example, if the Dispute relates only the interpretation of the provisions of this Deed and will not require reference to expert evidence).

8. VARIATION

No modification, variation or amendment of this Deed will be of any force unless any such modification, variation or amendment is made by deed executed by each party.

9. COSTS

The parties will pay their own costs of and incidental to the preparation, negotiation and execution of this Deed and of any documents prepared and executed pursuant to this Deed, unless stated otherwise in those other documents.

10. NOTICES

- 10.1 A notice to a party must be in writing and may be served in the following manner:

- 10.1.1 delivering it personally to that party; or
- 10.1.2 addressing it to that party and either leaving it at, delivering it by courier (expenses prepaid) or mailing it by registered mail (return receipt requested) to:
 - (a) the address of that party appearing in this clause 10; or
 - (b) any other address in South Australia nominated in writing by that party from time to time; or
- 10.1.3 sending an electronic copy of the notice to the email address specified in this clause 10 or to any other email address nominated in writing by that party.

- 10.2 A notice given in accordance with this clause 10 will be deemed to be received as follows:

- 10.2.1 in the case of personal delivery or by courier, when delivered;
- 10.2.2 in the case of service by leaving the notice at an address specified in this clause, when left at that address, unless the time of leaving the notice is not on a Business Day or is after 5.00pm on a Business Day, in which case it will be deemed to be given, made or received on the next Business Day;
- 10.2.3 in the case of service by mail, on the second Business Day following the date of posting; and

10.2.4 in the case of service by email, when sent, unless the time of sending is not on a Business Day or is after 5.00pm on a Business Day, in which case it will be deemed to be given, made or received at 9.00am on the next Business Day.

10.3 A notice given or served pursuant to this Deed by a party may be signed by a duly authorised employee, agent or delegate of the serving party. Notices may be served at the following addresses:

10.3.1 To the Land Owner:

The Chief Executive Officer, South Australian Jockey Club
79 Morphett Road
Morphettville SA 5043

10.3.2 To the Minister:

Attention: Road Infrastructure Deed Administrator
Department of Planning, Transport and Infrastructure
Address: Level 5, 50 Flinders Street, Adelaide SA 5000
Email Address: DPTI.RoadInfrastructureDeeds@sa.gov.au

10.4 A party may modify its address from time to time by a written notice served on the other party.

11. COUNTERPARTS

This document may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument. If so, the signed copies are treated as making up the one document.

12. PUBLIC DISCLOSURE

Any party may, at any time, disclose this Deed and/or information relating to this Deed, in either printed or electronic form, and either generally to the public or to a particular person as a result of a specific request. Nothing in this clause derogates from the obligations of a party under the *Freedom of Information Act 1991* (SA).

13. MINISTER'S AND COMMISSIONER'S DISCRETION

This Deed does not limit the Minister's (nor the Commissioner of Highways', where relevant) legislative powers to give directions to the Land Owner about the manner of carrying out Road Infrastructure Works in respect of the relevant Road Infrastructure Works Component.

14. LAND MANAGEMENT AGREEMENT

14.1 The Land Owner must, prior to approval of the Draft DPA:

14.1.1 execute a land management agreement (**LMA**), in accordance with the LMA attached to this Deed and marked Annexure 3, in respect of the Land;

14.1.2 obtain all appropriate consents and also pay any consent fees, stamp duty and registration costs on the LMA; and

14.1.3 deliver to the Minister the executed LMA and all appropriate consents and fees and registration costs necessary for the Minister to procure registration of the LMA.

14.2 The Minister must procure the withdrawal and rescission of the LMA registered over the Land as soon as practicable following Practical Completion of the Road Infrastructure Works Components or if the Conditions Precedent in accordance with clause 3 of this Deed are not met.

15. ASSIGNMENT OF MINISTER'S RIGHTS AND OBLIGATIONS

15.1 The parties acknowledge that the Minister reserves his right to assign any of his rights, benefits or obligations under this Deed to any instrumentality of the Crown in the right of South Australia who, in the Minister's opinion, will most appropriately deal with such right, benefit or obligation on terms acceptable to the Minister, without seeking the consent of any other party to this Deed.

15.2 The Minister will, at the completion of any development or works pursuant to this Deed, determine which instrumentality of the Crown (including the Councils), should own and maintain the relevant parts of the completed development or works pursuant to this Deed and do all things necessary to vest in the instrumentality such development or works on terms acceptable to the Minister.

EXECUTED AS A DEED

SIGNED for and on behalf of)
THE LAND OWNER)

.....
Signature of Authorised Officer

.....
Signature of Authorised Officer

.....
Name of Authorised Officer

.....
Name of Authorised Officer

SIGNED for and on behalf of the)
MINISTER FOR TRANSPORT,)
INFRASTRUCTURE AND)
LOCAL GOVERNMENT)
by his duly constituted Attorney)
pursuant to Power of Attorney)
No _____ in the presence of:)

.....
Witness

.....
Full name of Attorney

.....
Full Name of Witness

.....
Office Held

ANNEXURE 1
Traffic Intervention Plan

Item	Road Infrastructure Works Component	Treatment	Qty	Timing
1	Anzac Highway (Median)	Closure of existing median opening on Anzac Highway adjacent the Site. Provision of new U-turn facility consistent with the form determined with the Commissioner of Highways at the relevant development application stage to the south west of existing median opening.	1	Prior to occupation of more than 500sqm of Gross Leaseable Area (in addition to the Base Area) or 50 dwellings (whichever occurs first) within the Core Area (North) as depicted on the Morphettville Intervention Map.
2	Anzac Highway (Bus Indent)	<p>Bus indent in general accordance with Department of Planning, Transport and Infrastructure Road Design Standards and Guidelines - Indented Bus Bays - GD 800 (or such other equivalent standards or specifications which may apply from time to time) at Stop 15 Anzac Highway (south-east side).</p> <p>If the Minister determines (acting reasonably) that any portion of the Site is required for the bus indent, then the Land Owner will provide such portion of the Site at its costs and expense including, but not limited to, all costs of and incidental to preparation of a plan of division, authority approvals and plan lodgement. The Land Owner acknowledges and agrees that no sum will be payable by the Minister or the State for such portion of the Site for the bus indent.</p>	1	Prior to occupation of more than 500sqm of Gross Leaseable Area (in addition to the Base Area) or 50 dwellings (whichever occurs first) within the Core Area (North) as depicted on the Morphettville Intervention Map.

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Item	Road Infrastructure Works Component	Treatment	Qty	Timing
3	Anzac Highway / Morphet Road Left Turn Lane	Additional left turn lane on Anzac Highway (east approach into Morphetville Road)	80m	<ol style="list-style-type: none"> 1. Where there is no vehicle connection to Morphet Road from the Non-Designated Area, prior to the occupation of more than 1,000sqm of Gross Leaseable Area (in addition to the Base Area) or 100 dwellings (whichever occurs first) within the Core Area (South) as shown on the Morphetville Intervention Map; or 2. Where there is a vehicle connection to Morphet Road from the Non-Designated Area, prior to the occupation of more than 1,000sqm of Gross Leaseable Area (in addition to the Base Area) or 100 dwellings (whichever occurs first) within the Core Area (South) and the Non-Designated Area as shown on the Morphetville Intervention Map.
4	Anzac Highway / Morphet Road Right Turn Lane	Additional right turn lane on Anzac Highway (west approach into Morphetville Road)	85m	<ol style="list-style-type: none"> 1. Where there is no vehicle connection to Morphet Road from the Non-Designated Area, prior to the occupation of more than 1,000sqm of Gross Leaseable Area (in addition to the Base Area) or 100 dwellings (whichever occurs first) within the Core Area (South) as shown on the Morphetville Intervention Map; or 2. Where there is a vehicle connection to Morphet Road from the Non-Designated Area, prior to the occupation of more than 1,000sqm of Gross Leaseable Area (in addition to the Base Area) or 100 dwellings (whichever occurs first) within the Core Area (South) and the Non-Designated Area as shown on the Morphetville Intervention Map.

Item	Road Infrastructure Works Component	Treatment	Qty	Timing
5	Morphett Road access (south of tram level crossing)	Provision of left in / left out / right in access with channelised right turn facility in general accordance with the requirements for a channelised right turn lane identified in Austroads Guide to Road Design Part 4A, Unsignalised and Signalised Intersections	1	<ol style="list-style-type: none"> Where there is no vehicle connection to Morphett Road from the Non-Designated Area, prior to the occupation of more than 1,000sqm of Gross Leaseable Area (in addition to the Base Area) or 100 dwellings (whichever occurs first) within the Core Area (South) as shown on the Morphettville Intervention Map; or Where there is a vehicle connection to Morphett Road from the Non-Designated Area, prior to the occupation of more than 1,000sqm of Gross Leaseable Area (in addition to the Base Area) or 100 dwellings (whichever occurs first) within the Core Area (South) and the Non-Designated Area as shown on the Morphettville Intervention Map.

ANNEXURE 2
Morphettville Intervention Map



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ANNEXURE 3
Form of LMA

ANNEXURE B

Morphettville Intervention Plan



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The CITY OF WEST TORRENS of 165 Sir Donald Bradman Drive, Hilton SA 5033 registered proprietor of the said easement (vide TG 11232434, T 3928388, T 4162213 and T 4289144 respectively) CONSENT to the within Land Management Agreement

DATED

The common seal of CITY OF WEST TORRENS
was affixed in the presence of

Signature of Mayor

Name of Mayor (print)

Signature of Chief Executive Officer
(Please delete as applicable)

Name of Chief Executive Officer (print)

OR

Executed as delegate for **CITY OF WEST TORRENS** under section 44 of the *Local Government Act 1999*

Signature of authorised delegate

Name of authorised delegate (print)

Position of authorised delegate (print)

Signature of witness

Name of witness (print)



Product	Register Search (CT 5937/888)
Date/Time	09/04/2019 09:07AM
Customer Reference	55
Order ID	20190409001067



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



Certificate of Title - Volume 5937 Folio 888

Parent Title(s) CT 5890/749, CT 5911/814

Creating Dealing(s) RTC 10053965

Title Issued 22/03/2005 Edition 4 Edition Issued 03/06/2015

Estate Type

FEE SIMPLE

Registered Proprietor

SOUTH AUSTRALIAN JOCKEY CLUB INC.
OF RACECOURSE MORPHETTVILLE SA 5043

Description of Land

ALLOTMENT 500 DEPOSITED PLAN 65796
IN THE AREA NAMED CAMDEN PARK
HUNDRED OF ADELAIDE

Conditions

PORTION DECLARED OPEN SPACE VIDE PROCLAMATION IN GOVERNMENT GAZETTE DATED 6.11.1958 PAGE 1253

Easements

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED G AND H TO DISTRIBUTION LESSOR CORPORATION (SUBJECT TO LEASE 8890000) (TG 9723882)

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED F.C AND D TO THE COUNCIL FOR THE AREA (T 3928388 T 4162213 AND T 4289144 RESPECTIVELY)

Schedule of Dealings

Dealing Number	Description
12312556	MORTGAGE TO AUSTRALIA & NEW ZEALAND BANKING GROUP LTD. (ACN: 005 357 522)

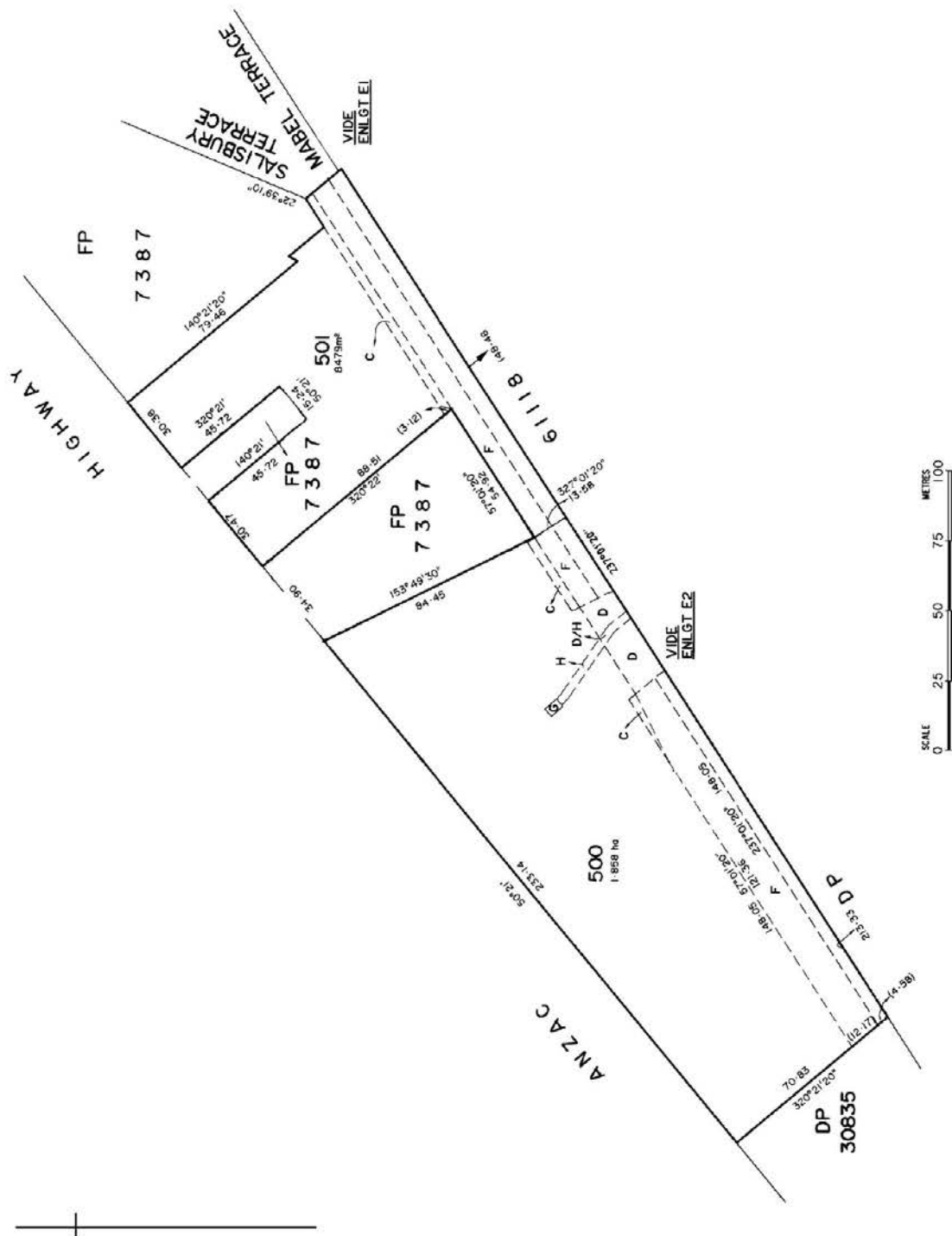
Notations

Dealings Affecting Title	NIL
Priority Notices	NIL
Notations on Plan	NIL
Registrar-General's Notes	NIL
Administrative Interests	NIL



Product	Date/Time	Customer Reference	Order ID
Product A	2023-10-27 10:30	Customer X	1001
Product B	2023-10-27 11:45	Customer Y	1002
Product C	2023-10-27 14:20	Customer Z	1003
Product D	2023-10-27 16:00	Customer A	1004
Product E	2023-10-27 18:15	Customer B	1005
Product F	2023-10-27 19:30	Customer C	1006
Product G	2023-10-27 20:45	Customer D	1007
Product H	2023-10-27 21:00	Customer E	1008
Product I	2023-10-27 22:15	Customer F	1009
Product J	2023-10-27 23:30	Customer G	1010

Register Search (CT 5937/888)
09/04/2019 09:07AM
55
20190409001067



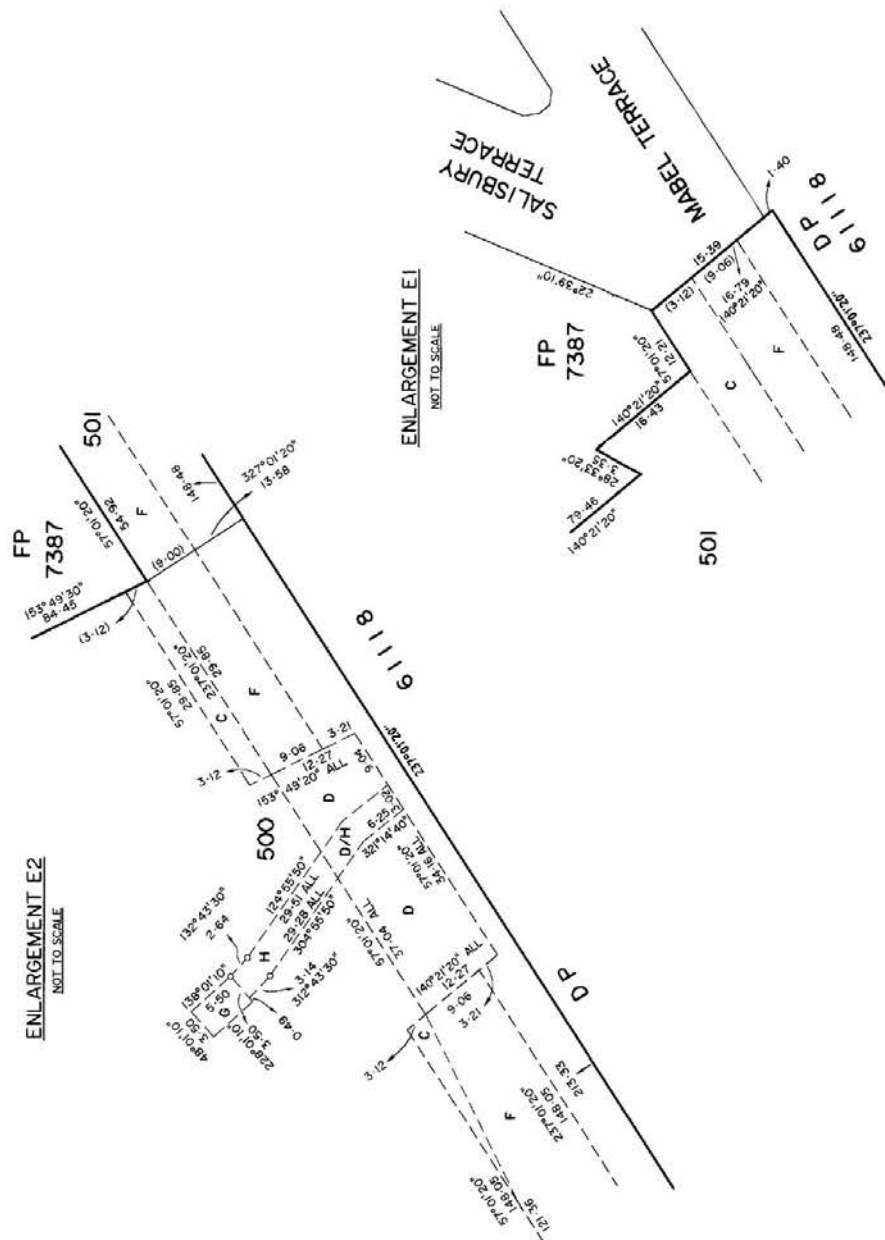
Land Services SA
Copyright Privacy Terms of Use: Copyright / Privacy / Terms of Use

Page 2 of 3



Product
Date/Time
Customer Reference
Order ID

Register Search (CT 5937/888)
09/04/2019 09:07AM
55
20190409001067



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Page 3 of 3



Product Register Search (CT 6105/575)
 Date/Time 08/04/2019 12:35PM
 Customer Reference
 Order ID 20190408005980

REAL PROPERTY ACT, 1886



South Australia

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



Certificate of Title - Volume 6105 Folio 575

Parent Title(s) CT 6058/99
 Creating Dealing(s) RT 11832579
 Title Issued 15/01/2013 Edition 2 Edition Issued 09/01/2015

Estate Type

FEE SIMPLE

Registered Proprietor

SOUTH AUSTRALIAN JOCKEY CLUB INC.
 OF RACECOURSE MORPHETTVILLE PO BOX 707 PARKHOLME SA 5043

Description of Land

ALLOTMENT 1101 DEPOSITED PLAN 58693
 IN THE AREA NAMED MORPHETTVILLE
 HUNDRED OF ADELAIDE

Easements

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED B TO DISTRIBUTION LESSOR CORPORATION (SUBJECT TO LEASE 8890000) (T 1752042)

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED D TO THE MINISTER FOR INFRASTRUCTURE (T 4956604)

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED E FOR DRAINAGE PURPOSES TO THE COUNCIL FOR THE AREA (TG 11232434)

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED F.G AND H TO DISTRIBUTION LESSOR CORPORATION (SUBJECT TO LEASE 8890000) (TG 11344312)

