



THE COMMITTEE AGENDA & REPORTS

for the meeting

Tuesday 22 January 2019
at 5:30 pm

in the Colonel Light Room.
Adelaide Town Hall

Members - The Right Honourable the Lord Mayor [Sandy Verschoor];
Councillor Moran (Chair)

Councillors Abiad (Deputy Lord Mayor), Abrahamzadeh, Couros, Dr Donovan, Hou, Hyde, Khera, Knoll,
Martin (Deputy Chair) and Simms.

1. Acknowledgement of Country

At the opening of the Committee Meeting, the Chair will state:

'Council acknowledges that we are meeting on traditional Country of the Kurna people of the Adelaide Plains and pays respect to Elders past and present. We recognise and respect their cultural heritage, beliefs and relationship with the land. We acknowledge that they are of continuing importance to the Kurna people living today.

And we also extend that respect to other Aboriginal Language Groups and other First Nations who are present today.'

2. Acknowledgement of Colonel William Light

Upon completion of the Kurna Acknowledgment, the Chair will state:

'The Council acknowledges the vision of Colonel William Light in determining the site for Adelaide and the design of the City with its six (6) squares and surrounding belt of continuous Park Lands which is recognised on the National Heritage List as one of the greatest examples of Australia's planning heritage.'

3. Apologies and Leave of Absence

Nil

4. Confirmation of Minutes

Nil

5. Items for Consideration and Recommendation to Council

Strategic Alignment – Smart

5.1. Bike Share On-Street Activity Permit Application [2015/03534] [Page 3]

Presented by Beth Davidson-Park, Director Operations, City of Adelaide

Strategic Alignment – Green

5.2. Incentive Package to Reinstate Front Gardens through a Parking Permit Scheme [2017/04505] [Page 8]

Presented by Clare Mockler, Director Community City of Adelaide

Strategic Alignment – Liveable

5.3. Heritage Incentives Scheme Allocation over \$50,000 [HIS/106/2018] [Page 30]

Presented by Clare Mockler, Director Community City of Adelaide

5.4. City of Sydney and Melbourne - Planning and Development Initiatives [2018/03979] [Page 34]

Presented by Clare Mockler, Director Community City of Adelaide

5.5. 2018/19 Grant Recommendation – Recreation and Sport [2016/03310] [Page 50]

Presented by Clare Mockler, Director Community City of Adelaide

5.6. Adelaide Oval – submission to Select Committee [2011/02224] [Page 59]

Presented by Beth Davidson-Park, Director Operations, City of Adelaide

Strategic Alignment – Creative - Nil

Strategic Alignment - Corporate Activities

5.7. Section 270 Internal Review of Decision – Hurtle Square Tree Replacement [2018/02970] [Page 81]

Presented by Steve Mathewson, Director Services, City of Adelaide

5.8. City of Adelaide Response - Labor Local Government reform package [2018/02619] [Page 99]

Presented by Steve Mathewson, Director Services, City of Adelaide

6. Discussion Forum Items

Strategic Alignment – Smart – Nil

Strategic Alignment – Green– Nil

Strategic Alignment – Liveable – Nil

Strategic Alignment – Creative – Nil

Strategic Alignment - Corporate Activities

6.1. 2018 Standing Orders [60 minutes]

Facilitator – Steve Mathewson, Director Services, City of Adelaide

7. Council Member Discussion Forum Items

8. Exclusion of the Public

8.1. Exclusion of the Public to Consider [2018/04291] [Page 117]:

For the following Items for Consideration and Recommendation to Council in Confidence:

Strategic Alignment – Creative

9.1. New Activation Proposal – Garden of Unearthly Delights [s 90(3) (d)]

For the following Discussion Forum Items in Confidence:

Strategic Alignment – Liveable

10.1. Transport Matter [s 90(3) (j) & (d)]

9. Items for Consideration and Recommendation to Council in Confidence

Strategic Alignment – Creative

9.1. New Activation Proposal – Garden of Unearthly Delights [2018/01251] [Page 121]

Presented by Clare Mockler, Director Community City of Adelaide

10. Discussion Forum items in Confidence

Strategic Alignment – Liveable

10.1. Transport Matter [30 minutes]

Facilitator – Beth Davidson-Park, Director Operations, City of Adelaide

11. Closure

Bike Share On-Street Activity Permit Application

ITEM 5.1 22/01/2019
The Committee

2015/03534

Public

Program Contact:

Daniel Bennett, AD Strategy & Design 8203 7295

Approving Officer:

Beth Davidson-Park, Director Operations

EXECUTIVE SUMMARY:

This report provides information regarding a Bike Share On-Street Activity Permit application received from AirBike to commence a dockless bike sharing scheme in Adelaide.