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED C AND D (T 4289144 AND T 4956605 RESPECTIVELY)

SUBJECT TO FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED A

SUBJECT TO RIGHT(S) OF WAY AND EASEMENT(S) OVER THE LAND MARKED E TO THE COUNCIL FOR THE AREA (TG 11232434)

Schedule of Dealings

Dealing Number	Description
10188901	CAVEAT BY TELSTRA CORPORATION LTD. OVER PORTION (T IN GP 55/2005)
12245927	LEASE TO TELSTRA CORPORATION LTD. COMMENCING ON 1/9/2014 AND EXPIRING ON 31/8/2024 OF PORTION (AREA Q, AREA R AND AREA S IN FP 52322)

Notations

Dealings Affecting Title NIL
 Priority Notices NIL



Product	Register Search (CT 6105/575)
Date/Time	08/04/2019 12:35PM
Customer Reference	
Order ID	20190408005980

Notations on Plan NIL

Registrar-General's Notes

PLAN FOR LEASE PURPOSES VIDE G231/2000
PLAN FOR LEASE PURPOSES VIDE G360/2000
PLAN FOR LEASE PURPOSES VIDE G55/2005
PLAN FOR LEASE PURPOSES VIDE G623/1996
DEALINGS WITH THIS LAND SHOULD INCLUDE CT 6105/576
APPROVED FILED PLAN FOR LEASE PURPOSES FX52322

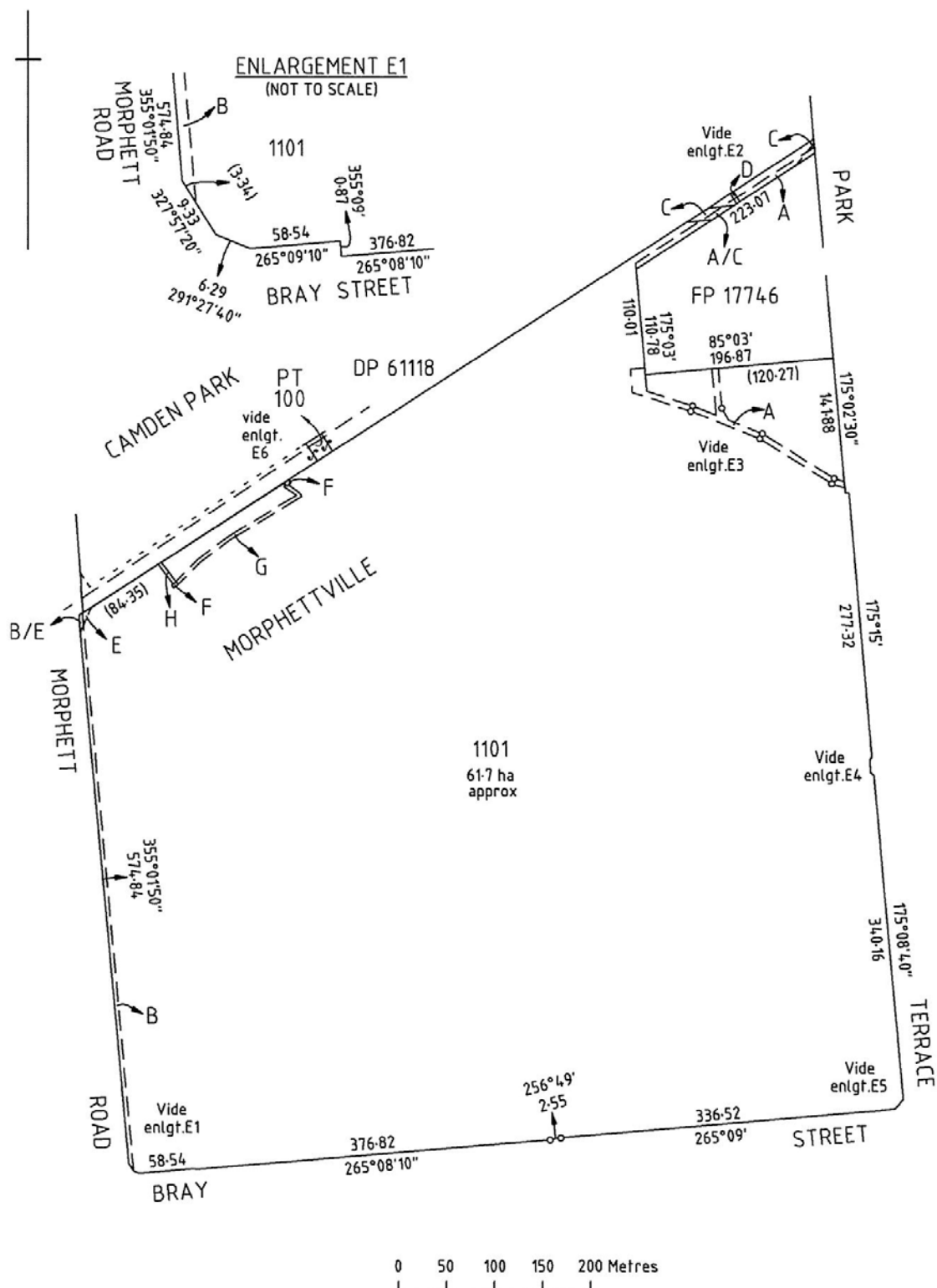
Administrative Interests

CONFIRMED IN SA HERITAGE REGISTER 15/02/1994



Product
Date/Time
Customer Reference
Order ID

Register Search (CT 6105/575)
08/04/2019 12:35PM
20190408005980



Land Services SA
Copyright Privacy Terms of Use: Copyright / Privacy / Terms of Use

Page 3 of 5



Product

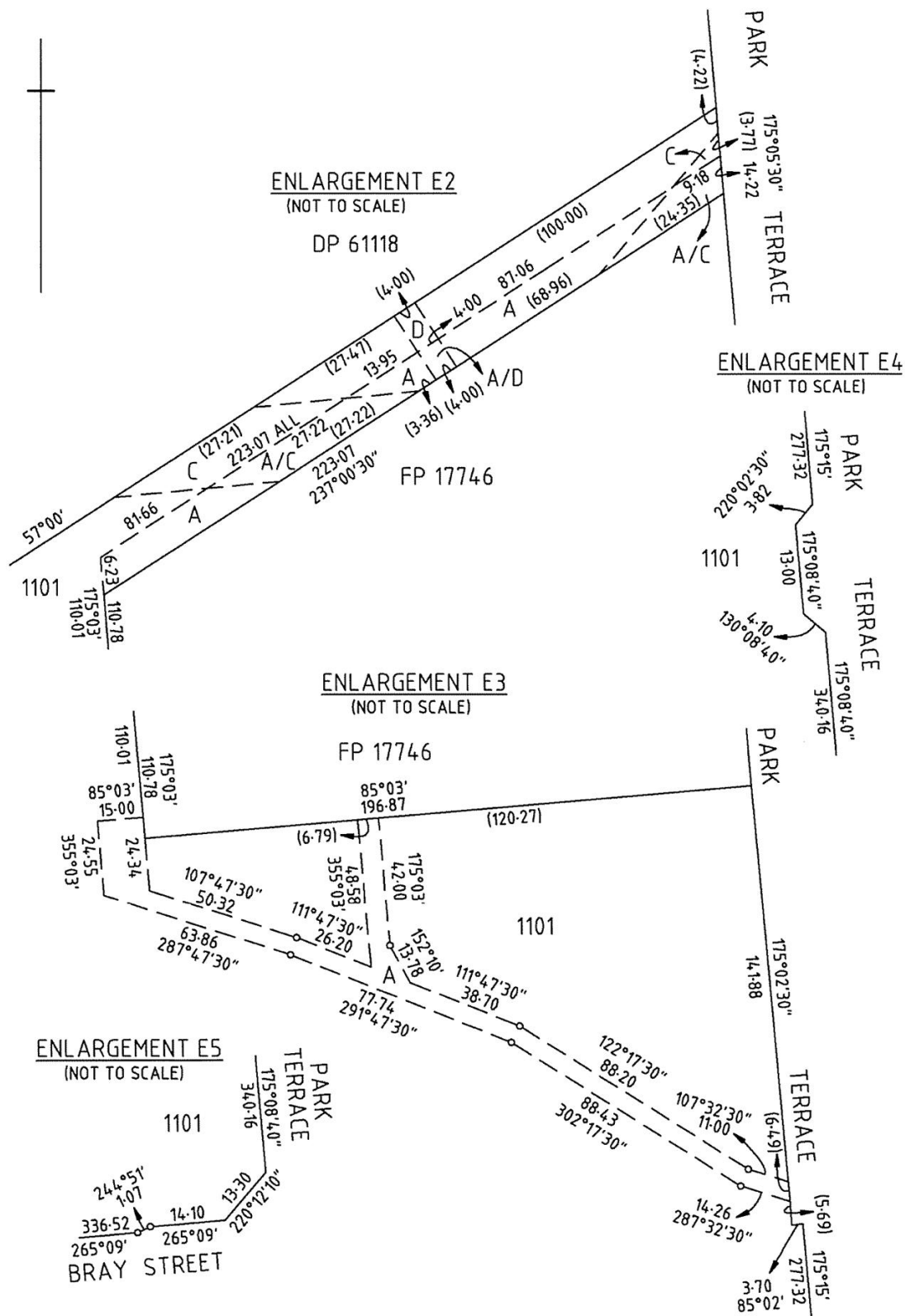
Register Search (CT 6105/575)

Date/Time

08/04/2019 12:35PM

Customer Reference

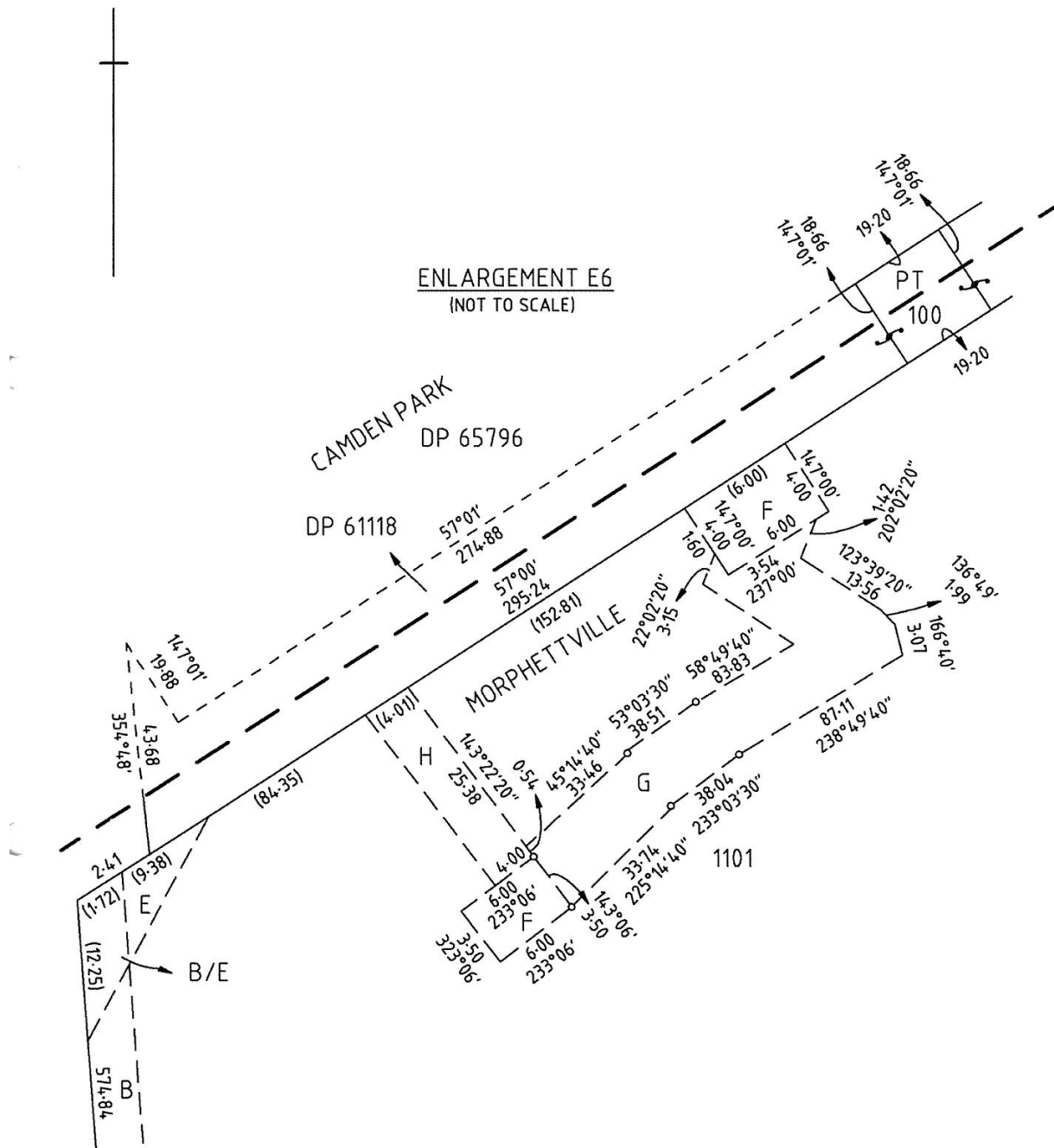
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Product
Date/Time
Customer Reference
Order ID

Register Search (CT 6105/575)
08/04/2019 12:35PM
20190408005980



17.2 Amendments to the Heritage Grants Guidelines

Brief

This report seeks to amend aspects of the Heritage Grants Guidelines and assessment criteria primarily to improve the experience of community members applying for the grants and streamline the assessment process and management of the scheme.

RECOMMENDATION(S)

It is recommended to Council that it approves the following changes to be introduced to aspects of the Heritage Conservation Grants process:

1. Simplify the application experience by combining the eligibility and ineligibility sections of the Heritage Grants Guidelines to create one set of eligibility criteria.
2. Streamline the assessment process by modifying the scoring table and the assessment weighting given to each question in line with the questions presented in the Smarty Grants application documents, which are used to determine the most eligible applications.
3. Introduce a set timeframe in which works must be commenced and completed to be eligible for the grant round.
4. Require that approved grant applicants display a sign on the property during conservation works to promote the fact that Council has provided grant funding to assist with the conservation works undertaken. (Corflute sign to be provided by Council).

INTRODUCTION

The 2018/19 Heritage Conservation Grant funding round opened on 10 May 2019 and closed on 30 June 2019. The funding round attracted more than 50 enquiries and resulted in a total funding allocation of \$22,650. As part of the review of this process a number of opportunities to improve, streamline, simplify and promote the Heritage Grants have been identified as discussed below.

The report recommendation also seeks to amend the considerations and weighting used in the assessment criteria by the Administration to align with questions contained in the Smarty Grants application form. It is recommended that a timeframe within which work must commence and be completed to be eligible for the funding round should also be introduced. It is also proposed that approved applicants be provided with a corflute sign to be displayed on the property for the duration of the conservation works to promote the grant funding committed by Council.

Economic Impacts

Council's continuing support for Heritage Grants is considered important during the Covid-19 public health crisis, which is now also unfolding as a deepening economic crisis. The types of works approved in association with heritage grants generally employ local tradespeople and skills as well as, for the most part using local materials such as bricks, stone and timber. Some proposals also require architects, engineers and planners for the preparation of development applications.

When repaired in accordance with heritage standards, heritage buildings use local materials and require labour intensive specialised skills. The localised economic flow on effects from heritage maintenance are well known. Offering a grant incentive to owners of heritage properties may further encourage them to undertake repairs and maintenance, thereby increasing hours of employment available in the construction industry and associated fields.

DISCUSSION

The 2018/19 grants round attracted in excess of 50 enquiries from property owners regarding the scheme and seeking clarity on their eligibility. Some confusion arose from having two separate headings of eligibility and ineligibility criteria and requiring applicants to demonstrate how their proposal aligned with the goals in the Community Plan.

Amending the existing eligibility and ineligibility criteria in the *Guidelines for the City of West Torrens Heritage Conservation Grants* (Guidelines), would simplify the application process for potential applicants when determining the eligibility of their project. A copy of the current *Guidelines* is contained in **Attachment 1**.

Eligibility Criteria

The *Guidelines* list both eligibility and ineligibility criteria in two separate lists for applicants to interpret. Improvements are suggested to address some confusion evident within the community in the interpretation of these criteria, as experienced during the application phase of the last round of heritage grants.

It is recommended that a simplified method of highlighting the eligibility criteria is to combine the two lists into one abridged streamlined list as shown in the *Proposed Updates to Eligibility Criteria* in **Attachment 2**.

The *Guidelines* also stipulate that funding is available for applications that align with relevant sections of the Community Plan and a list of relevant sections is provided. This implies that if an application does not align with any of the listed aspirations from the Community Plan they would be ineligible.

This is inconsistent with the Smarty Grants application form which contains one question requiring the applicant to demonstrate positive outcomes across two or more of the strategy target areas. Non-compliance with this question is not detrimental to the application which has a scoring weight of 20%. An application may still be approved if all other questions receive a high score. To clarify this point it is proposed that the eligibility criteria be aligned with questions used in the Smarty Grants form to rectify the anomaly.

Scoring Applications

Section 5 of the guidelines contains a table with various considerations in assessment and allocates a score to each of those considerations. The considerations within the table could be modified to more closely align with the questions as set out in the Smarty Grants application form and the weighting modified to reflect adjustments to the importance of each consideration.

No.	Consideration	Weighting
1	<p>Which of the following Community Plan outcomes will benefit if the grant application is successful (Community Life, City Prosperity, Built Environment, and Natural Environment)?</p> <p>The application clearly identifies positive outcomes across two or more of the Community Plan's outcome areas and specifically demonstrates a contribution to:</p> <ul style="list-style-type: none"> • Recognition of local multicultural and/or Indigenous heritage and/or people of local significance; • Support for development and growth of local businesses and jobs; and/or; • Environmental sustainability. 	20%

2	The application outlines matched funding (compulsory), which in limited cases may include in-kind support.	15%
3	The relevant conservation work will be visible from the streetscape and contribute to the community's ability to appreciate heritage in the Council area.	20%
4	Describe how community members will be engaged in the process, or results, of the proposed repair/restoration/conservation work will be shared and promoted? *	15%
5	The application outlines a plan for the project works- including timeline, relevant approvals, consideration of risk and (where relevant) any innovation.	15%
6	The work is required due to structural and safety concerns.	15%
Total		100%

Timeframe for completion of works

One other aspect of the grant scheme that may be enhanced is to specify the time frame within which approved works must be completed. At present no time limit is stipulated for successful applicants to commence and complete approved works.

As an example, there is an applicant from 2018 funding round who contacted Council late in 2019 advising that they had still not yet commenced the approved works for which grant funding had been approved and whether the funding would still be available. At the time of writing this report, the works had still not been undertaken. This creates budgeting issues with funding being carried over several financial years.

For this current round of grants and onwards, it is proposed that a timeframe for the commencement and completion of works be introduced that will stipulate that applicants commence and complete works within 12 months of approval being granted. The timeframe for completion of work is intended to minimise impact on the administration by removing the need to carry-over funds into subsequent budgets.

Furthermore, the full benefits of the grant funding (such as flow on economic and employment benefits, not to mention local aesthetic improvements) can only be achieved if the works go ahead, therefore applicants should only participate in a funding round if they intend to undertake the work within the following 12 month period.

Exemptions to the completion time may be provided in exceptional circumstances with written agreement from council officers and where the extent of work is major and cannot reasonably be completed within the specified timeframe.

Smarty Grants Application Form

The questions in the Smarty Grants application form are generally phrased in a passive expression, such that the questions have elicited only a yes or no response, rather than a detailed response. This was problematic during the most recent heritage grants round and resulted in reduced application scores and as a consequence some failed to gain funding despite proposed works having merit. This issue can be resolved by re-wording the question to reduce confusion and elicit detailed responses. The proposed amended questions are contained in **Attachment 3**.

Onsite Promotion of the Heritage Grants Scheme

It is recommended that a corflute sign be provided to all successful grant applicants to be displayed on the property for the duration of the heritage conservation works, in a position that is visible from the street. The purpose of the sign is to promote Council's part in the process through funding. It is further hoped that this may raise awareness and encourage other eligible property owners to apply for future rounds. The willingness to display the sign is to be included in the eligible criteria. A copy of the proposed corflute sign is contained in **Attachment 4**.

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

Regular maintenance of heritage buildings prevents them from falling into disrepair and decay. In doing so it ensures that these buildings are retained, thereby reducing the impact of embedded carbon in these buildings being wasted, and new more carbon intensive buildings being built in their place. As mentioned above, in the economic impacts sections, when repaired in accordance with heritage standards, heritage buildings use local materials and therefore use less carbon miles through transport or importing of materials, therefore they have a smaller carbon footprint and require less embedded water usage than new buildings.

Summary

The proposed amendments to the Heritage Grants Program are considered important to improve the ease of understanding for potential applicants which should equate to encouraging more people to apply and allow a better quality of applications. The benefit to Council being that the additional high quality applications should result in improved heritage conservation outcomes.

The introduction of a timeframe for completion of grant-funded works reduces issues around administration of funding across financial years.

The improvements suggested for weighting and scoring of applications provide for streamlined assessment by the Administration. The proposed corflute grant sponsorship signs will deliver another layer of promotion of the Heritage Grants Program for future grant rounds.

Conclusion

This report proposes improvements to the Heritage Grant Guidelines, assessment criteria, process and promotion.

Attachments

1. **Guidelines for the Heritage Conservation Grants- current**
2. **Proposed Updates to Eligibility Criteria**
3. **Proposed Updated Smarty Grants Form**
4. **Proposed Heritage Grants Council Sponsorship Sign**

Guidelines for City of West Torrens Heritage Conservation Grants

Civic Centre
165 Sir Donald Bradman Drive
Hilton, SA 5033
Tel (08) 8416 6333
Fax (08) 8443 5709
Email csu@wtcc.sa.gov.au
Website westtorrens.sa.gov.au



1. Council's vision

Committed to being the best place to live, work and enjoy life.

2. Purpose of the grants

The Heritage Grants Program provides funding to eligible organisations and individuals who present applications that demonstrate consistency with the heritage provisions of Council's *Towards 2025 Community Plan* and official heritage lists.

Relevant sections of the Community Plan include strategies to foster a sense of identity and pride within the West Torrens Community by creating greater public awareness and appreciation of heritage sites, events and people of local significance. This will be measured through an increase in the community's awareness of heritage sites, events and people of local significance.

The heritage conservation grants may be accessed to support successful applicants to undertake necessary repairs or maintenance to heritage-listed properties.

It is intended that assisting private owners to maintain heritage properties as 'community heritage assets' will assist to keep properties in good repair and prevent demolition due to neglect; thereby protecting the property's contribution to our area's local heritage story.

3. Eligibility criteria

Heritage Conservation Grants:

Heritage property owners, or renters (with the approval of the property owner), are eligible to apply if all the following criteria are met:

- The subject property where works are to be carried out is located within the Council area.
- The property is listed on the local heritage register, or is included as a contributory item in the West Torrens Council Development Plan (or other superseding document as determined by pending changes to the Heritage Listing process).
- The proposed repair or maintenance work is required to provide structural stability to the building and/or protect and maintain the 'Elements of Value' outlined in the Council Development Plan and/or relevant official heritage listing (or other superseding document as determined by pending changes to the Heritage Listing process.)
- The value of the proposed heritage restoration or maintenance work will be equal to, or exceed, \$2,000.
- The repair or maintenance work is to be undertaken by a suitably qualified and experienced business, or tradesperson, with a current ABN.
- Work has not commenced at the time of the application.
- The applicant (and property owner where applicable) is/are willing to permit City of West Torrens or their agent to photograph the site prior, during, and after completion of the works, to promote the Heritage Conservation Grants, or to illustrate Council publications.

Funding Priorities

In line with the *Towards 2025 Community Plan*, funding is available for Heritage Conservation Grants that:

a. Contribute to Community Life by:

- Celebrating multicultural and indigenous heritage; and/or
- Foster and encourage greater public awareness and appreciation of heritage sites, and people of local significance.

b. Contribute to City Prosperity by:

- Supporting the development and growth of local businesses and jobs.
Where all other factors are equal, preference will be given to projects that utilise the skills of suitably qualified local tradespeople.
- Enhancing and promoting the distinctive identity of West Torrens, and the attractions of key localities in the city.
At the time of promoting the annual funding round, the grant administrator may nominate key localities to be given priority in that funding year to align with economic development and tourism priorities of the Council.
- Facilitating the revitalisation of key sites and transport corridors into and within the city.
Preference may be given to grants that provide for the repair and/or maintenance of neighbouring or co-located properties that contribute to Council's 'City Prosperity' priorities.

c. Contribute to Built Environment by:

- Conserving areas of high character value (*where this coincides with heritage value*).

d. Contribute to Natural Environment:

- It is recognised that the maintenance and protection of heritage buildings contributes to environmental sustainability through reduced ecological impact, by retaining embedded carbon in existing buildings. In addition, the retention of heritage buildings often prevents increased densities through limiting additional subdivisions, thereby saving existing trees in the streetscape and on private land.

4. Ineligible applications

Projects are considered ineligible if they:

- 4.1. Are deemed unnecessary to maintain the heritage "Elements of Value".
- 4.2. Relate to works that do not require specialist heritage trade knowledge or techniques.
- 4.3. Relate to works that do not have any relevant planning or building approval (if required) or have been refused planning or building consent.
- 4.4. Seek purely to make financial profits or undertake commercial activities.
- 4.5. Are considered the primary role or responsibility of another level of government.
- 4.6. Seek funding for salaries, for an owner-builder.
- 4.7. Seek funding for projects which have already commenced, or been completed prior to the grant submission being lodged.
- 4.8. Seek funding for large capital expenditure – i.e. purchase or lease of major equipment to undertake repair and maintenance.

5. Assessment of applications

All applications will be assessed against these guidelines and applicants will be notified in writing of the outcome of their application within 16 weeks of their application.

Assessment for **Heritage Conservation Grants** will be scored in the following manner:

No.	Consideration	Weighting
1	The application clearly identifies positive outcomes across two or more of the strategy target areas (Community Life, City Prosperity, Built Environment, Natural Environment) as outlined in the Community Plan and specifically demonstrates consideration of: <ul style="list-style-type: none"> • Multicultural or Indigenous heritage and/or people of local significance. • Support for development and growth of local businesses and jobs. • Environmental sustainability 	25%
2	The application outlines matched funding (compulsory), which in limited cases may include in-kind support.	10%
3	The relevant conservation work will be observable from the streetscape and contribute to the community's ability to appreciate heritage in our Council area.	15%
4	The project clearly identifies consideration of how community members will be engaged in the process, or results, of the repair/restoration/conservation.	15%
5	The application outlines a plan for the project works – including timeline, relevant approvals, consideration of risk, and innovation (where relevant).	15%
6	The application outlines what measures will be used to evaluate whether it has been successful in achieving the stated outcome/s – includes both qualitative and quantitative measures.	10%
7	The situation is urgent due to structural and safety concerns.	10%
Total		100%

6. Accountability

City of West Torrens will reimburse successful applicants at the completion of works, after an inspection is conducted and proof of expenditure is received. All successful applicants will be required to provide photographic evidence and a short written report of all outcomes of the project funded by Council.

Reports must be accompanied by a copy of the invoice for services and relevant receipts.

7. General requirements

- In the event that a project does not go ahead for whatever reason, grant funding is required to be returned to council.
- Applicants may only receive one type of grant funding per financial year. Individuals and organisations that have not fulfilled reporting obligations on grants provided through Council's other grants programs may be rendered ineligible for Heritage Conservation Grants.
- Financial remittance forms must be completed within six weeks of the building work being completed unless otherwise negotiated.
- Applicants must ensure that tradespersons undertaking the work hold a current ABN and relevant insurances.
- Applications must be completed in full or they will not be accepted.
- Applications will be called for at least once a year, and applicants will be advised of the outcome of their application within 16 weeks of the advertised deadline for submissions.
- Council will not be responsible for any expenses incurred by an applicant in preparing their application or as a result of an applicant anticipating approval of their application.
- Approval of applications is subject to annual budgetary limitations.

8. Grant amounts

- A project must cost more than \$2,000 to be eligible for a Heritage Conservation Grant. A minimum of two quotes from suitably qualified tradespersons must be provided to verify the estimate.
- A maximum grant of up to 50% of the cost of the work will be available, up to \$2,000 per eligible property. For example, a project that costs \$3,000 will be eligible to receive a grant of up to \$1,500. Projects that costs more than \$4,000 are eligible to receive a grant of up to a maximum of \$2,000.

9. Further information

For further information or assistance, please contact:

Strategy Team
Phone: 8416 6333

Guidelines for the 2020 City of West Torrens Heritage Conservation Grants.

3. Eligibility criteria

Heritage Conservation Grants:

Funding for projects that best align with key outcomes outlined in council's *Community Plan* may be given priority. People who own [or rent- with the approval of the property owner] a heritage listed property, are eligible to apply if all of the following criteria are met:

Works:

1. The proposed heritage repair and or maintenance (work) is to be carried out at an address located within the City of West Torrens.
2. The subject property is listed on the local heritage register, or was included as a contributory item in the West Torrens Development Plan* at the time of submitting the grant application **and** any required development application(s) associated with the works.
3. The proposed work is required to provide structural stability to the building and or protect and maintain the Elements of Value outlined in the West Torrens Development Plan*.
4. The value of the proposed work will be equal to, or exceed, a value of \$2,000.
5. The work requires specialist heritage trade knowledge or techniques and will be undertaken by a suitably qualified and experienced business, or tradesperson with a current ABN.
6. The work for which funding is sought has not already been completed or commenced at the time of submitting the grant application, and will be undertaken within 12 months of grant approval. (In exceptional circumstances an extension of time for completion of works may be sought from council, in writing.)
7. All relevant Development Approvals (if required) associated with the work have either been obtained or applications have been lodged with Council and are awaiting approval prior to the lodgement of the heritage grant application.
8. The required works are not the primary role or responsibility of another level of government.
9. The work is not for the purposes of making financial profit or to undertake commercial activities.
10. All grant funds received from City of West Torrens are to be used to remunerate tradespersons engaged to undertake the required work, and not to be used for the purchase or hire of plant and equipment to undertake the work.

Promotion:

11. The applicant (and property owner where applicable) is/are willing to permit City of West Torrens or their agent to photograph the site prior, during, and after completion of the work, in order to promote the heritage Conservation Grants, or to illustrate council publications (which may include online publications).
12. The applicant (and or property owner, or tenant, where applicable) is/are willing to display a corflute sign, supplied by council, on the land where the heritage works are being undertaken- in a position visible from the street to promote the Heritage Grants Scheme.

*Development Plan or other superseding document as determined by pending introduction of the Planning and Design Code.

Heritage Grants 2020

Heritage Grants application form

Application HG000

APPLICANT DETAILS

Individual Applicant

1. Address of property
2. Postal address (if different to above)
3. Primary contact person
4. Primary phone number
5. Back-up phone number
6. Fax number
7. Primary contact person's email address

This is the address we will use to correspond with you about this grant.

Applicant on Behalf of an Organisation

1. Name of organisation
2. Address of property
3. Postal address (if different to above)
4. Primary contact person
5. Primary phone number
6. Back-up phone number
7. Fax number
8. Primary contact person's email address

This is the address we will use to correspond with you about this grant.

Project Details

Please indicate the type of heritage listing that applies to the property? *

- ☐ Local heritage
- ☐ Contributory item

Please note: buildings listed as State Heritage items are not supported by this grant.

1. **Please provide a short summary of the restoration or maintenance work proposed to be undertaken ***
[no more than 150 words]
2. **What is the anticipated start date of work ***

Heritage Grants 2020

Heritage Grants application form

Application HG000

3. Which of the following Community Plan outcomes will benefit if your grant application is successful (Community Life, City Prosperity, Built Environment, and Natural Environment)?

Clearly identify the positive outcomes anticipated across two or more of the Plan's outcome areas and specifically identify if your proposed works will contribute to:

- Recognition of local multicultural and/or Indigenous heritage and/or people of local significance;
- Support for development and growth of local businesses and jobs; and/or;
- Environmental sustainability.

[Click here for the City of West Torrens Community Plan](#)

4. Please outline details of matched funding (compulsory), which in limited cases may include in-kind support. *
- Must be no more than 150 words.
Assessment weighting 10%
5. Describe how the relevant conservation work will be visible from the streetscape and contribute to the community's ability to appreciate heritage in our Council area? *
- Must be no more than 150 words.
Assessment weighting 15%
6. Describe how community members will be engaged in the process, or results, of the proposed repair/restoration/conservation work will be shared and promoted? *
- Must be no more than 150 words.
Assessment weighting 15%
7. Outline a plan for the project works – including timeline, relevant approvals, consideration of risk, and any innovation (where relevant)? *
- Must be no more than 150 words.
Assessment weighting 15%
8. If the works are urgent due to structural and safety concerns please provide details and any evidence of this by way of an engineer's report or certification. *
- Must be no more than 150 words.
Assessment weighting 10%

Reporting your success

9. What measures will you use to evaluate whether your works are successful in achieving the stated outcomes? Including both qualitative and quantitative measures. *
- Must be no more than 150 words.
Assessment weighting 10%
10. What is the amount sought from Council? *
- Must be a dollar amount.

Works Documentation and any further information

Attached is:

Supporting documents

Filename:

File size:

Filename:

File size:

Filename:

File size:

Filename:

File size:

Maximum 25mb, recommended size no bigger than 5mb

Heritage Grants 2020

Heritage Grants application form

Application HG000

ABN of business contracted to do work: *

Information from the Australian Business Register

Entity name
 ABN status Active
 Entity type Australian Private Company
 Goods & Services Tax (GST) Yes
 DGR Endorsed No
 ATO Charity Type Not endorsed [More information](#)
 ACNC Registration No
 Tax Concessions
 Main business
 Information retrieved at
 Must be an ABN.

Previous Grants received from Council

If applicable, please list all grants received from the City of West Torrens in the past three years.

Amount /	Date received /	Project, initiative or resource
----------	-----------------	---------------------------------

Certification and Feedback

* indicates a required field

Certification

I certify that to the best of my knowledge the statements made within this application are true and correct.

I also confirm that I have read and understood the conditions for funding as outlined in the Guidelines for City of West Torrens Heritage Conservation Grants and accept and agree to abide by the conditions therein.

I also accept and agree to abide by any additional conditions outlined in any approval letter.

I agree * ☒ Yes ☐ No

Name of authorised person *

Position in organisation
 (if applicable)

Position held in applicant organisation (e.g. CEO, Treasurer)

Contact phone number *

Must be an Australian phone number.

Second phone number

Contact Email *

Must be an email address.

Date * 28/06/2019

Must be a date

Applicant Feedback

You are nearing the end of the application process.

Before you review your application and click the **SUBMIT** button please take a few moments to provide some feedback.

This section is not mandatory

Please indicate how you found the online application process:

☐ Very easy ☒ Easy ☐ Neutral ☐ Difficult ☐ Very difficult

Please provide us with your suggestions about any improvements and/or additions to the application process/form that you think we need to consider.

The conservation work on this building is supported by the City of West Torrens through the Heritage Grants Scheme.

City of
West Torrens

Between the **City** and the Sea



17.3 Amendment of Council Assessment Panel Terms of Reference

Brief

This report proposes the inclusion of an additional clause in the Council Assessment Panel Terms of Reference to facilitate the appointment of a presiding member at the commencement of a meeting if both the Presiding and Deputy Presiding Member are not able to attend.

RECOMMENDATION

It is recommended to Council that it approves the *Draft Council Assessment Panel Terms of Reference*.

Introduction

To ensure that the Council Assessment Panel (CAP) is able to continue to operate efficiently when both the Presiding Member and Deputy Presiding Member are unable to attend the same CAP meeting, an amendment to the CAP Terms of Reference (ToR's) is proposed.

Discussion

To allow for situations when both the Presiding Member and Deputy Presiding Member are unavailable for the same CAP meeting, it is proposed that the following clause be inserted into the ToR's at clause 3.7 as follows:

"3.7 If neither the Presiding Member nor Deputy Presiding Member are in attendance at the commencement of a meeting, either in person or remotely, then the Assessment Manager may open the meeting and the present CAP Members can nominate a Presiding Member from the CAP Members present."

This proposed insertion has been reflected as tracked changes in **Attachment 1**.

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

There is no direct climate impact consideration in relation to this report.

Conclusion

This report proposes amendments to the Council Assessment Panel's Terms of Reference to allow for a situation when both the Presiding Member and Deputy Presiding Member are unable to attend the same meeting.

Attachments

1. Draft Council Assessment Panel Terms of Reference

CITY OF WEST TORRENS



CITY OF WEST TORRENS

Terms of Reference

COUNCIL ASSESSMENT PANEL

PREAMBLE

Pursuant to section 83 of the *Planning, Development and Infrastructure Act 2016* (the Act) the Council may establish an Assessment Panel for the purpose of acting as a designated authority as that term is defined in the Act.

These Terms of Reference detail the operating parameters of Council's Assessment Panel.

1. ESTABLISHMENT

Pursuant to section 83 of the *Planning, Development and Infrastructure Act 2016* (Act) Council establishes a Council assessment panel to be known as the City of West Torrens Council Assessment Panel (referred to in these Terms of Reference as "the CAP") for the purpose of acting as a "relevant authority" in respect of relevant development assessment matters.

The Terms of Reference have been reviewed and this document constitutes the Terms of Reference for the CAP from 12 December 2018.

2. OBJECTIVES

The objectives of the CAP are as follows:

- 2.1 To act as the relevant authority for the assessment of proposed development to be undertaken in the council area pursuant to legislative requirements.
- 2.2 To provide advice and reports to Council on trends, issues and other matters relating to planning or development that have become apparent or arisen through its assessment of applications under this Act; and
- 2.3 To perform other functions (other than functions involving the formulation of policy) assigned to the CAP by the Act.

- 2 -

3. MEMBERSHIP

- 3.1 Membership of the CAP will be appointed by Council taking into account the requirements of sections 83(1)(b)(i), 83(1)(c) and 83(1)(d) of the Act.
- 3.2 The CAP will consist of a maximum of five (5) members, only one (1) of whom may be a currently sitting Council Member.
- 3.3 The Presiding Member will be appointed by Council and must be a person who has reasonable knowledge of the operation and requirements of the Act; and have experience in a recognised profession.
- 3.4 The Council will appoint a Council Member to stand as a Deputy Member to a Council Member appointed to the CAP.
- 3.5 The Council may appoint an Independent Member to stand as a Deputy Member to the Independent Members appointed to the CAP.
- 3.6 The CAP will appoint the Deputy Presiding Member at its first meeting.
- 3.7 If neither the Presiding Member nor Deputy Presiding Member are in attendance at the commencement of a meeting, either in person or remotely, then the Assessment Manager may open the meeting and the present CAP Members can nominate a Presiding Member from the CAP Members present.
- 3.87 The CAP may appoint 1 or 2 members to act as additional members of the assessment panel for the purposes of dealing with a matter that it must assess under this Act provided the person holds a qualification, or has expertise or experience, recognised by a practice direction for the purposes of section 85 of the Act.
- 3.78.1 Additional Members are taken to be members of the assessment panel in all respects with the exception of being able to vote on matters for determination. As such they will be subject to the CAP Members Code of Conduct.
- 3.98 Members will hold their positions for a period of 2 years, commencing on 1 January 2019, expiring on 31 December 2020.
- 3.109 A member whose term of office expires may nevertheless continue to act as a member for a period of up to 6 months until he or she is reappointed or a successor is appointed (whichever the case may be) except in the instance they have not obtained accreditation as required.
- 3.101 A member may resign from the CAP by giving notice, in writing, to that effect to the Chief Executive Officer (CEO).
- 3.112 All members of the CAP are public officers for the purpose of the *Independent Commissioner Against Corruption Act 2012* and Part 7 Division 4 (Offences relating to Public Officers) of the *Criminal Law Consolidation Act 1935*. As such they are subject to the provisions of those Acts, including reporting requirements.
- 3.132 Independent Members to the CAP are subject to the Code of Conduct relating to Assessment Panel Members.
- 3.143 Council Members to the CAP are subject to both the Code of Conduct relating to Assessment Panel Members and the Code of Conduct for Council Members.

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3.154 Upon commencement section 88 of the Act, Independent Members of the CAP must be Accredited Professionals pursuant to section 83(1)(c) of the Act.