RECOMMENDATION:

THAT THE COMMITTEE RECOMMENDS TO COUNCIL

That Council:

1. Approves the Bike Share On-Street Activity Permit application for AirBike to commence a dockless bike sharing scheme in Adelaide.
 2. Authorises the CEO to negotiate with AirBike on the launch of the dockless bike share scheme including the number of bikes for the City and North Adelaide.
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IMPLICATIONS AND FINANCIALS:

<p>City of Adelaide 2016-2020 Strategic Plan</p>	<p>Strategic Alignment – Smart City of Adelaide Strategic Plan</p> <ul style="list-style-type: none"> • Work with partners to develop and implement a range of policies, programs and services to support business start-ups, business growth and business sustainability • Work with Federal and State governments to provide appropriate infrastructure and promote sustainable transport options, such as public transport, cycling and walking, to improve the experience of commuters and reduce transport-related carbon emissions • Support social entrepreneurs to develop business models that have a positive impact on the City’s wellbeing and resilience • Work with businesses and other partners to bring creativity and smart technology into the everyday experience of our City <p>Smart Move Interim Action Plan</p> <ul style="list-style-type: none"> • 4.3 Investigate Public Bike Share Scheme Options for Adelaide <p>Carbon Neutral Adelaide</p> <ul style="list-style-type: none"> • 2.8.2 Implement a point to point Adelaide Bicycle Share Scheme • 2.9.1 Facilitate a shift to sustainable transport modes and reduced private car ownership, including through the Planning, Development and Infrastructure Act implementation • 2.10.4 Transform business trip transport choices through participation in engagement programmes that prioritise walking, cycling, public transport and commercial car share over regular pool vehicle usage
<p>Policy</p>	<p>Not as a result of this report</p>
<p>Consultation</p>	<p>Not as a result of this report</p>
<p>Resource</p>	<p>Not as a result of this report</p>
<p>Risk / Legal / Legislative</p>	<p>Not as a result of this report</p>
<p>Opportunities</p>	<p>Establish a new dockless bike share operator, as there are currently no permit holders. Work with a new business to support jobs, green travel, reduce reliance on private vehicles, improve accessibility of the city and reduce carbon emissions.</p>
<p>18/19 Budget Allocation</p>	<p>Not as a result of this report</p>
<p>Proposed 19/20 Budget Allocation</p>	<p>Not as a result of this report</p>
<p>Life of Project, Service, Initiative or (Expectancy of) Asset</p>	<p>Not as a result of this report</p>

18/19 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

DISCUSSION

Background

1. Dockless bike share business models have developed rapidly in recent years. With the development of global positioning system (GPS) equipped 'dockless' bikes (bikes that can be hired without requiring docking stations), there has been a significant increase in new operators, with over 1,000 bikeshare companies worldwide. The rapid increase in competition has led to an oversupply and more recently contraction from selected markets, including Australia.
2. Dockless bike share companies ofo and oBike were approved to commence operations in Adelaide in October 2017 under the City of Adelaide's Bike Share On-Street Activity Permit for bike share operators. The two companies operated alongside the 'Adelaide Free Bike Scheme' (funded by the City of Adelaide).
3. Due to concerns with the storage of bikes in the public realm at its meeting on 10 October 2017, Council approved to "*place an immediate freeze on any further permits being issued to bike share operators in the City of Adelaide*".
4. Ofo and OBiKe demonstrated levels of success in the Adelaide market due to it providing a more flexible scheme, with over 6,000 trips a month (4 times more on average than the Adelaide Free Bike scheme). Due to the apparent success of the private bike share schemes, and the low number of complaints received from the community whilst they were in operation in the order of 10-15 per month on average, it was determined by Council at its meeting on 13 March 2018 that the Adelaide Free Bike Scheme in the City of Adelaide would cease operations on 31 December 2018.
5. In April 2018, we were advised by oBike that they were not able to meet the updated Bike Share On-Street Activity Permit requirement for GPS tracking of their bikes and withdrew immediately from the Adelaide market.
6. In July 2018, we were advised by ofo that despite their efforts to establish a sustainable business model, they made the decision to also withdraw from the Australian market, including their Adelaide operations.
7. The Adelaide Free Bike scheme, operated by BikeSA and funded by the City of Adelaide, now remains as the only operating bike hire scheme in Adelaide since July 2018, and hence its contract has been extended from 31 December 2018 to 31 March 2019.
8. There currently are no Bike Share On-Street Activity Permits in operation.