4. REMOVAL OF A MEMBER

- 4.1 Subject to giving a member an opportunity to be heard or to make a written submission, the Council may resolve to remove a member for:
- 4.1.1 breach of, or failure to comply with, the conditions of appointment; or
 - 4.1.2 failure to disclose his or her financial interests in accordance with section 83(1)(e) of the Act; or
 - 4.1.3 failure to comply with a requirement under section 83(1)(g) of the Act or a breach of, or failure to comply with, a code of conduct in accordance with the Schedule 3(1) of the Act.
 - 4.1.4 failure to obtain Accredited Professional status, pursuant to clause 3.14.
 - 4.1.5 or any for any other reason as Council sees fit.
- 4.2 The Council must substitute existing members of the CAP with new members if directed to do so by the Minister acting on the recommendation from the State Planning Commission.
- 4.3 Particulars of the grounds for removal will be communicated to the member at least one (1) calendar month before the meeting of the Council at which the matter will be determined.
- 4.4 The member will provide any written representation in response to the particulars at least fourteen (14) days before the meeting of the Council at which the matter will be determined.
- 4.5 The determination of the Council will be communicated to the member, and in the event of an adverse determination the member shall cease to be a member immediately when the Council has communicated its determination to him/her.
- 4.6 The determination must be communicated to the member:
- (a) personally; or
 - (b) by delivering the notice (whether by post or otherwise) to the usual place of residence of the member or to another place authorised in writing by the member for the purpose of receiving notices of CAP or Council meetings, as the case may be; or
 - (c) by leaving it for the member at an appropriate place at the principal office of the Council, if authorised in writing by the member to do so for the purpose of receiving notices of CAP meetings, as the case may be; or
 - (d) by a means authorised in writing by the member as being an available means of giving notice (e.g. facsimile transmission or email) for the purpose of receiving notices of CAP or Council meetings, as the case may be.

- 4 -

- 4.7 Notice of the determination not given in accordance with clause 4.6 is taken to have been validly given if the CEO considers it impracticable to give the notice in accordance with that clause and takes action the CEO considers reasonably practicable in the circumstances to bring the notice to the attention of the member.
- 4.8 A member who has been removed from the CAP pursuant to clause 4 of these Terms of Reference may apply to the Council for reappointment to the CAP. The decision whether to allow a person to re-join the CAP is at the Council's absolute discretion.

5. VACANCY OF OFFICE

- 5.1 The office of a member will become vacant if the member:
- 5.1.1 dies;
 - 5.1.2 completes a term of office and is not reappointed;
 - 5.1.3 resigns by written notice to the CEO;
 - 5.1.4 is convicted of a relevant offence; or
 - 5.1.5 is removed from office under clause 4 of these Terms of Reference.
- 5.2 If a vacancy in membership occurs at any time then the Council will fill that vacancy at the earliest opportunity by Council resolution.

6. FUNCTIONS AND RESPONSIBILITIES

- 6.1 The functions and responsibilities for the CAP are as follows:
- 6.1.1 In accordance with the delegations conferred by the Council, the CAP is charged with responsibility for all matters arising under the *Development Act 1993* until such a time as the powers and functions with regard to delegations are operational under the *Planning, Development and Infrastructure Act 2016*.
 - 6.1.2 The CAP must act, at all times, in strict accordance with relevant legislation (being the Act and the Regulations) including any relevant code of conduct under the Act and/or Regulations which are relevant to the CAP in the performance of its functions.
- 6.2 The CAP will meet on the second Tuesday of each month at 5:00pm.

7. CONFLICT OF INTERESTS

- 7.1 Members of the CAP must disclose their financial interests in accordance with section 83(1)(e) and Schedule 1 of the Act. Failure to do so may result in the removal of the member from office pursuant to clause 4 of these Terms of Reference.
- 7.2 Members must not act in relation to a development if he or she has a direct or indirect pecuniary interest in any aspect of the development or any body associated with any aspect of the development in accordance with section 83(1)(g). Failure to do so is an offence with a maximum penalty of \$20 000.

8. REPORTS TO COUNCIL

The CAP will report to Council at least once per year, detailing issues for consideration by the Council. The Annual Report should include the following information:

- (a) The number of meetings held;
- (b) The number and nature of applications that were considered (including the number of confidential items considered);
- (c) Advice in respect of any trends, issues and other matters that have become apparent or arisen through the CAP's assessment of applications, and
- (d) The number of decisions of the CAP that were appealed to the Environment, Resources and Development Court.

9. LIABILITY

No civil liability attaches to a member of a committee for an honest act or omission in the exercise, performance or discharge, or purported exercise, performance or discharge, of the members' or committee's powers, functions or duties. Such a liability attaches instead to the Council.

10. REMUNERATION

The members of the CAP, including Deputy Members and Members appointed in accordance with clause 3.7 of these Terms of Reference, will receive an annual allowance (exclusive of GST), as approved by Council.

17.4 Breakout Creek Stage 3 - DPTI Open Space funding application

Brief

This report seeks a decision of the Council in allocating \$2 million towards the Breakout Creek Stage 3 redevelopment project, and in doing so meet the eligibility criteria of DPTI's Open Space and Places for People grant program for 2019/20.

RECOMMENDATION(S)

It is recommended to Council that the Department of Planning, Transport and Infrastructure (DPTI) be advised that:

1. Council is not able to commit at this point in time to an allocation of \$2 million to be eligible in its application to DPTI's Open Space and Places for People Grant Program for the Breakout Creek Stage 3 redevelopment project consistent with its decision made 10 December 2019 and the added financial uncertainty due to the Covid-19 pandemic.

Or

2. Council commits to an allocation of \$2 million to be eligible in its application to DPTI's Open Space and Places for People Grant Program for the Breakout Creek Stage 3 redevelopment project.

Introduction

At its meeting of the 10 December 2019, Council formally considered a report in relation to the River Torrens Breakout Creek Stage 3 redevelopment, which include details on the project, its costs and potential funding partner details (**Attachment 1**).

The Breakout Creek Stage 3 redevelopment project, in partnership with the City of Charles Sturt, the Natural Resources Adelaide and Mount Lofty Ranges, SA Water and the Federal Government, presents an opportunity to upscale this important community open space from Tapleys Hill Road to the coast. It also provides a unique opportunity to showcase collaboration between councils and agencies to bring this significant project to fruition, and one that will last well into the future.

The project aims to create quality green spaces and deliver the long term vision of improving this iconic waterway on behalf of our communities. It builds on our goal to green West Torrens, cool urban heat, and provide linkages along the linear path to other destinations and open spaces such as Apex Park, enabling and encouraging people to visit these places.

The Breakout Creek Stage 3 project will provide important infrastructure to help deliver these important functions and will further strengthen this Linear Park as a major linkage from the City to the Coast, and neighbouring suburbs.

Currently the City of West Torrens does not have funds committed or formally allocated towards the physical implementation and construction of this project.

Discussion

Further to the resolution of Council at its meeting on 10 December 2019, an application was submitted to DPTI's Open Space and Places for People Grant program. The application is seeking \$2 million towards Breakout Creek Stage 3. A similar application (and amount) was also lodged by the City of Charles Sturt.

The City of West Torrens' application identified that there was no dedicated budget currently committed to this project, however it outlined that this would need to be reconsidered should the application be successful. As such, the application was not meeting all the eligibility criteria of providing at least 50% funding contribution.

DPTI has recently advised the Administration that the redevelopment of Breakout Creek Stage 3 is a good project, however the Council's application is at risk of not being supported due to the lack of a commitment to match funding. DPTI would like Council to reconsider that position now, so that the project can be supported for consideration.

While committing \$2 million towards this project could improve the Council's success in obtaining a matching State Government Grant and help consolidate a project that has multiple stakeholder interest and involvement. Council's financial position at the moment is one that is severely different from that in December 2019 when this matter was previously considered. Covid -19 related financial impacts will require careful consideration over the short to medium term and a commitment of \$2 million at this point in time could somewhat restrict the Council's ability to alter its future budget(s).

Should Council commit to the allocation of \$2 million towards this project then this funding amount would need to be included in Council's 2020/21 Budget, if confirmation of matched State Government is received.

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

Quality public space is essential to healthy, liveable communities, and its role in supporting the community's physical and mental health has been highlighted recently during the COVID-19 situation.

Conclusion

This report seeks a decision of the Council in allocating \$2 million towards the Breakout Creek Stage 3 redevelopment project, and in doing so meet the eligibility criteria of DPTI's Open Space and Places for People funding program for 2019/20.

Attachments

- 1. Extract from Council and Standing Committees Agenda 10 December 2019 - Item 11.1 Breakout Creek Stage 3 redevelopment plan and joint funding arrangements**

11 CITY SERVICES AND AMENITY REPORTS

11.1 Breakout Creek Stage 3 redevelopment plan and joint funding arrangements

Brief

This report presents information in relation to the joint project, Breakout Creek Stage 3 Redevelopment, and correspondence from Natural Resources Adelaide and Mount Lofty Ranges outlining the proposed funding contributions between the various project partners and other funding partners.

RECOMMENDATION

The Committee recommends to Council that the Natural Resources, Adelaide and Mount Lofty Ranges be advised that:

1. While Council notes the request for a commitment from Council to contribute \$2 million towards the Breakout Creek Stage 3 redevelopment project, Council wishes to respectfully advise that over the past ten years Council has provided in excess of \$6.5 million in-kind support (capital/maintenance) to the management of the River Torrens and believes that as it will be responsible for ongoing management and maintenance, a financial commitment from Council towards this project is not reasonable or warranted at this point in time.
2. Having raised a total of \$17.89 million in levies from its ratepayers since 1999, Council believes that on balance, this project should be completed without any capital contribution from the City of West Torrens.
3. Council notes that Stages 1 and 2 of Breakout Creek were redeveloped without any capital contribution from the City of West Torrens.
4. Council notes that the Adelaide and Mt Lofty Ranges NRM levy from all councils within the catchment for the 2019/20 financial year totals \$31.545 million and that the City of West Torrens levy for the same period is \$1.542 million.
5. Council fails to understand why the ratepayers of West Torrens are expected to contribute initially via their NRM levy to the activities of the Adelaide and Mt Lofty Ranges NRM Board and then again expected to contribute to capital project costs to a project the Board wishes to undertake.
6. Council notes, as was the case following the redevelopment of Breakout Creek Stages 1 and 2, that following successful completion of Breakout Creek Stage 3, Council will be expected to assume maintenance responsibility for the area which comes at a considerable cost to Council and its community, not as a once-off cost, but an annual cost for many years to come.
7. Council has approximately \$12 million of unfunded priority capital works projects waiting commencement and sees these projects as more important at this point in time in terms of providing appropriate community infrastructure, facilities and services to the wider community of West Torrens.
8. Council commits to working with the Natural Resources, Adelaide and Mt Lofty Ranges and the City of Charles Sturt to participate in negotiations and applications for further funding to achieve completion of the redevelopment plan for Breakout Creek Stage 3.
9. Council notes that the concept plan (Attached to correspondence in Appendix 1) will undergo further community consultation, with a further report prepared for Council consideration that discusses the consultation outcomes and revised project estimate cost.

Introduction

The development of the Breakout Creek - Stage 3 Project has been a joint undertaking primarily between Natural Resources Adelaide and Mount Lofty Ranges (NRM), City of West Torrens and City of Charles Sturt. SA Water has also been a part of the project steering group due to Ministerial responsibility that they are engaged as the agency to manage the river system. The NRM have taken the lead role to date, as being the project managers for the project.

Council at its meeting held 1 September 2015 considered a report on River Torrens Breakout Creek Concept Plan and resolved the following:

"That:

- 1. The River Torrens Breakout Creek Concept Plan be endorsed, subject to Council's concerns that there may not be sufficient space set aside for horse agistment; and*
- 2. The Council Administration continue to work collaboratively with the Board, the City of Charles Sturt and SA Water to further the concept plan, which may also include seeking additional community feedback."*

Accordingly, the Administration has continued to work collaboratively with the NRM, City of Charles Sturt, and SA Water in progressing the Breakout Creek Stage 3 redevelopment plan. The development of the plan has also involved significant engagement with the Kaurna Nation and they are keen for the project to proceed.

Council recently received a letter from the Natural Resources Adelaide and Mount Lofty Ranges on 1 October 2019 providing an update of the Breakout Creek Stage 3 redevelopment plan, and to seek Council's commitment to participate in joint funding arrangements (**Attachment 1**). The letter was included within the Correspondence section of the Council meeting held on 15 October 2019 and the Administration advised that a report would be presented to Council regarding the request for a commitment from the City of West Torrens for \$2 million towards the project. The Federal and State Governments are each contributing \$2 million to the project and contributions of \$2 million are sought from the Cities of Charles Sturt and West Torrens. It is also proposed that the two Councils submit a joint grant application to the Department of Planning, Transport and Infrastructure Open Space Fund seeking a further \$4 million.

Background

Breakout Creek was established in the 1930s as a fenced off artificial channel to protect urban development from flooding. The corridor remained largely unchanged through to the 1980s when formal pathways and some basic tree planting was undertaken.

Since 1999, a staged approach of redevelopment of Breakout Creek to create a highly biodiverse area as well as to open up more opportunities for community use has been undertaken.

Construction of Breakout Creek Stage 1 (a 500 meter section of the River Torrens channel upstream of Henley Beach Road) was undertaken in 1999. Subsequent to this, a further section of the River Torrens between Henley Beach Road and Tapleys Hill Road was also redeveloped in 2010 (Breakout Creek Stage 2).

The first two stages of redeveloping Breakout Creek have been completed and funded by the State Government. These stages are located wholly within the City of West Torrens and has opened up the land for improved community access and engagement, with pathways and wildlife viewing platforms, wetlands, water features and river crossings established.

The removal of weeds and planting of native vegetation has created a rich biodiverse environment within an urban setting. The ongoing maintenance of these areas is the responsibility of the City of West Torrens, being the local government authority of the area.

The success of these first two stages led to community support to redevelop the final portion of Breakout Creek (Stage 3) which is a 1.7 km length of linear park space from Tapleys Hill Road to Seaview Road at the coast. Approximately half of the area is within the City of West Torrens (eastern half) and the other half (western half) within the City of Charles Sturt.

Subsequently, a joint project group was established in 2014 to progress the design with the main partners being Natural Resources Adelaide and Mount Lofty Ranges, City of West Torrens and City of Charles Sturt. The other main partner in the Project Reference Group has been SA Water given the Ministerial responsibilities which they are the agents for.

Community feedback on the concept plan in 2015 (subject of Council report 1 September 2015) was pivotal in creating a set of design principles which provided insight into how the space was currently used and how it could be better used by all, whilst incorporating features to draw more people to the space. Feedback on the concept identified many interests in redeveloping this area, such as improving community access, safety and recreation; maintaining access for horses; improving biodiversity and watercourse health; and maintaining flood conveyance.

Since the presentation of the concept plan, the collaborative working group has together coordinated assessment of the technical feasibility of the concept plan. This has included a detailed engineering survey of the area, hydraulic analysis of the channel, and soil contamination and geotechnical investigations.

The area also has significance to the Kaurna Nation as it provided important resources and a sense of belonging for many thousands of years. The Kaurna community has expressed interest in playing a role in the project in relation to restoring cultural connections and spiritual wellbeing through involvement in the delivery of the project.

The concept plan identifies numerous environmental benefits as well as providing an important open space asset for the community without bearing the full financial burden by this Council alone.

Stage 3 will deliver:

- 15 hectares of land opened up for community use and benefit;
- Improved watercourse condition, enhancing the biodiversity of riparian and aquatic habitats;
- Enhanced access and recreation for the community such as new pathways, shelters, upgraded lighting, seating, viewing platforms, and creek crossings;
- Flood management and improved water quality during low flows;
- Integration of Aboriginal culture; and
- Spaces for horses.

In July 2019 Breakout Creek Stage 3 redevelopment plans were given a significant step forward with the announcement of \$2 million from the Australian Government's Environmental Restoration Fund to go towards construction of habitat in this area leading to improvement in condition of threatened ecological communities.

Discussion

Since development of the concept plan, the City of West Torrens has undertaken significant redevelopment of the Apex Park area including the accommodation of horse stables and an arena for the Lockleys Riding Club.

The Breakout Creek Stage 3 Project Reference Group overseeing a range of detailed scientific, environmental and engineering assessments to progress the redevelopment plan have amended the original concept plan to take account for changes resulting from the recent upgrade to Apex Park.

These changes to the serving and connectivity of the Riding Club to the project site, as well as refinements from further detailing of the design concept have led to changes to the concept plan for the project. The changes however have been undertaken in a manner to be consistent with the project objectives and earlier feedback from the original project consultation.

A first order cost estimate of \$10.5 million (ex GST) for the entire project has been identified by a detailed quantity survey for design and construction. The ability to deliver the project relies on a joint funding model to achieve this total sum. It is noted that the project will provide direct community assets (paths, shelters, lighting etc.) within the City of West Torrens area to an estimated value of around \$1.2 million.

More recently, the Federal and State Governments announced combined funding of \$4 million to contribute towards Breakout Creek Stage 3. A subsequent funding model has recommended a \$2 million contribution each from City of West Torrens and City of Charles Sturt towards the project, and using this local government money to leverage further funding from the DPTI Open Space Fund (up to \$4 million). The Open Space Fund only matches contributions to a project from local government sources.

The Federal funding is drawn from the Environment Restoration Fund as it meets the priorities of protecting threatened and migratory species and their habitat, as well as protecting Australia's coasts, oceans and waterways by addressing erosion, improving water quality and protecting coastal threatened and migratory species.

The budget contribution being sought from Council's are notionally sort to be provided in the financial years 2020/21 and 2021/22, to be confirmed during the detailed design phase.

Additionally, SA Water has indicated they can provide in-kind support for the project through being the construction authority on the project.

A breakdown of the proposed funding for Breakout Creek Stage 3 construction over two years is provided in the table below:

Organisation	Amount
Australian Federal Government	\$2 million
State Government (DEW) / NRM Board	\$2 million
City of West Torrens	Up to \$2 million
City of Charles Sturt	Up to \$2 million
DPTI Open Space Grant Program funding (matched funding from both councils)	Up to \$4 million
<i>Total</i>	<i>Up to \$12 million</i>

Following construction of the project, ongoing maintenance responsibilities would reside with the councils within their respective areas, however, the *Metropolitan Drainage Act 1935* (which enabled the original Breakout Creek channel to be constructed) prescribes some responsibilities for the management to others will need some clarity in light of this project. The local government maintenance of the Stage 3 works which is anticipated to be consistent with current arrangements for Breakout Creek Stage 1 and Stage 2.

In response to the NRM correspondence outlining the proposed funding model for the project (October 2019), the City of Charles Sturt resolved to commit its share of the requested funding (\$2 million), and agreed to collaborate with the City of West Torrens in a joint local government funding application to seek matching funding through DPTI's Places for People/ Open Space Grants program.

The City of West Torrens has many other competing priorities over the upcoming financial years and it is questioned if the provision of the \$2 million for this project is an appropriate action for the Council at this point in time. In terms of Council's Long Term Financial Plan, it has not currently planned for this expenditure, nor for the on-going annual maintenance costs which will be incurred. Council currently has assets within the section of Breakout Creek 3, consisting of paths, lighting and fencing, that have a total capital replacement value of \$621,000.

Council currently has approximately \$12 million of unfunded priority capital works projects waiting to be commenced. While there is merit in Breakout Creek Stage 3, Council's unfunded projects provide community infrastructure, facilities and services to the wider community of West Torrens and would need to consider how the Breakout Creek Stage 3 project could be funded.

In the event of the City of West Torrens not contributing to this project, or alternate funds not being made available, it would most likely be that consideration would need to be made in relation to scope changes and reductions to the project. This would likely see the removal of most amenity and asset improvements within the West Torrens section of the project.

Since 1999, Council has raised a total of \$17.89 million in NRM levies from its ratepayers. Council expenditure on the maintenance of the existing sections of Breakout Creek has been approximately \$60k per annum (indexed) totalling approximately \$1.2 million. Council has also received NRM grant funding on several occasions (in the order of \$30k per grant) over the last decade to assist towards the woody weed removal and revegetation of the existing Stages of Breakout Creek.

It is noted that the Adelaide and Mount Lofty Ranges NRM levy from all councils within the catchment for the 2019/20 financial year totals \$31.545 million and that the City of West Torrens' levy for the same period is \$1.542 million.

Conclusion

The City of West Torrens sees merit in Breakout Creek Stage 3 redevelopment, however due to many other competing priorities over the upcoming financial years, and reasons stated in this report, it is not in a position at this point in time to commit to the recommended \$2 million towards the project.

In supporting the principle of seeking further external funding towards the project, the City of West Torrens sees merit in partnering with the City of Charles Sturt in lodging a submission to the DPTI Open Space Fund to seek a contribution to the project. Should this application be successful, Council would need to further consider its funding priorities and the merit of contributing towards the project.

Attachments

- 1. Letter from Natural Resources Adelaide and Mount Lofty Ranges - Breakout Creek Stage 3 Redevelopment**



Natural Resources Adelaide and Mt Lofty Ranges

Natural Resources Centre

205 Greenhill Road
Eastwood SA 5063

Tel 08 8273 9100
Fax 08 8271 9585

dewnr.amlr@sa.gov.au
www.naturalresources.sa.gov.au/
adelaidemtloftyranges

Reference: F0000108274

Date: 1st October 2019

Mr Terry Buss
Chief Executive Officer
City of West Torrens
165 Sir Donald Bradman Drive
Hilton SA 5033

Dear Mr Buss

Re: Breakout Creek Stage 3 redevelopment and joint funding arrangements

It is with great pleasure that I provide to you an update of the Breakout Creek Stage 3 redevelopment plan, and look forward to discussions about joint funding arrangements to deliver the final stage of this iconic project.

In 1999 Breakout Creek Stage 1 (a 500 m section of the River Torrens channel upstream of Henley Beach Road) was redeveloped from an artificial channel to a more naturalised channel by the then Torrens Catchment Water Management Board. The success of this section provided motivation for the redevelopment of the artificial channel between Henley Beach and Tapleys Hill Roads, completed in 2010. This redevelopment involved widening and deepening of the channel, weed removal and planting of over 200,000 native species. In doing so, the space was opened up to community use, and importantly has provided access to blue and green spaces with high biodiversity in the urban landscape. This importance is backed by recent research which has highlighted the positive impact high biodiverse areas have on community health and wellbeing, particularly in urban areas. The biodiversity value of this redevelopment has been in the creation of habitat for threatened fish and bird species.

The success of these two stages led to community support for redevelopment of the final area of the artificial channel from Tapleys Hill Road to Seaview Road; a 1.7 km length of linear park space, approximately half of which is within the City of West Torrens (eastern half) and the other half (western half) within the City of Charles Sturt.

A collaborative working group was established in 2014 with the Adelaide and Mount Lofty Ranges Natural Resources Management Board, City of Charles Sturt, City of West Torrens and SA Water to progress the idea. Commencing in 2015 significant community engagement was undertaken,



including the local community and special interest groups such as the Western Adelaide Coastal Residents' Association and the Lockleys Riding Club, to develop design principles for a concept plan. A concept plan was then developed, and was presented to councils in July 2015. A copy of this concept plan has been made available to the public through our website since that time.

Since then, the collaborative working group has together coordinated assessment of the technical feasibility of the concept plan. This has included a detailed engineering survey of the area, hydraulic analysis of the channel, and soil contamination and geotechnical investigations. All of these studies indicate there are no major issues with the feasibility of redeveloping the area. Also since the 2015 concept plan, the City of West Torrens has undertaken significant redevelopment of the Apex park area, which adjoins the linear park on the south, to accommodate stables and an arena for the Lockleys Riding Club. To ensure outcomes from the technical assessments are incorporated, there is better connection with the horse accommodation, and to reduce the number of costly river crossings, the concept plan has been recently updated. This update to the 2015 concept plan is attached to this letter.

Based on the updated concept plan a detailed quantity surveyor's cost estimate for the design and construction of the concept plan is \$10.5 million (excl. GST).

The new pathways (including widening of the current linear park path), benches, shelters, two river crossings, viewing platforms, horse fencing and upgraded lighting for community use within the City of West Torrens area are valued at \$1,200,000 (including contractor on-costs and project contingencies, and excl. GST).

In July 2019 Breakout Creek Stage 3 redevelopment plans were given a significant step forward with the announcement of \$2 million from the Australian Government's Environment Restoration Fund to go towards construction of habitat in this area leading to an improvement in the condition of threatened ecological communities. This has been followed by support from the Adelaide and Mount Lofty Ranges Natural Resources Management Board (the Board) for funding detailed design (budgeted at \$800,000) this financial year. There is also in-principle support from the Board for further funding for construction, noting that the redevelopment area will fall within the footprint of the proposed Green Adelaide Landscape Board, which is part of the South Australian government's reform of natural resources management.

Funding from the Board this financial year allows the detailed design process to proceed while funding arrangements for the construction stage are finalised, with the potential to start construction summer 2020. Initial analysis of funding options with partners has suggested that an option is both councils and the NRM Board each budget for a \$2 million contribution over the life of the project, and that the Department of Planning, Transport and Infrastructure be approached, either directly or through the Open Space Grant Program, for the remaining amount on an equal (or less) cost-sharing



Natural Resources

Adelaide and Mt Lofty Ranges

basis with the councils and Board. Council's budget contribution would be given for the construction phase of the project (notionally in financial years 2020/21 and 2021/22, and to be confirmed during the detailed design phase). Additionally, SA Water has indicated they can provide in-kind support for the project through being the construction authority on the project.

Given this potential joint funding arrangement, I am asking the City of West Torrens to make a commitment of \$2 million towards the project, and a further commitment to participate in negotiations and applications for further funding.

Following successful construction of the project, maintenance responsibilities for the area would reside with the councils within their respective areas. This is also consistent with current arrangements for Breakout Creek Stage 1 and 2.

Over the past year, there has been significant engagement with the Kaurna Nation on the redevelopment plan. Kaurna are keen to see this project proceed, as is highlighted in the attached flyer drawn by the Kaurna Nation. They are keen to be engaged in many different aspects that would see the success of this project, from design, through construction to maintenance.

This project has been a collaborative project from the start, and it is proposed that the collaborative working group continues for the duration of the project.

This is an exciting, iconic development for our region, which will open up 15 hectares of land for community use and benefit, as well as having ecological and environmental benefits. I look forward to your response.

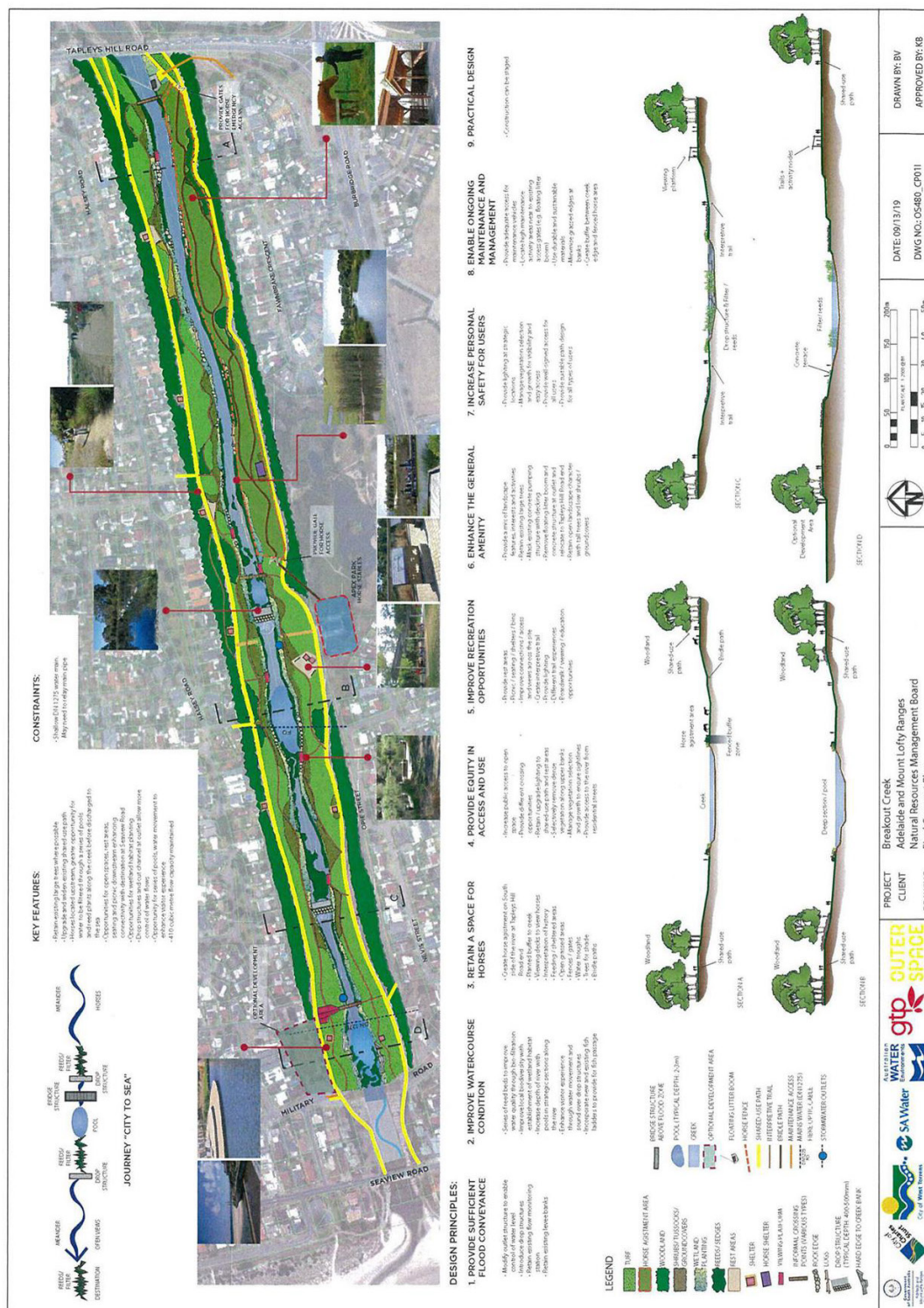
Should you require further information on this matter, please contact Katharine Ward, Manager Land, Water and Biodiversity on 8273 9100 or katharine.ward@sa.gov.au.

Yours sincerely

Kim Krebs
REGIONAL NRM MANAGER

Attachment 1: Updated Concept Plan
Attachment 2: Breakout Creek Stage 3 community flyer
Attachment 3: Kaurna Yertalla of Karrawirra Parri flyer





Breakout Creek Stage 3

Connecting landscapes. Connecting people.

Breakout Creek provides an interactive meeting place between the coastal and river environment for the community.

The project involves the redevelopment of Breakout Creek from a fenced-off channel dug in the 1930s to a **highly biodiverse area, opening up more opportunities for community use.** This project follows the highly successful redevelopments of Stage 1 (1999) and Stage 2 (2010), during which the River Torrens channel was widened and deepened, weeds removed and **200,000 native species planted.** Stage 3 is the longest stretch, and finishes the naturalisation of this artificial channel, **connecting the river and the sea.**

A concept plan for the area has been developed in close consultation with the local community and community groups.

The project will increase the biodiversity of the area

The design principles for the concept plan include:

- improve watercourse condition
- retain a space for horses
- provide equity in access and use
- improve recreation opportunities.

The concept plan provides opportunity for further direction and focus, such as including a **strong aboriginal component** within the detailed design, as well as aboriginal employment during design and construction. This project, initiated by the community, will open up to 15 hectares of public land for community use and benefit. **The biodiversity of the area will be increased, which has been shown to have community health benefits.** The strategic realignment of the channel and aquatic plantings will create habitat for a wide range of native fish and birds that cannot use the current channel, as well as improve the quality of water exiting the river into the sea. This has positive impacts on the growth of seagrass, and on the experience of beach users.



The freshwater catfish is endangered in parts of the River Murray, but has been regularly recorded in Breakout Creek Stage 2



Specially chosen plants will encourage birds that have lost most of their habitat in the Adelaide region – such as the Australian bittern

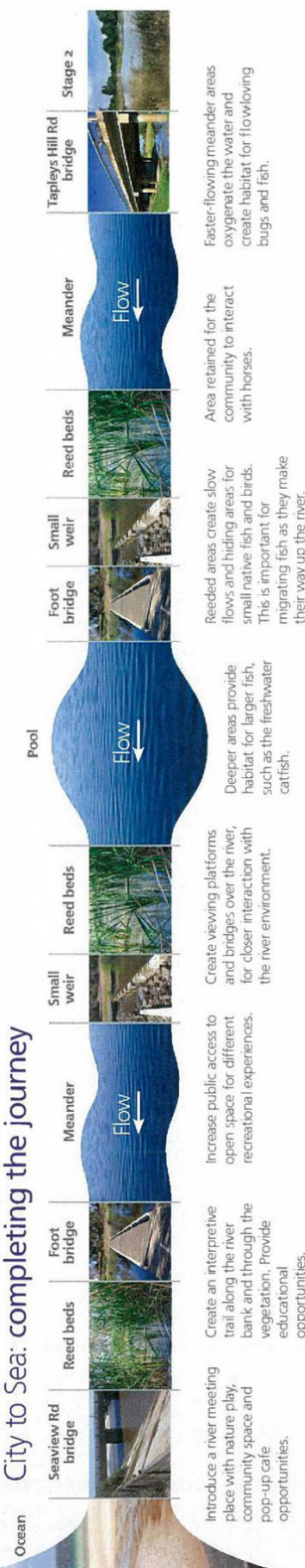
The development of Breakout Creek Stage 2 from 2009 to 2018



What a change!

More information
www.naturalresources.sa.gov.au

City to Sea: completing the journey



Yertalla of the Karrawirra parri | Breakout Creek Stage 3

Connecting landscapes. Connecting people.

Breakout Creek (the Yertalla) of the River Torrens (Karrawirra parri), is a point of shared connection to Kaurna. With your participation and continuous support, we can rejuvenate the creek and build a sense of cultural connection to this landscape for us all to enjoy.

Witongga (the reed beds), James Ashton, c1900

1938 construction

Breakout Creek currently

Our aim is to ensure a quality water supply for native species of plants and animals. The Karrawirra parri river banks and dunes have provided shelter, food and a sense of belonging for many thousands of years for Kaurna. Kaurna shared the river area with many other creatures, including platypus, bilbies, possums, kangaroos, birds, waterfowl and fish. Our ancestors were also laid to rest here – some of whom have recently been removed. We aim to restore their spirit to this land.

The rejuvenation we wish to share with you is one from the past, a vision of natural habitat. The creek never made it to sea, its spirit grew into the surrounding landscape, Yertalla, short of the shore line.

Kaurna aim to ensure the Karrawirra parri spirit is restored – enabling us all to benefit through spiritual wellbeing and cultural connection. We want to bring a sense of nature to our shared living room and back yard, for generations to come.

Flow →

Flow →

Flow →

*For water quality and habitat

17.5 Introduction of Interim Policy: Public Consultation during COVID-19

Brief

This report presents the new *Interim Council Policy: Public Consultation during COVID-19* for consideration and approval by Council.

RECOMMENDATION(S)

It is recommended to Council that:

1. The *Interim Council Policy: Public Consultation during COVID-19* be approved.
2. The *Council Policy: Public Consultation* be suspended until the cessation of the *Public Access and Public Consultation Notice (No 2) 2020*.
3. The Chief Executive Officer be authorised to make changes of a minor and/or technical nature.

Introduction

The State Government introduced the *Public Access and Public Consultation Notice (No 2) 2020* (Notice 2) under section 302B of the *Local Government Act 1999* (Act). Notice 2 amends Council's public consultation requirements for the period that the notice is in force. This report presents the *Interim Council Policy: Public Consultation during COVID-19* that reflects those amendments (**Attachment 1**).

Discussion

Summary of Notice 2

Notice 2 amended a number of sections of the Act. These can be summarised as follows:

Section 45 - Principal office

The amendments to this section are large, and the most significant changes are as follows:

- Removes the requirement that a Council's principal office must be open to the public for the transaction of business;
- Removes the requirement to consult with the public should the office location/opening hours etc. change;
- Allows Council to either close the principal office, or vary the hours of operation at the principal office should the council believe it is reasonably necessary as the result of a public health emergency;
- If Council closes the principal office, they must take reasonable steps to make alternative arrangements so the community can continue to access services, and must inform the community of those alternative arrangements;
- Any obligation to make a document available for inspection can now be satisfied in a number of ways:
 - Available on a website;
 - Made available for inspection at an alternative place or by alternative means;
 - A hard copy or electronic copy is made available on request (without a charge or payment of a fee);
- If the Chief Executive Officer makes a document available via alternative means, they must notify the community of these changes;
- If the Chief Executive Officer determines to make registers of interests available through alternative arrangements, the residential addresses must be suppressed;

Section 50 - Public consultation policies

The amendment to this section allows Council to amend the current public consultation policy or substitute a new policy without undergoing public consultation.

Section 72 - Application of Division to members of committees and subsidiaries

This amendment allows a regional subsidiary to make the Register of Interests available to the public on request (provided they do so without charge).

Section 88 - Public notice of committee meetings

This amendment suspends the requirement for notices and agendas to be on display in each office of the Council, meaning it must only be displayed on the website.

Section 123 - Annual Business Plans and budgets

The amendment to this section suspends the requirement that interested persons must be invited by way of a notice circulating in the Council area to attend a meeting of Council to ask questions on the draft Annual Business Plan and Budget, instead only allowing for written submissions.

It also references the amendments to section 45, which allow the Annual Business Plan to be displayed "online" rather than in the offices of Council.

Section 151 - Basis of rating

The amendment to this section removes the right of the public to attend a meeting discussing the basis of rating, simply leaving them with the right to make a written submission. Again this amendment references section 45, and the ability to publish online rather than place in the office of the Council.

Section 156 - Basis of differential rates

The amendments to this section mirror those changes to section 151.

Section 174 - Inspection of Assessment record

This amendment suspends the right of an individual to inspect the assessment record at the principal office of the Council. Members of the public are still entitled to receive a copy on payment of a fee.

Schedule 2 - Clause 10 - Subsidiary subject to direction by Council

This amendment allows for any direction made under that clause 10 to be made available by sending a copy (without charge) on request.

Interim Council Policy Considerations

Many of the changes under this notice do not require a reflection in relevant policies, however the removal of the requirement for public meetings and face-to-face consultation on the Annual Business Plans and budgets, as well as the basis of rating requires an amendment to the Council's public consultation policy.

These sections of the legislation are enforced by way of each Council's public consultation policy. For ease of reference an interim policy has been developed as an alternative to amending the existing policy. The nature of the recommendation will ensure that the policy reverts back to the original policy at the cessation of the Notice period.

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

There is no direct climate impact consideration in relation to this report.

Conclusion

This report presents an *Interim Council Policy: Public Consultation during COVID-19*.

Attachments**1. Interim Council Policy: Public Consultation during COVID-19**

Interim Council Policy: Public Consultation During Covid-19

Classification:	Council Policy		
First Issued:	2020		
Dates of Review:			
Version Number:	1		
Objective ID:	A***		
Next Review Due:	2025		
Applicable Legislation:	<i>Local Government Act 1999</i> <i>Public Access and Public Consultation Notice (No 2) 2020</i> Other legislation as appropriate to the matter		
Related Policies or Corporate Documents:	Public Consultation Responsible Officer Policy		
Associated Forms:			
Note:	Policy active for the period of the Public Health Emergency as declared on 15 March 2020 pursuant to section 87 of the <i>South Australian Public Health Act 2011</i>		
Responsible Manager:	Manager Strategy and Business		
Confirmed by General Manager:	General Manager Business and Community Services	Date	24 April 2020
Approved by Chief Executive Officer		Date	28 April 2020
Endorsed by Council		Date	

City of West Torrens Policy - Interim Public Consultation

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City of West Torrens Policy - Interim Public Consultation

COUNCIL POLICY - Interim Public Consultation During COVID-19

1. Preamble

- 1.1 The *Local Government Act 1999* (Act) requires that Councils undertake public consultation in certain circumstances.
- 1.2 Council aims to be open, accountable and responsive to the community that it serves, and consultation assists in the achievement of these objectives.
- 1.3 Council acknowledges that community knowledge and expertise can assist it to make decisions that are more informed, credible and acceptable to ratepayers and other stakeholders.

2. Purpose

- 2.1 This policy relates to the formal public consultation requirements of the *Local Government Act 1999* (Act) and any other legislation under which formal public consultation is required during the Covid-19 Major Public Health Emergency.

3. Scope

- 3.1 This policy is only valid while *Public Access and Public Consultation Notice (No 2) 2020* (Notice No 2) issued under section 302B of the Act is in force.
- 3.2 This policy does not apply to any consultation requirements under the *Development Act 1993* or the *Planning Development and Infrastructure Act 2016*.
- 3.3 This policy may be used in circumstances not prescribed by legislation, when Council and/or the CEO believes that formal public consultation is appropriate to the decision-making process.
- 3.4 The policy applies to Elected Members, staff, contractors, agents and consultants acting on behalf of the City of West Torrens.

4. Definitions

- 4.1 **City of West Torrens** (CWT) means the legal entity of the City of West Torrens.
- 4.2 **Council** means the Elected Body of the City of West Torrens
- 4.3 **Feedback** means the process of seeking the opinion of the community where a public consultation process is not legislatively required or deemed necessary by management, but the opinion of stakeholders is still valuable to the decision making process.
- 4.4 **Notice** means a notice made pursuant to section 302B of the *Local Government Act 1999*.
- 4.5 **Public Consultation** means a planned process of formally seeking comment from the community to enable Council to make an informed decision on matters under consideration, but does not include instances where the Responsible Officer seeks feedback from the community.

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City of West Torrens Policy - Interim Public Consultation

- 4.6 **Responsible Officer** means the project officer or leader of the project requiring consultation.
- 4.7 **State Emergency** means a major emergency declaration, identified major incident declaration, disaster declaration, public health emergency or any other emergency as so declared under the relevant Act.