AirBike application for Bike Share On-Street Activity Permit for a new Dockless Bike Share Scheme

9. In November 2018, AirBike, an Australian-based dockless bike share operator currently serving Canberra and Sydney, applied for a Bike Share On-Street Activity Permit in Adelaide.
10. AirBike are seeking to introduce a dockless bike share scheme and indicated an initial launch with 200 bikes for the city and North Adelaide.
11. We have met and discussed Airbike's operating plan and business model and have been provided with all the necessary information required for the approval of a Bike Share On-Street Activity Permit.

Current Permit (Bike Share On-Street Activity Permit)

12. The City of Adelaide has a Bike Share On-Street Activity Permit that enables dockless bike share operators to apply for a permit to operate within the city and North Adelaide. Currently there is no fee associated with the permit.
13. The Bike Share On-Street Activity Permit outlines the operating conditions, complaint resolution process, safe bike parking requirements and reporting requirements. An example permit can be found [here](#).
14. The key conditions in the permit that have been put in place for the bike share operator(s) to support the successful operation and management of bike share in the City of Adelaide include:
 - 14.1 All bikes are to be equipped with a GPS tracker to enable all bikes to be located at all times.
 - 14.2 All bikes are to be monitored daily to avoid clutter and congestion in any one location.
 - 14.3 All customers are to be provided with operating guidelines to ensure responsible and safe bike riding and parking of the bikes on roads and footpaths as part of the sign-up process.
 - 14.4 The number of bikes on the network is not to exceed the number noted on the permit.
 - 14.5 The City of Adelaide is to be provided with monthly statistical reports on bike usage to better understand bike demand. If utilisation is shown to be low (less than 0.5 hires per bike per day) Council can request for bikes to be removed from the network. If utilisation is shown to be high (greater than 1.2 hires per bike per day) Council can request for more bikes to be added to the network.
 - 14.6 All complaints are to be reported to the bike share operator via a 24-hour contact number.

- 14.7 All complaints received by the community are to be addressed in a timely manner. If complaints are not addressed in the timeframes listed below, the City of Adelaide may impound the bikes and dispose of them at the cost to the bike share operator.
 - 14.7.1 Dangerously located bikes are to be removed within 4 hours.
 - 14.7.2 Damaged bikes are to be removed within 24 hours.
 - 14.7.3 Inappropriately located bikes are to be removed within 48 hours.
15. The Bike Share On-Street Activity Permit also provides Council with a mechanism to penalise the operator or revoke their permit if the operator does not meet the conditions of the permit.

Next Steps

16. AirBike has applied for an On-Street Activity Permit to commence operations in the City of Adelaide and has confirmed that they could commence operations as soon as February 2019, prior to the busy festival period, if their permit is approved.

ATTACHMENTS

Nil

- END OF REPORT -

Incentive Package to Reinstate Front Gardens through a Parking Permit Scheme

ITEM 5.2 22/01/2019
The Committee

Program Contact:

Shanti Ditter, AD Planning & Development 8203 7756

2017/04505
Public

Approving Officer:

Clare Mockler, Director
Community

EXECUTIVE SUMMARY:

In November 2017, Council resolved to develop an incentives package based around owners agreeing to remove crossovers. The package would:

- provide perpetual, dedicated, on-street parking permits;
- apply to both residential and commercial heritage and character buildings in the City and North Adelaide;
- fund the removal of the crossovers, the reinstatement of the kerb and watertable, footpath, verge, affected services and any other elements of the public realm by Council; and
- fund the reinstatement of appropriate fencing and other built form features by Council for affected properties.

While the package has some benefits, the adoption by owners of the proposal is unlikely and would result in Council incurring substantial costs and risk. For most owners, the on-going value of on-site parking would outweigh a one-off grant for crossover removal and façade improvement. The voluntary removal of parking arrangements often occurs with a change of owner and land use.

Alternative approaches to rectifying crossovers are proposed in the Discussion Paper, such as Council planning for the removal of crossovers as part of a holistic asset renewal and street improvement works program. Crossovers could be identified on a street by street basis and owners approached with a targeted incentives package, using the existing Heritage Incentives Scheme. The aim would be to encourage owners to reinstate original verandahs and fences and in doing so, voluntarily remove parking outcomes.

RECOMMENDATION:

THAT THE COMMITTEE RECOMMENDS TO COUNCIL

That Council:

1. Notes the report and the Discussion Paper, Attachment A, to Item 5.2 on the Agenda for the meeting of The Committee held on 22 January 2019.

IMPLICATIONS AND FINANCIALS:

Strategic Plan	<p>Strategic Alignment – Green The package would work with local communities on public greening activities that will beautify streets and parks.</p> <p>Strategic Alignment – Liveable The package would promote our built heritage and character places through incentives and aims to support the Strategic Plan principles that relate to the promotion of heritage.</p>
Policy	Current discussions are occurring with Council regarding on-street parking. This proposal would require a new on-street permit parking system to be developed that included commercial land uses.
Consultation	The report and Discussion Paper have been prepared in consultation with Council's On-Street Parking Management and Transport Planning, Rates, Asset Management and Strategy and Design teams.
Resource	Not as a result of this report.
Risk / Legal / Legislative	The Discussion Paper outlines some of the legal and risk considerations associated with the package.
Opportunities	The incentives package, if adopted and utilised by owners, will contribute to streetscapes that have an improved appearance, a more appropriate setting for heritage or character places, safer environments for pedestrians and an increased number of on-street parking spaces.
18/19 Budget Allocation	No budget has been allocated in 2018/19.
Proposed 19/20 Budget Allocation	Subject to a Council decision on an incentives approach.
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report.
18/19 Budget Reconsideration (if applicable)	Not as a result of this report.
Ongoing Costs (eg maintenance cost)	Not as a result of this report.
Other Funding Sources	Not as a result of this report.

DISCUSSION

1. In November 2017 ([Link 1](#)), Council resolved that the Administration develop an incentives package based around owners agreeing to removing crossovers in exchange for on-street parking permits.
2. Crossovers are generally associated with buildings constructed prior to the common ownership of the car with insufficient width to accommodate a side driveway or parking space, and where, as a result, a crossover has been approved leading to a parking space/s in the front yard. The purpose of the incentive scheme would be to improve the appearance and setting of heritage and character buildings and their streetscapes.
3. In exchange for removing crossovers and on-site parking spaces in front of both residential and commercial heritage and character buildings in the City and North Adelaide, the proposed scheme stated that Council would provide perpetual dedicated on-street parking permits.
4. In addition, Council would fund the removal of the crossovers, the reinstatement of the kerb and watertable, relaying of the footpath, verge, any affected services that required relocation, all verge re-plantings, on-street disabled parking spaces and any other elements of the public realm that were affected. Council would also fund the reinstatement of appropriate fencing and other built form features (such as verandahs) in the front yards of affected properties. Based on some limited case studies, costs would be a minimum of \$15k per property excluding any costs associated with changes to services.
5. The proposed incentives package to reinstate front gardens has not currently been included in stage one of the North Adelaide Parking Review. This Review is scheduled for a decision by Council at its meeting on 29 January 2019. The Review proposes to address the two (2) most pressing parking concerns in North Adelaide; the reduction of commuter parking and the introduction of a Residential Trial Permit to provide a greater number of local residents with access to on-street parking. As such, it is anticipated that those two (2) matters will be addressed first, with feedback from those changes informing the next steps and the feasibility of additional on-street parking permit types (e.g. front garden reinstatement and/or business parking permit types).
6. Based on the research conducted, many crossovers and hence, parking spaces for vehicles, were supported (although possibly not all are approved) in locations, generally in front of buildings, either at 90 degrees to the road in front of the building, or parallel with but in front of the building. This seems to have occurred mainly in the residential areas and in circumstances where a dwelling was used for commercial purposes, but not always. Parking in the front yard of dwellings does occur.
7. Currently, applications for new crossovers are assessed and evaluated at the development application stage and the applicant is informed if the crossover will be supported or not. If supported, quotes are provided by the Depot staff to do the work (or the appropriate standards communicated) and the on-street parking team is notified. The process works well, and only appropriate crossovers are supported. In 2018, seven (7) applications for new vehicle crossing places were received and five (5) approved. One (1) application was not necessary as the property already had a crossover and another required a Development Application to be lodged. To date, this has not occurred.
8. It is not uncommon to find that crossovers and parking will be voluntarily removed by new owners who buy commercial properties with the intention of converting to a residential land use.