5. Policy Statement

- 5.1 Public consultation For the period of the Covid-19 major public health emergency declaration the following provisions with regard to public consultation will operate:
- 5.1.1 The policy does not replace or overrule the specific public consultation processes that are required and documented in legislation, except where legislation provides for a public meeting to be held, displays to be created, or inspection of documents at Council offices.
- 5.2 The persons, groups and/or organisations to be consulted will be those who are identified as stakeholders according to the nature of the topic or proposal under consideration.
- 5.3 If the matter(s) for which consultation is to be undertaken is considered to be;
- 5.3.1 significant (e.g. financial, reputational, city wide consequences, etc.); or
- 5.3.2 is in relation to the development or review of a strategic/corporate plan or
- 5.3.3 when required by legislation as per **Appendix A**;
- the proposed document or matter will be presented to Council for approval and progression to public consultation.
- 5.4 The final decision on all matters subjected to public consultation will be made by the Council. The outcomes of consultation will then be communicated to the stakeholders.

6. Process outline

- 6.1 The consultation process will be appropriate to the nature of the topic and to the stakeholders involved.
- 6.2 Submissions and feedback will be sought by using various methods as appropriate or as required by legislation, will only include:
- 6.2.1 press advertisements if newspapers continue to be published;
- 6.2.2 published notices;
- 6.2.3 surveys (either on-line, telephone);
- 6.2.4 the CWT website;
- 6.2.5 social media; or

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City of West Torrens Policy - Interim Public Consultation

6.2.6 other electronic mediums as may be approved by Council and/or a member of Executive.

- 6.3 To the extent that any provision of this policy, or further legislative requirements could be read as requiring the Council to undertake public consultation with a person face-to-face or in person and/or via a public meeting, the provision is suspended during the period of the Covid-19 major public health emergency declaration.
- 6.4 Council will publish a notice in a newspaper circulating in the area of the Council inviting interested persons to make written submissions within the period stated in the notice (which will not be less than 21 days after the publication of the notice) in relation any matter within the scope of sections 123, 151 or 156 of the Act for which public consultation is required under the Act. The Council will consider the submissions at a meeting of the Council.

7. Presentation of consultation material:

- 7.1 Consultation materials will comply with the CWT corporate style. The use of jargon will be avoided and technical terminology kept to a minimum.
- 7.2 Contact name/s and details will be included in all consultation materials.
- 7.3 To cater for diverse cultural backgrounds and differing needs in the community, it may be necessary to provide material in languages other than English, or make provision for interpretation, translation or other assistant services either in person or via the use of internet services.

8. Accountability and transparency

- 8.1 Accountability and transparency of process are essential. Submissions will be acknowledged appropriately and all material received will be presented to the decision-making body i.e. Council.
- 8.2 Details will be provided to the Council via a report at the conclusion of the consultation period.
- 8.3 Confidentiality of those who have provided feedback cannot be guaranteed as Council carries legislative obligations to disclose information, including personal details.
- 8.4 Members of the public will be able to attend a Council meeting remotely at which the outcomes of the consultation are presented to Council.
- 8.5 The outcome of the process will be conveyed to the stakeholders and/or to the community generally, as appropriate.

9. Consultation period:

- 9.1 Council will comply with legislative requirements when determining the length of a consultation period.
- 9.2 If a matter has no relevant legislative public consultation period requirements, a minimum of 21 days will be allowed from the day the document or information is gazetted or released to a member of the public in another manner.

10. Roles and responsibilities

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10.1 The relevant General Manager and/or the Responsible Officer is responsible for:

- 10.1.1 Implementing the communication and public consultation initiatives.
- 10.1.2 Ensuring the public consultation initiatives are planned with sufficient time to analyse submissions received.
- 10.1.3 Reporting to Council on the outcomes of these initiatives.
- 10.1.4 Determining instances when consultation should be undertaken, over and above the minimum requirements as outlined in clause 6.
- 10.1.5 Persons representing community groups are required to establish their bona fides prior to having input into the process.

11. Procedure

11.1 The Responsible Officer is required to:

- 11.1.1 Prepare a document that outlines the proposed public consultation approach in relation to the matter having regard to the requirements of the Act and this policy.
- 11.1.2 Obtain approval of the proposed public consultation approach from the relevant General Manager who will determine whether to present a report on the matter to be subjected to public consultation and seek approval for the document to progress to public consultation.

11.2 Conduct (plan, deliver and manage) consultation activities in accordance with the approved public consultation approach. As a minimum, the following steps must be followed in order to comply with this policy:

- 11.2.1 Implementation of the public consultation requirements (if any) prescribed in the relevant parts of the Act and other relevant legislation with the exception of those provisions require a public meeting or other forms of face-to-face consultation.
- 11.2.2 Provide public notice of the matter for consideration on the CWT website (and other sites as may be determined such as social media platforms), via the Creative Services Unit, describing the matter under consideration and inviting interested persons to make submissions within a period stated (which must be at least 21 calendar days) via email, in writing or survey .
- 11.2.3 Ensure that documents being consulted on are available for inspection on the CWT website and that hard copies are available for purchase and mail out for a fixed fee.
- 11.2.4 Provide a minimum of 21 days from the start of the consultation period, being the day after the documents are made available on Council's website, for people to make submissions to Council (unless stated otherwise).

11.3 At the conclusion of the public consultation activities, the Responsible Officer will collate and analyse community contributions and responses to the extent necessary in the circumstances and prepare a report for Council which:

- 11.3.1 will summarise the public consultation process and outcomes;

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City of West Torrens Policy - Interim Public Consultation

- 11.3.2 present the information in the broader context of the matter under consideration; and
 - 11.3.3 make recommendations for Council to consider when deciding on the matter.
- 11.4 The Responsible Officer must inform the public of the outcome of the public consultation, at a minimum, communicate Council's decision on the consultation subject matter on the CWT website.

DRAFT

City of West Torrens Policy - Interim Public Consultation

APPENDIX A - Schedule of the public consultation requirements in the Local Government Act 1999

Individual Acts should be read in their entirety so that the consultation requirements are fully understood. Legislation can be found on the State Parliament of South Australia website -

<https://www.legislation.sa.gov.au/LZ/C/A/LOCAL%20GOVERNMENT%20ACT%201999.aspx>

Section 12 - Powers of councils and representation reviews - composition and wards
Section 13 - Status of a council or change of various names
Section 45 - Principal office – opening hours
Section 48 - Prudential requirements for certain activities
Section 50 - Public consultation policies
Section 92 - Access to meetings and documents - code of practice
Section 122 - Strategic management plans
Section 123 - Annual business plans and budget
Section 151 - Basis of rating of land
Section 156 - Basis of differential rates
Section 193 - Community land - classification
Section 194 - Revocation of classification of land as community land
Section 197 - Public consultation on proposed management plan
Section 198 - Amendment or revocation of management plans
Section 202 - Alienation of community land by lease or licence
Section 223 - Public consultation - permits
Section 232 - Trees
Section 249 - Passing by-laws
Section 259 - Councils to develop policies

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17.6 Covid-19 Rates Financial Hardship Policy

Brief

The purpose of this report is to formalise, by way of policy, the first round of relief measures Council has introduced to support those in the community adversely impacted by the COVID-19 pandemic.

RECOMMENDATION

It is recommended to Council that the *Covid-19 Rates Financial Hardship Policy* be adopted.

Introduction

At a Special Meeting of Council held 31 March 2020, a number of relief measures were approved by Council in respect of the impacts the Covid-19 pandemic is having on the West Torrens' community. A raft of measures were adopted by the Council which sought to provide relief to community organisations, businesses, residents and ratepayers.

The Council also resolved that the Administration review the *Rates Rebates, Remission and Postponement Policy*, especially provisions involving hardship, in order to ensure a robust, efficient and effective process is in place to manage ratepayer application for Council support.

Discussion

The Administration has prepared for the Councils consideration a separate *Covid-19 Rates Financial Hardship Policy* (the Policy) (**Refer Attachment 1**) which will standalone from the *Rates Rebates Remissions and Postponement Policy* for the duration of the COVID -19 pandemic or as otherwise determined by Council.

This Policy provides temporary financial relief options for those currently experiencing financial hardship due to the declared pandemic, without clouding the scope and intention of the existing *Rates Rebates, Remissions and Postponement Policy*.

The purpose of this Policy is to provide Council with a framework to provide financial relief to residents and businesses who may need assistance from the impacts of the COVID-19 pandemic. The Policy aims to provide ratepayers with a clear and transparent understanding of options and assistance available to them if they are currently experiencing financial hardship, providing temporary relief to those under financial stress as a result of the pandemic through the adoption of a stand-alone Policy.

This Policy applies to any ratepayer of the City and/or tenants of Council owned premises who are responsible for the payment of rates and charges and are experiencing genuine financial hardship due to the pandemic.

In applying this Policy, Council will be guided by a number of principles such as ensuring equity, transparency, capacity and flexibility to individuals and businesses.

The Policy encompasses the measures Council previously adopted at its Special Meeting held 31 March 2020 however, Council has the capacity to extend further support to its community by way of a 'round 2' of support measures if needed. Unless otherwise determined, Council's existing Rates Rebates, Remissions and Postponement policy will take effect if any rates debt is still outstanding on 1 October 2020.

The Council Administration will encourage ratepayers to set up a payment plan with Council tailored specifically to their needs if they continue to experience genuine financial hardship however, if the ratepayer is unable to enter into a payment plan, Council will defer the debt accumulated during the COVID-19 pandemic in accordance with this policy.

While evidence of hardship may be required Council recognises that not all circumstances are alike and accordingly, Council will take a flexible approach to individual circumstances.

The Administration has received approximately 30 inquiries from ratepayers seeking relief assistance to date, and the community's reception of the measures currently offered by Council have been well received and appreciated. It is expected that there may be a reasonable uptake of ratepayers seeking relief assistance once the fourth quarter rates notices are received by early May 2020.

As Members would be aware, Council rates are a secure and reliable source of revenue that Council uses to deliver essential services to our community. Council depends on income from rates to fund services for the community and with our current (2019/20) operating revenue of \$65.84 million, \$59.95 million (or 91%) is rate related. If Council's rate revenue is severely impacted so is Council's ability to provide the services and programs the community expects of us.

The Administration will be reporting on the 2019/20 March budget review to Council at its 19 May meeting. Identified savings as part of the 2019/20 March budget review total \$1.1 million (subject to Council endorsement). The Administration has also recast the proposed 2020/21 annual budget which proposes a \$750,000 (approximately) cash surplus but once again, subject to the final form of the budget as adopted by Council. Together, this will provide Council with a \$1.85 million 'relief fund' to provide a second round of relief or stimulus to the local economy to help our community navigate its way through and out of the impacts of the COVID-19 pandemic. The combined savings made over these two budget cycles will provide the necessary cash reserves to empower Council to determine how it will best assist the Community. Council will therefore have the financial capacity to provide further rates relief or to bring forward some projects to stimulate the local economy or a combination of both while still maintaining its ongoing financial sustainability for future generations.

At this stage it is recommended that the initial relief measures adopted by Council, and as reflected in this proposed policy, effectively become Council's Round 1 of relief measures, and following the distribution of the 2019/20 fourth quarter rates notices, Council consider what type of further relief measures may be appropriate to implement via a Round 2 of relief measures. This measured approach is likely to be part of a series of support programs considered and delivered by Council over the next 12 or so months.

In considering the types of relief measures and support packages Council is offering, it also needs to remain conscious of the support programs offered by the State and Federal Governments and avoid crossing over with its own support initiatives. Accordingly, there have been two recent Commonwealth and State initiatives addressing the challenges both for landlords and tenants as a result of the COVID-19 pandemic. These initiatives being;

- The National Cabinet Mandatory Code of Conduct (for small to medium enterprise commercial leasing) (**Commonwealth Code**); and
- The passing of the *COVID-19 Emergency Response Act 2020 (SA)* (**COVID Response Act**) (9 April 2020) and associated *COVID-19 Emergency Response (Commercial Leases) Regulations 2020 (SA)* (16 April 2020) (**COVID Response Regulations**).

These Commonwealth and State initiatives have not been included, for obvious reasons, into Council's proposed COVID-19 Rates Financial Hardship policy as they are mandatory provisions that sit above the initiatives in our own policy. The Local Government Association of SA has released Practice Guidance Notes on these Commonwealth and State initiatives for commercial and community leases and licences due to COVID-19 (**Refer Attachment 2**).

Needless to say, Council also has landlord/tenant arrangements with a number of businesses throughout the City and will have a requirement to comply with recently released Commonwealth and State initiatives. Council's property team is reviewing these requirements and will ensure that Council's obligations as a landlord are met.

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

The COVID -19 pandemic has seen the community adapt and respond to changing circumstances, resulting in new perspectives and different approaches to how we operate and do business. People are becoming more efficient and flexible and this is likely to have an overall positive impact on the environment.

Conclusion

This COVID-19 Financial Hardship Policy provides Council with a policy and framework to provide financial relief to residents and businesses who may need assistance from the impacts of the Coronavirus Pandemic. The policy aims to provide ratepayers with a clear and transparent understanding of options and assistance available to them if they are currently experiencing financial hardship due to the pandemic.

While there are many decisions that are able to be made by Council in isolation, the Administration recommends that Council considers a more holistic approach to the forms of financial relief it can offer its community resulting from the COVID-19 pandemic. The support measures previously approved by Council and reflected in this policy should be considered as Round 1 of a range of support measures considered and delivered by Council over the coming 12 or so months.

Attachments

1. **COVID19 Rates Hardship Policy**
2. **LGA Covid-19 Commercial and Community Leases and Licences Practice Guidance Notes**

**Council Policy:
COVID-19 Rates Financial Hardship Policy**

Classification:	Council Policy
First Issued:	2020
Dates of Review:	
Version Number:	1
Next Review Due:	2025
Objective ID:	A***
Applicable Legislation:	<ul style="list-style-type: none"> • <u>Local Government Act 1999</u> • <u>Local Government (Financial Management) Regulations 2011</u> • <u>Health Care Act 2008</u> • <u>Education Act 1972 .</u> • <u>Aged Care Act 1997 (SA)</u> • <u>Community Titles Act 1996</u> • <u>South Australian Public Health Act 2011</u>
Related Policies or Corporate Documents:	<ul style="list-style-type: none"> • <u>Rate Rebate, Remission & Postponement Application Forms</u> • <u>Public Consultation Policy</u> • <u>Public Consultation Administration Policy</u>
Associated Forms:	<i>Rate Rebate Application Forms</i> <i>COVID 19 Rate Remission or Postponement Application Form</i>
Note:	
Responsible Manager:	Manager Financial Services
Confirmed by General Manager:	General Manager Corporate Date and Regulatory
Approved by Executive:	Date
Endorsed by Council:	Date

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City of West Torrens Council Policy – Rate Rebates, Remissions and Postponement

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COUNCIL POLICY - COVID-19 Rates Financial Hardship Policy

1. Preamble

- 1.1 COVID-19 was declared a global pandemic on 30 January 2020 and South Australia declared a Public Health Emergency pursuant to the *Emergency Management Act 2004* on 22 March 2020.
- 1.2 The pandemic is having far reaching economic implications for businesses and individuals across West Torrens and Australia more generally. Council has an opportunity to provide temporary relief to those under financial stress as a result of the pandemic through the adoption of a COVID-19 Financial Hardship Policy.
- 1.3 Rates received from residents and businesses are a secure and reliable source of revenue that Council uses to deliver essential services to our community. In times of crises it is important to remember that Council still requires cash-flow to deliver essential and critical services to our community however, it is also recognised that the COVID-19 pandemic may cause significant financial hardship for some members of our community and Council can, in certain circumstances, provide assistance.
- 1.4 Chapter 10 of the *Local Government Act 1999* (Act) provides Council with authority to grant:
 - 1.4.1 Mandatory and discretionary rebates of rates to a person or body (Division 5, sections 159 to 166 of the Act); and
 - 1.4.2 Rate postponement and remissions (Division 9, sections 182 and 182A of the Act).
- 1.5 This policy clarifies Council's requirements in the administration of these provisions of the Act during the COVID-19 public health emergency.

2. Purpose

- 2.1 The purpose of this COVID-19 Financial Hardship Policy is to provide Council with a policy and framework to provide financial relief to residents and businesses who may need assistance from the impacts of the Coronavirus Pandemic.
- 2.2 The policy aims to provide ratepayers with a clear and transparent understanding of options and assistance available to them if they are currently experiencing financial hardship due to the pandemic.

3. Scope

- 3.1 This policy applies to any ratepayer of the City of West Torrens (as defined) who is/are responsible for the payment of rates and charges and are experiencing genuine financial hardship due to the pandemic. This policy also extends to tenants of Council owned premises who are experiencing genuine financial hardship due to the pandemic.
- 3.2 In applying this policy, Council will be guided by the following principles:
 - 3.2.1 Capacity to pay – the policy will provide temporary rates relief to individuals and businesses who are not able to meet reasonable and immediate expenses;
 - 3.2.2 Equity – all individuals and businesses will have the same level of access to the provisions of this policy and will be treated consistently and in a fair manner;
 - 3.2.3 Transparency – the policy, and how it can be accessed, will be clearly communicated;
 - 3.2.4 Flexibility – the policy will provide payment options and processes that meet local needs and the special circumstances of those facing hardship.
- 3.3 This policy is only in force for the period of the COVID-19 public health emergency, or as otherwise determined by Council.

4. Definitions

City of West Torrens Council Policy – COVID-19 Rates Financial Hardship Policy

- 4.1 **Genuine financial hardship:** occurs when a principal ratepayer or tenant is genuinely unable to pay the rates and charges owed to Council. Genuine financial hardship does not arise because it is inconvenient to pay the amount of rates and charges owed or it is subject to the timing of income. Genuine financial hardship can be either ongoing or temporary however, this policy addresses temporary financial hardship due to the impacts of the COVID-19 pandemic. If any ratepayer is experiencing ongoing genuine financial hardship, they are encouraged to seek assistance from Council in accordance with Council's Rates Rebates, Remissions and Postponement policy and effectively set up a payment plan with Council tailored specifically to their needs.
- 4.2 **Ratepayer:** a person who is liable to pay rates on a property in West Torrens. This may be the owner of the property or could also be the person renting the property if the rental agreement requires that person to pay rates.
- 4.3 **Relevant period** means the period of time where a public health emergency related to COVID-19 has been declared under the *South Australian Public Health Act 2011*, as it affects each rateable quarter.
- 4.4 **Remission** means a reduction of the rates amount to be paid or the return of part or all of an amount of rates paid pursuant to section 182 of the [Act](#).
5. **Policy Statement**
- 5.1 Fees, charges and outgoings associated with the leasing of Council buildings by sporting, arts and community organisations will be waived for a six (6) month period commencing 1 March 2020 and concluding 31 August 2020 or as otherwise varied by resolution of the Council.
- 5.2 Quarterly fines and monthly interest penalties on overdue rates for any rateable land will not be imposed for a six (6) month period commencing 1 April 2020 and concluding 30 September 2020 or as otherwise varied by resolution of the Council.
- 5.3 Debt recovery action on unpaid rates for any rateable land will be suspended for a six (6) month period commencing 1 April 2020 and concluding 30 September 2020 or as otherwise varied by resolution of the Council.
- 5.4 Final notices for outstanding rates will be modified to be in the form of a reminder notice only, with reference to legal action removed.
- 5.5 No action will be taken to sell any properties in the Council area for the non-payment of rates under Section 184 of the Act.
- 5.6 Inspection fees and charges associated with food businesses be suspended for a six (6) month period commencing 1 April 2020 and concluding 30 September 2020 or as otherwise varied by resolution of the Council.
- 5.7 Parking permit fees for residents and businesses of the Council area be suspended for a six (6) month period commencing 1 April 2020 and concluding 30 September 2020 or as otherwise varied by resolution of the Council.
- 5.8 If any rates debt is still outstanding on 1 October 2020, Council's existing Rates Rebates, Remissions and Postponement policy will apply.
- 5.9 Council will make all reasonable attempts to contact a resident or business about their overdue rates should they fall into arrears. This may include a reminder notice and/or final rates notice.
- 5.10 Council encourages ratepayers to set up a payment plan with Council tailored specifically to their needs if they are experiencing genuine financial hardship however, if the ratepayer is unable to enter into a payment plan, Council will defer the debt accumulated during the COVID-19 pandemic in accordance with this policy. For clarity, any ratepayer

City of West Torrens Council Policy – COVID-19 Rates Financial Hardship Policy

experiencing genuine financial hardship is able to defer the payment of their rate debt accumulated between 1 April 2020 and 30 September 2020.