METHODOLOGY

9. To understand the implications of the task, the Administration selected Melbourne Street East and West and identified the number of properties that would be eligible for such a scheme and the costs and implications if the scheme was adopted by owners. Melbourne Street was chosen as it has a high proportion of commercial land uses in former dwellings, of which many are heritage places and parking is at a premium. The findings of this analysis are included in **Attachment A** to this report.

FINDINGS

10. There are eight (8) examples, out of a possible 22 buildings on Melbourne Street, that have had parking outcomes in the front yard. Most of the crossovers are historical and were in existence prior to 2000.
11. In most of the eight (8) examples, the crossover is a single or double car width crossover which leads to a paved area in the front yard that accommodates a number of parked cars.
12. If all eight (8) of the Melbourne Street properties opted into the scheme and surrendered their on-site parking spaces and crossovers:
 - 12.1. 37 additional cars would require permanent parking spaces on Melbourne Street.
 - 12.2. An additional 10 spaces would be created on the street by the removal of the crossovers.
 - 12.3. There would be a total of 144 on-street parking spaces available on Melbourne Street.
 - 12.4. The 37 new cars gaining an on-street parking permit for private use would absorb 25.7% of the available parking along Melbourne Street.

- 12.5. The surrendering of on-site spaces associated with existing uses will put some of the eight (8) properties in breach of their existing planning consents.

CONCLUSION

13. The adoption of the incentives package is not recommended.
14. While the proposal has some benefits, the adoption of the proposal would expose Council to significant costs and risks. In addition, the scheme is unlikely to be widely adopted by owners because of the value of on-site spaces to both owners and tenants.
15. Parking is often voluntarily removed by owners following a change in ownership and/or a change in the land use of the property. Council has existing incentives through the Heritage Incentive Scheme available to assist in encouraging reinstatement and/or conservation works to the fence, façade and verandah of affected places.
16. Council also has opportunity to plan for their removal as part of an asset renewal and street improvement works program. The review of streets would allow an auditing process to identify opportunities to improve the streetscape which would allow for forward budgeting and could deliver a coordinated response in a more cost-effective way. On a street by street basis, crossovers could be identified and audited to understand their approval status. Negotiations could occur to find other solutions for both unapproved and approved crossovers. At this time, Council's heritage staff could (as now occurs) approach owners with targeted incentive packages for fence reinstatement and other heritage works.

ATTACHMENTS

Attachment A – Discussion Paper – Incentive Package for Reinstatement Front Gardens through a Parking Permit Scheme.