- 5.11 While evidence of hardship may be required, Council recognises that not all circumstances are alike. Council will take a flexible approach to individual circumstances including, but not limited to, the following situations:

- 5.11.1 Recent unemployment or under-employment;
- 5.11.2 Sickness or recovery from sickness;
- 5.11.3 Low income or loss of income;
- 5.11.4 Unanticipated circumstances such as caring for and supporting extended family.

6. Notification

- 6.1 Council will notify an applicant in writing of its determination of a rebate or remission application within twenty (20) business days of receiving the application or of receiving all information requested by Council. The advice will state:

- 6.1.1 if the application has been granted, the amount of the rebate or remission; or
- 6.1.2 if the application has not been granted, the reasons why.

7. Delegation

- 7.1 Council has delegated authority to the CEO to make decisions in respect of matters covered by this policy unless referral to Council is otherwise required.
- 7.2 The CEO is authorised to further delegate the authority to staff to make decisions in respect of the matters covered in this policy.
- 7.3 All delegated officers are required to ensure that when using their delegated authority they comply with the provisions of this policy.

8. Review

- 8.1 A person or body aggrieved by a determination of Council in respect of an application for a rebate or remission may seek a review of that decision in accordance with Council's [Internal Review of Council Decisions](#) policy within fourteen (14) days of being notified of Council's decision.

COVID19 – Commercial and Community Leases and Licences Practice Guidance Notes

*Current as at 21 April 2020
(Updates previous version of 16 April 2020)*

Commercial and Community Leases and Licences and COVID-19

The COVID-19 pandemic has obviously created a number of challenges both for landlords and tenants. In response to that there have been two (2) recent Government (Commonwealth and State) initiatives being:

- the National Cabinet Mandatory Code of Conduct (for small to medium enterprise commercial leasing)(**Commonwealth Code**); and
- the passing of the *COVID-19 Emergency Response Act 2020 (SA)* (**COVID Response Act**) (9 April 2020) and associated *COVID-19 Emergency Response (Commercial Leases) Regulations 2020 (SA)* (16 April 2020) (**COVID Response Regulations**).

This Guidance Paper discusses each of these initiatives and provides practical guidance on their application as well as a discussion on matters that have not been settled by these initiatives.

National Cabinet Mandatory Code of Conduct

The Commonwealth Code is intended to impose a set of good faith leasing principles for application to commercial tenancies where the tenant is an eligible business for the purpose of the Commonwealth Government's JobKeeper Program. The Commonwealth Code is intended to be given effect through relevant State and Territory legislation (or regulation) as appropriate.

Some of the key principles outlined in the Commonwealth Code include:

- that landlords and tenants should work together to ensure business continuity that will allow the resumption of normal trading activities after the pandemic restrictions are lifted;
- that negotiations between landlords and tenants should be held in good faith;
- recognition that all leases and their commercial arrangements and circumstances are different and should be considered on a case by case basis;
- leases should not be terminated for non-payment of rent during the COVID-19 pandemic and a reasonable recovery period from it;
- landlords should offer tenants proportionate reductions in rent in the form of waivers and deferrals based on a tenant's reduction in trade, with waivers to make up at least 50% of the reduction;
- rent amounts that are deferred should not have interest applied and repayment should be amortised over the greater of the balance of the lease term and 24 months;
- landlord should pass on any reductions they receive in statutory charges;
- landlords should waive expenses and outgoings during periods that tenants are not trading;

COVID19 – Commercial and Community Leases and Licences Practice Guidance Notes

- landlords should not draw on a tenant's security to cover rent and other contractual payments;
- there should be a freeze on rent increases;
- tenants should be provided with opportunities to extend their leases to allow for a reasonable period to re-pay deferred amounts; and
- non trading or reduced trading by tenants because of the COVID-19 pandemic should not be penalised.

Legally the Commonwealth Code is currently not binding on South Australian landlords and tenants unless and until it is given force by or under legislation (or regulation) in South Australia. This is made clear in the Commonwealth Code itself which identifies that, “[t]he Commonwealth Code will be given effect through relevant state and territory legislation or regulations as appropriate. The Commonwealth Code is not intended to supersede such legislation, but aims to complement it during the COVID-19 crisis period”.

As is further discussed below, there is no express provision in the COVID Response Act or the COVID Response Regulations adopting all of the detail in the Commonwealth Code. It remains to be seen the extent to which many of the principles detailed in the Commonwealth Code will be applied by further regulations which may yet be made under the COVID Response Act or any other Act.

COVID-19 Emergency Response Act 2020 (SA) and COVID -19 Emergency Response (Commercial Leases) Regulations 2020 (SA)

The COVID Response Act was passed and assented to by the South Australian Parliament on 9 April 2020. The main provisions of this Act that impact local government leases are to be found in sections 7 – 9. Section 7 deals with commercial leases, section 8 deals with residential leases and section 9 deals with residential parks agreements. The operative date of those provisions has been backdated to 30 March 2020 to ensure the protection of leasing arrangements following the Federal Government's announcement that a moratorium would apply to tenancy evictions. The COVID Response Regulations were Gazetted and apply from 16 April 2020. A summary of the leasing components of the Act and Regulations relating to commercial leases is set out below.

What commercial leasing arrangements does the COVID Response Act apply to?

The COVID Response Act is expressed to apply to all “commercial leases” in South Australia except leases under the *Pastoral Land Management Conservation Act 1989(SA)* and the *Crown Land Management Act 2009(SA)*. The definition of “commercial lease” is broad and will cover many of the leasing and licensing arrangements to which councils are parties (usually as landlords but also where a council is a tenant), irrespective of whether the *Retail and Commercial Leases Act 1995(SA)* does or does not apply and also to other leases and licences for value (even if nominal) for any kind of business operations (both for profit and not-for profit).

What actions is a landlord prohibited from taking under the COVID Response Act?

If a tenant is suffering “financial hardship as a result of the COVID-19 pandemic” a landlord cannot:

- take action to take back the premises (including termination, eviction, re-entry and recovery of possession);

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- distrain goods, or take action for forfeiture or damages;
- require payment of interest on unpaid rent or outgoings; or
- seek to recover all or part of a security bond or seek to enforce a guarantee;

relating to a failure of the tenant to pay rent or outgoings, or the tenant not operating as required by the lease or licence.

It is important to note that a tenant will only get the benefit of these provisions where:

- they are suffering “financial hardship” (which is not currently expressly defined by the COVID Response Act but which is given some parameters by the COVID Response Regulations);
- the financial hardship “is the result of the COVID-19 pandemic” (not some other cause); and
- the tenant’s breach of its obligations under the lease or licence agreement is related to a failure to pay rent or outgoings or to trade (the tenant’s other obligations under the lease or licence still need to be met).

The COVID Response Act provides in section 19 that Regulations may be made including in relation to:

- the circumstances in which a person will be taken to be suffering financial hardship (section 19(2)(a)); and
- matters to which the Commissioner must have regard in the making of any determination under section 7 of the COVID Response Act.

The current COVID Response Regulations now provide:

- a tenant will be taken to be suffering financial hardship (as a result of the COVID pandemic) if the tenant is eligible for, or receiving, the Commonwealth JobKeeper payment in respect of their business (either as an employer or on their own behalf) (Regulation 4(1)); and
- the Commissioner must, in making any determinations regarding whether or not a tenant is suffering financial hardship, have regard to:
 - whether the tenant is receiving the Commonwealth JobKeeper payment (Regulation 4(2)(a)); and
 - any reduction in turnover of the business of a tenant (as verified by financial records or statements) (Regulation 4(2)(b)).

The Regulations provide some guidance on how “financial hardship” is to be assessed. Thus, if a tenant is eligible for, or receiving, the JobKeeper payment then the protections included within the COVID-Response Act should be immediately available to them.

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What other tenant protections does the COVID Response Act provide?

The COVID Response Act also provides:

- any act or omission of a tenant required by a law that has been enacted in response to the COVID-19 pandemic is deemed not to constitute a breach of the lease or licence nor provides grounds for termination of the lease or licence by the landlord. It should be noted that this protection is only given for acts or omissions *required by law* – thus decisions made by tenants that exceed or are in addition to legal requirements are not necessarily protected; and
- where a tenant is suffering “*financial hardship as a result of the COVID-19 pandemic*” a landlord cannot increase the tenant’s rent or require the tenant to pay or reimburse land tax (although this is not generally payable by local government landlords in any event).

How long will these protections remain in place?

The operation of section 7 of the COVID Response Act has been backdated to 30 March 2020 and the Act indicates that it will remain in operation for up to 6 months (the exact end date will be fixed by the Minister and published in the Gazette at a later date).

Dispute resolution mechanisms

Parties to a lease or licence have been given rights to apply to the Small Business Commissioner (**Commissioner**) to mediate disputes or issues relating to section 7 or the COVID-19 pandemic and also to determine whether a tenant is suffering “*financial hardship as a result of COVID-19 pandemic*”. In this regard, again by the COVID Response Regulations, a tenant’s eligibility for the JobKeeper payment and any reduction in the turnover of the tenant’s business (during comparable periods to be determined by the Commissioner) should be given regard in the Commissioner’s assessment of whether a tenant is suffering “*financial hardship as a result of COVID-19 pandemic*”. There is a right of appeal to the Magistrates Court against a determination of the Commissioner as to whether someone is suffering “financial hardship” and should therefore have the benefit of these provisions. The powers that the Commissioner has under Part 7 of the *Fair Trading Act 1987*(SA) relating to industry codes have also been extended to apply to matters arising under section 7.

Confidentiality

It is foreseeable (and in the case of an application to the Commissioner, required) that tenants will need to provide some details of their financial situations to landlords to prove their “financial hardship” and that they should therefore have the benefit of the COVID Response Act provisions. Anticipating this, section 7 provides that any such information must be kept confidential with some limited exceptions to protect parties’ commercial positions.

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What is not covered or defined by the COVID Response Act and COVID Response Regulations?

There are a number of matters that are not addressed by the COVID Response Act and COVID Response Regulations (in whole or part) which creates some uncertainty about the manner in which they will operate, and which are summarised below. It is important that councils are aware of these unresolved matters and keep an eye out for further updates that may assist.

Matters that are currently not settled include:

- It remains unclear if the balance of the Commonwealth Code (and particularly those principles and provisions relating to minimum levels for rental waivers and deferrals) will be given legislative force in South Australia.
- As a result of the above, there is strictly no obligation on a landlord as yet to make any concession regarding a rent abatement/deferral or indeed any other matter in relation to a variation of the lease or licence terms (except in relation to rental increases being frozen and land tax not being passed on - noting, again, that the land tax aspect is generally not relevant to local government landlords). Although, the current commercial expectation is that landlords and tenants will work together to find a reasonable pathway through these times.
- The COVID Response Act and COVID Response Regulations do not provide further guidance on who may be considered to be suffering “*financial hardship*” outside of those tenants eligible for the JobKeeper payment. In these other cases such discussion will ultimately be a matter for commercial negotiation. Some of the commercial considerations outlined in the following section of this Guidance Paper may be useful to council landlords in this regard.
- Further in relation to the definition of “financial hardship”, the Commonwealth Code and the COVID Response Regulations link this concept to a reduction in business turnover. However, we have seen a number of examples where business turnover has not been affected to a substantial degree but where business expenses have increased significantly because of additional cleaning and operational requirements to address COVID-19 restrictions. It is unclear if businesses such as these are also eligible for protection.
- As outlined above, the COVID Response Act largely focuses on the payment of rent and certain outgoings by tenants. It does not expressly address other obligations that tenants have under lease and licence arrangements that may also be a substantial financial burden, such as repair and maintenance obligations. As it stands, breaches of these other obligations do not appear to be expressly protected by the COVID Response Act.
- The COVID Response Act does not address how rental arrears are to be ultimately resolved. While there is a prohibition on termination, rent will presumably continue to accrue (subject to any commercial agreement between the landlord and tenant to the contrary). The COVID Response Act does not outline if, when and how such arrears will need to be paid.

COVID19 – Commercial and Community Leases and Licences Practice Guidance Notes

Commercial Considerations

Below are set out some of the key commercial considerations that councils should keep in mind when considering requests from tenants for financial assistance. Every lease and licence agreement will be different, including in relation to the distribution of financial obligations between the parties, the nature of the premises, the length of the agreement, the historic relationship between the parties and the strategic value of the asset to the council. Accordingly, no two decisions will be alike and we recommend that all requests are considered on their own merits and with council's broader aims, objectives and financial situation in mind.

Enquiries to be made by councils before considering financial assistance to tenants

Before a council considers a request for financial assistance from a tenant, it is recommended that the council makes the following enquiries to understand important contextual matters:

- A thorough review of the terms of the lease or licence agreement and the Council's file relating to it, including to understand:
 - the legal nature of the tenant (for example, if it is an individual, company or association and whether the tenant has entered into the lease/licence as trustee);
 - the remaining length of the lease/licence (with and without renewals);
 - the totality of the tenant's obligations under the lease/licence (including for outgoings and utilities);
 - any security that the tenant has provided for performance (for example, a bank guarantee);
 - any security that has been granted over the lease/licence or any plant or equipment used for business operations (for example, a mortgage);
 - interest payable under the lease on overdue amounts;
 - the tenant's performance history; and
 - the current market rent/fee and whether the rent/fee payable by the tenant is in line with or less than this amount.
- An inspection of the facility (if safe and appropriate to do so) to verify present compliance with the lease/licence terms if an inspection hasn't been done for some time.
- Details of subtenants, sublicences and hire arrangements in place.

Key considerations for councils in relation to the provision of financial assistance to tenants

Once this contextual information has been compiled, some of the key considerations for the council include:

- Any separate policies and procedures that the council has adopted for the provision of hardship relief relating to the COVID-19 pandemic. Councils need to adopt clear and targeted hardship and relief policies to ensure that they have the financial capacity to provide support where it is needed most. Unfortunately, this is likely to mean that a council cannot provide all support that is requested and needed, however, decisions will need to be made having council's broader aims, objectives and financial situation in mind.

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- That it is ultimately the tenant's decision how to operate its business and how its business may be adapted during the COVID-19 pandemic. Councils should avoid providing directions to a tenant about their operations as this can have adverse legal and financial consequences for the council.
- The remaining term of the lease/licence. Where a deferral of rent/fee payments is being considered, a council should ensure there will be sufficient time for repayment after the "deferral period". Where a rent free period is being considered, then considerations relating to how long the tenant has already been trading and their reserves and current financial position will be relevant considerations.
- Where any discussions may involve the need to consider an extended term, councils will need to be mindful of the leasing and licensing restrictions and requirement for community land contained within the *Local Government Act 1999(SA)*, as legally an extension of a lease or licence may be considered a new grant.
- The nature and extent of any improvements that the tenant has made to the premises. Where a tenant has made substantial improvements and these will or may become the council's property at the end of the lease/licence, then there may be a greater incentive for the council to ensure that those assets are maintained and to support the tenant.
- Any business continuity insurance or other sources of income or support that the tenant has that could be relied upon instead of, or in addition to, support from the council.
- Financiers that may have an interest in the lease/licence or premises (including plant and equipment at the premises), the extent of their interest and whether it will be necessary to deal with them as part of any assistance that is provided by the council.
- The likelihood of the tenant's revenue rebounding to previous levels after the COVID-19 restrictions have been lifted.
- The risk of the tenant entering into bankruptcy or insolvency without, or despite, the council's assistance.
- The strategic value of the asset to the council, the nature of its repair and maintenance requirements and the council's ability to "take it over" (if necessary) if the tenant cannot continue during and/or after the COVID-19 pandemic restrictions.
- The extent of the tenant's other financial obligations under the lease/licence including obligations for outgoings, utilities, rates and taxes and refurbishment obligations.
- The nature and extent of any sublease, sublicense and hire arrangements that are in place and future bookings that have been made and remain un-cancelled.
- Other assistance that the council might be able to provide a tenant instead of direct financial assistance, for example, in kind assistance and infrastructure upgrades with available grant funding.

Documenting decisions

It is imperative that any decisions made by a council to provide financial assistance to a tenant are properly documented so that each party is clear on the extent of the assistance being provided and when it will end and that other financial and non-financial obligations under the lease/licence will continue to apply unchanged. The form in which these types of decisions will need to be documented will depend on the nature of the assistance being offered and the current terms of the relevant lease/licence. We recommend seeking further advice on a case or category basis in this regard.

COVID19 – Commercial and Community Leases and Licences Practice Guidance Notes

Key points and further assistance

Councils need to adopt clear and targeted hardship and relief policies to ensure that they have the financial capacity to provide support where it is needed most. All requests for financial assistance received by councils from tenants and managers should be considered in light of the new requirements under the COVID Response Act and COVID Response Regulations and the council's policy framework and with the individual circumstances of the particular lease or licence and premises in mind.

Councils do have some scope to share the financial burden of the COVID-19 pandemic if and when it is deemed appropriate. However, it is important to bear in mind that assistance can take many forms and the council needs to take care of its own financial position in the process. Any agreed arrangements should also be correctly documented to protect the council's position once the COVID-19 restrictions have been lifted.

For clarification regarding any of the matters contained within this publication, please call the LGA COVID-19 Members Advice line on 8224 2099.

17.7 Information Only Council and Committee Reports

Brief

The purpose of this report is to provide a detailed listing of information only Council and Committee reports to be received.

RECOMMENDATION

It is recommended to Council that the information only Council and Committee reports, contained in the Attachment Under Separate Cover of Agenda report, be received.

Introduction

Council at its meeting on 17 March 2020 resolved that:

"All Council Committee meetings be cancelled from 18 March 2020 until the 19 May 2020 meeting of Council, subject to review."

"Only items that require a material decision of Council be included in the Council Meeting agendas until such time as Council meetings revert to twice monthly."

Subsequently, at its meeting on 21 April 2020, Council resolved that:

"The resolution of Council at its 17 March 2020 meeting, to cancel all Council Committee meetings, be extended until such time as the current major emergency declaration is lifted, or such time as Council resolves otherwise."

This report has been prepared in response to these resolutions.

Discussion

Following the resolution of Council, the Administration determined that items that did not require a material decision of Council will be provided as Attachment Under Separate Cover for Elected Member's information and perusal.

The following is a list of information only reports provided as **Attachment Under Separate Cover**:

- CoastFM Sponsorship
- Community Services Update Report - April 2020
- Strategy Unit Activity Report February to March 2020

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

There is no direct environmental impact in relation to this report.

Conclusion

This report responds to the resolution of Council as its meeting on 17 March 2020 and 21 April 2020 and provides a listing of information only Council and Committee reports for Members' information.

Attachments

Nil

18 LOCAL GOVERNMENT BUSINESS

Nil

19 MEMBER'S BOOKSHELF

- SA Power Networks, Public Lighting Service Framework February 2020
- Commissioner for Children and Young People SA, Community Building for the 21st Century: *Collaborative gaming to build connection, confidence and creativity*, April 2020

RECOMMENDATION

That the additions to Members' bookshelf be noted.

20 CORRESPONDENCE

Nil

21 CONFIDENTIAL

21.1 Possible Acquisition of Property

Reason for Confidentiality

The Council is satisfied that, pursuant to Section 90(3)(b)(i) and (b)(ii) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this agenda item is:

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

RECOMMENDATION

It is recommended to Council that:

1. Pursuant to Section 90(2) of the *Local Government Act 1999*, Council orders, that the public, with the exception of the Chief Executive Officer, members of the Executive and Management Teams in attendance at the meeting, and meeting secretariat staff, be excluded from attendance at so much of the meeting as is necessary to receive, discuss and consider in confidence, information contained within the confidential report Item 21.1 Possible Acquisition of Property, attachments and any associated documentation submitted by the Chief Executive Officer, specifically on the basis of the provisions of Section 90(3)(b)(i) and (b)(ii) because the information received, discussed and considered in relation to this agenda item is information, the disclosure of which could reasonably be expected to severely prejudice Council's ability to achieve the best possible outcome relating to the acquisition of the property in Richmond and would, on balance, be contrary to the public interest.
2. At the completion of the confidential session the meeting be re-opened to the public.

22 MEETING CLOSE

CITY OF WEST TORRENS



ATTACHMENT

UNDER SEPARATE COVER

Council

TUESDAY, 5 MAY 2020

Information Only Council and Committee Reports

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17.7 INFORMATION ONLY COUNCIL AND COMMITTEE REPORTS

17.7.1 CoastFM Sponsorship

Brief

This report provides an outline of Council's recent three-month sponsorship agreement with community radio station CoastFM.

RECOMMENDATION

It is recommended to Council that the CoastFM Sponsorship report be received.

Introduction

At its 22 October 2019 meeting, the City Advancement and Prosperity Committee recommended that the City of West Torrens engages in a sponsorship agreement with radio station 88.7, CoastFM, for a 3 month period. This sponsorship has now concluded. This report provides an overview of the sponsorship arrangement.