- END OF REPORT -

Incentive Package to Reinstate Front Gardens through a Parking Permit Scheme

Discussion Paper – 12 July 2018

1. Purpose of the Paper

On 14 November 2017, Council resolved to:

1. Conduct an audit of the crossovers/driveways in front of older/historic character buildings, (as per the images below).
2. Bring back to Council a targeted incentive scheme for both residential and commercial owners in the form of dedicated on-street parking permits. The purpose of the incentive scheme is to encourage the removal of parking in front setbacks.
 - The incentive scheme should include Council removing the crossovers/driveways and reinstating the kerb.
 - The incentive scheme should facilitate the reinstatement of heritage character fencing and other built form heritage features.
3. The Administration was also asked to include the consideration of the application and implications of adding this new category of permits at a Committee workshop to be held on 21 November 2017. The purpose of the workshop was to consider parking permits during discussion of the North Adelaide Local Area and Traffic Parking Management Plan and any actions which flow from that discussion.

Examples of crossovers resulting in on-site parking.



206 Gilles Street, Adelaide



296-300 Gilles Street, Adelaide



404 Gilles Street, Adelaide

Council's resolution identifies the issue of parking occurring in the 'front yards' of older buildings. This parking is enabled by the construction of a crossover over the kerb and footpath and has detrimental impacts on the appearance of the building and its boundary fencing, the streetscape as well as pedestrian safety.

Generally, parking in the front yard is associated with buildings that were constructed prior to the common ownership of motor vehicles. For those constructed after that time, a side driveway was usually present. For later developments, a design has been approved that desirably contains a co-ordinated entry and exit to on-site car parking that is screened in some way so that the negative impact on the streetscape is minimised.

This Discussion Paper deals with the buildings constructed prior to the common ownership of the car and focuses on those with insufficient width to accommodate a side driveway or parking space, and where the result has been an on-site parking outcome.

The Discussion Paper then quantifies the problem using one street as an example and offers comment on the current policy and possible solutions.

2. Summary of Existing Situation

The location of a crossover requires Council approval as it has an impact on pedestrian safety, the profile of the footpath, the kerb and hence water table and on the amount of on-street parking that is available. The more crossovers, the less on-street parking and the greater the negative impact on pedestrians which is highly valued in both the Development Plan and the Smart Move, Transport and Movement Interim Action Plan 2016-2018.

In addition, the presence of a crossover almost always leads to a parking space being created linked to the crossover, which is frequently located in front of a building. Generally, the creation of a paved car parking area is not defined as 'development' in the *Development Act* 1993 and hence no approval is required. Once the crossover is created, Council can not prevent the parking of a vehicle on the site in all cases except for State Heritage Places, where the argument can be made that the construction of a paved area for parking is 'development'. Under Part 1 (4) of the *Development Act* 1993, a paved area used for car parking could be considered to be 'any other work that could materially affect the heritage value of the place'...In that circumstance, the development application would be clarified to include a parking area (if intended) and the development application referred to the Minister responsible for State Heritage Places who would be asked to comment on the parking space and its impact on the heritage value of the place. Generally, a paved area for parking a vehicle is often followed by a development application for a carport to cover the vehicle.

In the past, it is apparent that many crossovers and hence, parking spaces for vehicles, were supported in inappropriate locations, generally in front of buildings, either at 90 degrees to the road in front of the building, or, parallel with but in front of the building. This seems to have occurred mainly in the residential areas and in circumstances where a dwelling was used for commercial purposes. However, in circumstances where there was no driveway on-site or no rear access, parking in the front yard of dwellings does also occur.

With these historic crossovers and parking spaces, Council is unable to formally retract the approval and can only encourage owners to remove the parking space/s and crossover. It is not uncommon to find that crossovers and parking will be voluntarily removed by new owners who buy commercial properties with the intention of reverting to the previous residential land use. While some of these crossovers would have been approved and constructed by Council staff, there is no doubt that some of the crossovers created do not have a formal approval.

3. Process for applying for a crossover

Council has an informal but consistently applied process that has been in place since at least the mid-1990s as follows:

- The Development Application (DA) indicates a proposed new crossover
- The DA is referred to Council's in-house traffic advisors who support or reject the crossover.
- If rejected, the applicant is advised.
- If supported, the applicant is advised to complete a form which is attached to the Decision Notification Form.
- Before the Development Approval is issued, traffic is advised and a request to provide a quote is sent to the Depot. (If the applicant chooses not to accept the Depot's quote, the standards to be used are provided to the applicant.)
- Council's on-street parking team is notified.