Discussion

CoastFM is based at Glandore Community Centre, located in the City of Marion, but on the fringe of the City of West Torrens. CoastFM reports to be the third largest community radio station in South Australia behind Fresh FM (356,000 listeners) and Life FM (304,000 listeners), with an estimated 194,000 listeners per month. The percentage breakdown has been provided by CoastFM as follows:

- Adelaide South - 36 per cent of listeners
- Adelaide North - 20 per cent of listeners
- Adelaide West - 19 per cent of listeners (an estimated listening audience of 37,000 per month)
- Adelaide Central - 20 per cent of listeners
- Adelaide Hills - 5 per cent of listeners.

**Data provided by Community Broadcasting Association of Australia 'Community Radio National Listener Survey' July 2019 for CoastFM.*

Requests to CoastFM for more in-depth results regarding suburbs where listeners reside could not be provided by the station, however they stated that survey results showed 56% of listeners were male, 44% were female. Of that figure, 53 per cent were in the 40 - 69 years age bracket.

Mayor Coxon has a monthly 30 minute guest segment on CoastFM's Thursday Drive program (aired from 9am - noon), which is not sponsored by Council. As a result of his relationship with CoastFM, Mayor Coxon was approached to discuss the possibility of station sponsorship and Council agreed to a three month trial.

Following Council's approval, the sponsorship agreement began on 2 December 2019 and concluded on 29 February 2020. During that time a series of messages were promoted, which can be read in their entirety in Attachment 1, and covered the following topics:

- Summer Festival
- Electronic waste
- Hard waste - clean-up for the holiday season
- Joining a book club
- Staying healthy in the heat
- Stroke SA (community group)
- What's on West Torrens Facebook group
- Recruitment for Community Bus driver volunteers.

Each 30 second advert was aired nine times during the course of 7 days and Council received 28 bonus run of station promotions per week (between 6am - 6pm, Monday - Sunday). Total cost of our sponsorship for three months was \$2,574 (inc. GST).

It should be noted that the majority of people responsible for CoastFM going to air are volunteers and give freely of their time on a regular basis. As CoastFM is a community radio station, sponsorship is vital to help it continue.

Effectiveness

It is difficult to gauge whether or not the CoastFM sponsorship has been successful as the topics promoted were mostly educational/brand awareness rather than a call to action. Most topics were also promoted on our website, in Messenger and via social media channels at the same time as being aired on CoastFM. We did not receive any negative feedback from our community about our sponsorship involvement with the station.

Two of the subjects promoted - joining a book club and becoming a volunteer bus driver - did in fact see more enquiries made to Council and, as a result, we have several new book club members and new volunteer bus drivers. We cannot say for certain whether this has been a result of CoastFM advertising as we were also using other channels at the same time to push out the message. However, repetition across a variety of mediums is a positive strategy for capturing people's attention.

Options for consideration

Having concluded the sponsorship, it has been difficult to elicit the effectiveness of the sponsorship but it has provided an additional medium by which Council is able to get its message out to the community which in and of itself cannot be a bad thing. However, on-going sponsorship of CoastFM is not viewed as a priority given the financial constraints Council is experiencing as a result of the Covid-19 pandemic. However, sponsorship could be reconsidered at a later date.

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

There is no direct climate impact consideration in relation to this report.

Conclusion

This report provides an overview of the 3 month CoastFM sponsorship campaign that has provided Council with an additional avenue to promote events, services and facilities.

Attachments

1. CoastFM scripted adverts

30 second audio reads - Coast FM

Client: the City of West Torrens

Run schedule: 2 - 27 December 2019

Read 1: subject: Summer Festival

So we've hit the silly season and we're all running around making plans for Christmas and New Year.

Once that's all over and you have some time to wind down, why not get along to one of the events in the West Torrens' Summer Festival series?

Kicking off in January 2020, the free Summer Festival series will be held at various venues around West Torrens. There will be outdoor movies, music acts, and programs just for kids and their parents. For foodies, there will be a Fork on the Road event in February.

All these events are brought to you by our friends at the City of West Torrens. You can find all the details on their website, westtorrens.sa.gov.au

Read 2: subject: electronic waste

Many of us will probably get a new electronic gadget or two this Christmas, so make sure that you get rid of any unwanted electrical waste properly.

There are heaps of 'Unplug 'n' Drop' stations around the West Torrens area, including behind the Hamra Centre Library at Hilton, Bunnings at Mile End and even the Plympton Community Centre.

To find out local locations, visit the West Torrens Council website, westtorrens.sa.gov.au or give them a call on 8416 6333.

This is a free service so there's no excuse not to recycle your e-waste.

Run schedule: 28 December - 17 January 2020

Read 1: subject: hard waste - clean up

Many of us who have time off over the summer holiday season will find ourselves doing a bit of a clean-up around the house and in the shed. Before you know it, you've got a pile of junk that you need to get rid of.

If you live in the West Torrens Council area, you can contact their waste line and order a hard rubbish collection. Don't just put your waste on the kerb; that just creates a mess. Do the right thing and contact Solo on 8295 5077 during office hours. You can also submit an online form at westtorrens.sa.gov.au

Read 2: subject: join a book club

Do you love reading? More to the point, do you like discussing what you've read?

If so, maybe one of your New Year's resolutions can be to join a book club?

The Hamra Centre Library in Hilton has a number of book clubs that you can join, and all groups meet on a monthly basis. It's completely free and all books are available for loan from the library.

Book clubs are a great way to make new friends.

Find out more by contacting the West Torrens Library Service on 8416 6228.

30 second audio reads - Coast FM

Client: the City of West Torrens

Run schedule: 18 January - 7 February 2020

Read 1: subject: say healthy in the heat

As summer temperatures heat up, it's important to remember to protect yourself and others against overheating.

If you have elderly family members, check in with them several times a day to make sure they're ok.

On days of extreme heat, you can visit our Hamra Centre Library and take refuge in air conditioned comfort. Contact us on 8416 6333 for opening hours.

And if you're a pet owner, remember to keep your pets cool too; don't let them swelter in the heat outside and make sure they always have plenty of fresh water and shade.

Read 2: Stroke SA

Have you a loved one, friend or colleague who's experienced a stroke? Have you some questions you want answered, or maybe you'd just like to chat with someone about what you've experienced?

Stroke SA is a locally-based organisation that may be able to help. They are currently looking at establishing a support group in the western suburbs to provide advice and support.

To find out more, contact Stroke SA on 8352 4644.

Run schedule: 8 February - 29 February 2020

Read 1: subject: What's on West Torrens

Are you an avid Facebook user? Do you like to know what's going on in your local community?

There is a new Facebook group called What's on West Torrens that is open to anyone to join. You don't have to live in the area, you may just like to visit, so this group is a great way to keep up with the local news.

If you're part of a community group that wants to chat about what you're doing - this could be just the forum for you.

Head to Facebook, search What's on West Torrens, and put in a request to join today.

Read 2: subject: bus driver volunteers needed

Did you know that local councils need volunteers to help provide services to people?

Our friends at the City of West Torrens are currently looking for drivers who would be interested in driving one of their community buses.

These buses provide a really valuable service for people who can't always find their own way to and from activities. They may not have family or friends to help them out and they may not be able to catch public transport either. These buses help people get out and about in their community and take part in activities.

If you reckon you could provide a few hours to help out, contact Mick at the West Torrens Council on 8416 6333. He'd love to hear from you.

17.7.2 Community Services Update Report - April 2020

Brief

This report details the activities of the Community Services Department for April 2020.

RECOMMENDATION

It is recommended to Council that the Community Services Activities Report for April 2020 be noted.

Introduction

The Community Services Department (Department) usually provides a report to each City Services and Amenity Committee meeting detailing the status of key projects and activities for the preceding month. However, due to cancellation of the Committee, the report is provided to Council.

Discussion

Over the month April the Community Services Department's usual activities have been impacted by the Government enforced restrictions. Due to these restrictions, the Community Centres, the Hamra Centre Library and Auditorium and all group activities have been closed and suspended. The Department has worked hard to find innovative new ways to keep the West Torrens community connected during this time.

Library Services

The Hamra Centre was closed to the public in early March. Almost all services have continued in a different format and the Hamra Centre is continuing to provide the most service hours and services compared to other libraries across the State:

Borrowing Books

The *Click, Call and Collect* service is very popular with our customers and the phone is ringing frequently throughout the day. The holds on the hold shelf have increased from an average of 400 to now being over 800, and from statistics being collected about phone calls, this is the main reason customers are calling. The staff are receiving approximately 1 call every 2 minutes. The drive-thru service through the mobile garage serves many happy customers, all giving enthusiastic positive feedback, while ensuring staff safety. An average of 60 people collect items using this service each day. All books being returned and going out are sanitised by staff.

The library team is complementing the service with tech help over the phone with the digital literacy library staff to assist people with online borrowing, access to Ebooks, digital programs and film streaming.

Story-Time, Toddler-Time and Baby-Time

The very popular weekly Story-Time, Toddler-Time and Baby-Time sessions have continued at their usual times via Facebook and YouTube. The sessions are gaining popularity each week, with families and children posting short videos of themselves joining in. The sessions have also been included on the Libraries SA YouTube channel. The sessions are being viewed from 400 to over 800 times by the public.

Home Library Services

The Home Library Service has expanded to include a Drop and Wave service to isolated people who may have trouble leaving their homes, this includes families along with vulnerable residents. This service is expanding each week and includes many of the Library Truck regular customers. The team have also identified people who use this service who may need extra support during this time and they have been added to the list of residents who receive a regular welfare check from the staff.

Community Centres

The Community Centres were ordered to be closed at the beginning of March. Since that time, the Community Centres Team have been working with the small businesses and community groups that regularly use the Centres to keep them up-to-date and to assist them in locating information that may assist with their businesses. The team have also been assisting the homeless people in the West Torrens area by linking them into shelter and welfare services.

Community Development

School Holiday Program

The School Holiday Program could not go ahead as usual so the Department pulled together a *Happy at Home Program* packed with activities for children to do at home. This included links to Apps and videos related to literacy, fitness, wellbeing, art and craft, culture, science and more. It also included some online connection opportunities such as Minecraft sessions for children moderated by the staff.

The Department have also pulled together craft kits and activity sheets packaged up into Mystery Busy Bags. These were available at the *Click, Call and Collect* service or could be delivered to families at their homes. They were extremely popular with over 200 being distributed. The contents of these bags were from leftover supplies from school holiday, after school and summer festival activities, it was great to be able to give these resources back the community, the feedback was very positive.

A digital Lego challenge was put up on social media. One of the SA contestants on the LegoMasters television program belongs to Southern Bricks, a community Lego group that is supported by CWT. The surprise prize for the children who participated in the Lego challenge was a group Zoom session with 3 contestants from the LegoMasters program.

Overall the Happy at Home school holiday program was extremely popular and the Department will work on keeping some of this format for future school holiday programs.

Vulnerable People

The Department developed a list of vulnerable and isolated people to support through regular welfare checks over the phone. All of the original 'essential items' bags for vulnerable older people and families were distributed to residents in need, 20 packs were given out in total. The Department have now made arrangements with Foodland on George Street for an order to the Hamra Centre to make up another 20 packs and a process has been set up with this Foodland so that they will take phone orders and payments from older CHSP residents and the support workers will pick up and deliver the food. This means that the support workers can assist people with their shopping but do not have to handle any cash or spend time in the supermarkets. Foodland management were extremely helpful and accommodating.

The Department also signed CWT up as members of Foodbank to assist local residents and families who need support with fresh food and/or toiletries hampers. With Foodbank the staff can order online for next day delivery to people's homes, this is especially useful for the very 'at risk' people/families that the team are working with the Department of Human Services to support.

Active Ageing

During the welfare checks it became apparent that many of the people on the vulnerable list were feeling very lonely and isolated. In response to this the team made up activity packs (including crosswords, quizzes, puzzles, mini cross-stitch kits, letter writing kits, playing cards, hot-cross buns and Easter eggs) that were distributed in March. In April another 'entertainment bag' with new craft activities and quizzes was delivered to socially isolated residents. For those with digital access the regular Tai Chi and Active Ageing classes were filmed and put on YouTube, these were also copied onto USB/DVD for people without internet access.

Commonwealth Home Support Program (CHSP)

The CHSP program continued to be very busy during April. All contractors stayed open for business and therefore services and referrals continued. Extra safety measures were maintained such as a phone-call to residents before services to ensure they are not unwell and extra precautions (gloves, hand sanitisers etc.) for staff. The biggest service demand was for shopping support services, the process for this was changed to phone orders and pick up by support workers to improve safety of support workers and residents.

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

All Community Services programs have, when relevant, implemented climate adaptation strategies.

Conclusion

The Community Services Department will continue to work on new initiatives focussed on keeping the residents of West Torrens connected and supported. The feedback from the community has been overwhelmingly positive and grateful.

Attachments

Nil

17.7.3 Strategy Unit Activity Report February to March 2020

Brief

This report presents the Strategy Unit's Activity Report for the period from February 2020 through to the end of March 2020.

RECOMMENDATION

The Strategy Unit Activity Report for February 2020 to end of March 2020 is provided for information.

Introduction

A report is presented, on a regular basis, detailing the progress and status of key projects and activities within the Strategy Unit since the last report to the Committee or Council.

Discussion

Corporate and Community Planning

Annual Service Plans 2019/20 Quarterly Reporting

The second quarter progress report was provided to the 25 February 2020 meeting of the City Advancement and Prosperity Committee.

Community Needs Analysis Project

Intermethod Consultants presented a finalised Community Needs Analysis report and Community Needs Engagement report to the Administration.

Community Plan Review

Intermethod were engaged to undertake the statutory review of Council's Community Plan, utilising their research and consultation outcomes from the Community Needs Analysis project.

'Pop-up' public consultations were undertaken at Hilton Shopping Centre and Hamra Centre on March 11 and 12 respectively, to gain further insight into the public's thoughts for the future of West Torrens. These consultation questions were also promoted and made available via Council's social media and website. Further planned 'pop up' consultations, focus groups consultations and staff and Elected Member workshops were, unfortunately, postponed due to COVID-19 restrictions.

Corporate Planning Framework

The Corporate Planning Framework was finalised and presented to the leadership forum on 12 March 2020. The Framework provides staff with consistent processes and tools needed to undertake the future development of corporate plans.

Open Space Strategy

The Open Space Strategy was awarded to URPS with Wax Design and the project has now commenced. The project will include opportunities to consult with staff from across the organisation, the Executive, Elected Members and the wider community, in accordance with health and safety requirements of the COVID-19 situation.

Strategic Approach to Public Art Project

The Strategic Approach to Public Art project tender closed on March 24. Following assessment of tenders received the successful consultant will be advised.

Economic Impact Considerations

The economic fallout of the COVID-19 public health emergency and subsequent economic emergency will no doubt cause a greater focus on economic concerns and necessitate a contraction of Council's finances. The Strategy Unit's projects will be prioritised for triple bottom-line benefits, and where applicable, in accordance with statutory deadlines.

As a member of the Western Region Economic, the City of West Torrens is a party to the COVID-19 Business Resilience Taskforce to seek input from local businesses on how councils in Western Adelaide can best assist businesses to survive, and possibly thrive, through the economic emergency.

Economic Development

Economic Emergency Working Group

The Strategy Unit initiated an interdepartmental Economic Emergency Working Group to advise Executive on responses to the economic impacts of the COVID-19 public health emergency.

Heritage Grants

One additional successful Heritage Grant recipient has submitted documentation to Council to receive their allocated grant funds. To date, since the grant recipients were approved by Council on 5 November 2019, works have been completed on three heritage properties, and of those, all three have now submitted documentation to Council to receive grant funds.

Building Western Adelaide

The Administration continues to work closely with colleagues across the Western Region to undertake strategic projects for Economic Development of the Western Adelaide region.

Land Use Planning

Planning Reform

While consultation on the Planning and Design Code has now closed, the Administration continues to actively engage in planning reform activities in an effort to advocate and influence policy outcomes. Activities include attendance at workshops and live streaming events provided by DPTI, LGA and other industry specialists, which have comprised of sessions on heritage and character, the Planning and Design Code, e-planning and targeted technical sessions on infill development and matters pertaining to the airport.

Intergovernmental Relations

DPTI's Open Space and Places for People funding program

Strategy Unit has contributed to two funding applications that the organisation has lodged with DPTI's Open Space and Places for People funding program. The overall aim is to improve access to, and improve the quality of public open spaces so they meet the needs of our growing community. Successful grant applications are anticipated to be announced by DPTI after June 2020.

AdaptWest Regional Collaboration

Communications Plan

Fuller Brand Communications were engaged to produce a Communications Strategy and Plan for AdaptWest in Action, after a successful competitive Request for Quote. The Communications Strategy was finalised in October and the AdaptWest team is currently working to develop a forward plan which will see greater awareness and community involvement in the program.

Climate Change Governance Assessment

A consultant has been engaged to undertake the climate change and governance assessment. Currently, there is only a commitment to undertake stage one of this project, which analyses the level of consideration of climate change adaptation across the partner councils against ten core indicators such as asset management and risk.

The project will be undertaken in three key stages, which include a review of publicly available corporate documents, a survey, and interviews with key staff members.

Urban Trees and people's yards mitigate extreme heat in Western Adelaide

AdaptWest has been working with a group of researchers from Macquarie University to build on the investment in our Urban Heat Mapping project. Their researchers looked at the benefits that household gardens (grass and trees) provide in reducing the impact of extreme heat conditions.

The report was well received in the media, being picked up in several publications including The Conversation, Adelaide Now; EcoVoice, The Messenger and Cosmos Magazine.

The report is available on the AdaptWest website at www.adaptwest.com.au/news.

Environmental Sustainability***Native Plant Giveaway***

Each year the City of West Torrens hosts a Native Plant Giveaway for local residents. The current restrictions and social distancing measures put in place to prevent the spread of COVID-19 means the community event cannot proceed with a business as usual approach. A range of options have been put forward for consideration, exploring ideas on how the program could still be delivered in an alternative manner or if not, how the seedlings could be incorporated into Council's greening program.

Community planting events

Each year the City of West Torrens hosts several planting events where members of the community are invited to participate. Current restrictions and social distancing measures put in place to prevent the spread of COVID-19 means these community events cannot proceed with a business as usual approach.

Members of the community volunteer to help plant indigenous seedlings, restore natural habitat and improve water quality across the City of West Torrens through these annual events. The Administration works in conjunction with key partners including Greening Australia, Adelaide Mount Lofty Ranges Natural Resources Management Board and Landcare Australia.

A meeting was held recently with key stakeholders to consider options in light of the COVID-19 restrictions. There was consensus that proceeding with the community event which attracts large crowds posed too greater risk to public health given the current pandemic. It is also likely that social distancing and isolation measures will continue beyond June at this stage, and even if restrictions were lifted it would be unlikely that gatherings of large crowds would be viewed favourably.

The Administration has put forward recommendations based on this information.

Rainwater Rebates

Five rainwater tank applications were received and approved from February 2020 to March 2020. This has resulted in 17,600 litres of additional rainwater storage, and a rebate expenditure of \$900 over this time period.

Emissions data and water consumption

Monitoring and evaluation of Council's emissions data and water consumption data is currently being undertaken. Reviewing this information will help inform the development of future strategies aimed at improving Council's sustainability performance and resource usage.

'Street Trees for challenging spaces' project

Following the successful grant application to the State Government's Greening Neighbourhoods program, this project has now commenced. Landscape architectural consultants JPE Design has been engaged to develop a set of designs for growing trees in challenging spaces, in collaboration with key Council staff and input from other councils. It is anticipated that the designs will lead to the healthy growth of trees in areas where this would not otherwise occur, resulting in more tree canopy, cooling of urban heat, and beneficial use of stormwater and reduced road maintenance requirements.

Cities with Nature program

The City of West Torrens has been invited to join the 'Cities with Nature' program as a Pioneer Council, and in doing so help co-design this global program to suit the needs of Australian conditions. It will be an online platform to connect cities and subnational governments, researchers, practitioners, partners, and urban communities. It provides resources, peer-learning and events to promote the importance of bringing nature into our cities so that we can improve the mental and physical health and wellbeing of our community, cool urban heat and adapt to climate change, improve air and water quality, and enhance the liveability and economic sustainability of West Torrens. The Administration is currently looking into this opportunity and will prepare a report for Council consideration.

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

The COVID-19 public health emergency and subsequent economic emergency may cause a greater focus on economic concerns and necessitate a contraction of Council's finances. However, any immediate actions and budget decisions must also maintain line of sight to the looming future threat of climate impacts, which continue to require immediate action to mitigate future challenges.

Conclusion

This report details the activities of the Strategy Unit from February 2020 to the end of March 2020.

Attachments

Nil