Generally, although no formal policy for approving crossovers exists, the process outlined above works well and crossovers are installed only where appropriate as the implications (for pedestrians, the footpath, the kerb, the water table and on-street parking) are well understood by the Administration.

Prior to the mid-1990s, the process relating to the approving of crossovers is not known.

4. Audit of the Parking Outcomes

Council's resolution required an audit be conducted of the crossovers/driveways in front of older/historic character buildings, both commercial and residential, throughout the City and North Adelaide.

To understand the nature and extent of the task, Melbourne Street East and West was selected to develop a method of efficiently identifying those properties where there was a crossover, the nature and extent of the crossovers, when it/ they were approved, the land use, the heritage status of the property and the impact on parking and the appearance of the building and the streetscape.

Melbourne Street was chosen as it has a high proportion of commercial land uses in former dwellings, of which many are heritage places and parking is at a premium. Although some properties have rear access originally via Old Street, many have lost that access through subdivisions of the rear land parcels and this has had an impact on the Melbourne Street frontage.

5. Findings of the Melbourne Street Audit

By using maps with overlays of the parking controls (a portion of the map is included below), kerb locations and by inference, the location of driveways, the following crossovers have been identified (see the Table below) that have led to parking outcomes which detrimentally affect the streetscape amenity of Melbourne Street.



Melbourne Street Parking Controls		Melbourne Street Residential Parking Permit Area	
■ Bus	 Land Parcel	 Land Parcel	 Kerbing
■ Loading			
■ Motorcycle			
■ No Parking			
■ No Stopping			
■ Parking			

There are eight (8) examples, out of a possible 22 buildings on Melbourne Street, that have had parking outcomes in the front yard (ie a crossover constructed, the fence removed or widened to allow car entry and the front yard devoted to car parking). (See photos to follow.) The 22 possible sites are those where there is a nineteenth or early twentieth century building, generally without a side driveway that has enough depth in the front yard to accommodate a car parking space. The sites where the front yard is too shallow to accommodate a car parking space have not been included.

In general, the information gathered indicates that crossovers have not been approved in recent times in Melbourne Street. For seven (7) of the eight (8) examples, only 212-216 Melbourne Street has been approved after 2000 and that was approved as a result of particular circumstances at the time (see Notes for 212-216 Melbourne Street, following the Table). The remaining examples were installed prior to 2000 and their approval status or process has not been researched. For one (1) of those examples (208-212 Melbourne Street), the opportunity to remove or reduce the front yard parking that arose as a result of the land division and associated development applications was unfortunately, not pursued by the Administration.

In most circumstances of the eight (8) examples, the crossover is a single or double car width crossover which leads to a paved area in the front yard that accommodates a number of parked cars. One of the eight (8) examples (208-212 Melbourne Street) is a quadruple crossover providing four (4) car parks in the front yard of the site. On the site at 278 Melbourne Street, there is a structure that possibly is a converted garage built in the front yard, obscuring the views of the original building.

In terms of land use, all sites are used as consulting rooms or offices. There are no residential examples with an crossover. Generally, on the eight (8) sites, as much space as possible is devoted to car parking on these sites including the front and backyards if accessible. Rear access is only possible for those sites that abut Old Street at the rear, essentially a quarter of the Melbourne Street area.

The heritage status of the site does not seem to be an influencing factor. Half of the sites are Local Heritage Places, with the remaining four (4) sites not heritage listed. All eight (8) sites were proposed to be listed as a result of the 2004 Heritage Survey, with only four (4) sites eventually being included in the Development Plan as Local Heritage Places. By the time of the Survey, all the driveways were in existence.



288-290 (286) Melbourne Street



278-280 (278) Melbourne Street



220-230 (226) Melbourne Street



212-216 (214) Melbourne Street



208-212 Melbourne Street



196-198 Melbourne Street



185-189 Melbourne Street



205-207 Melbourne Street

Table 1: Melbourne St Crossovers that have led to outcomes regarding parking in the front yard

Address	Current land use	Historical land use	Heritage status	Width of Crossover	When was the crossover approved?	Notes
288-290 Melbourne St (known as 286)	Not documented – consulting rooms?	Dwelling	Not listed – proposed in 2004	Single	Before 2000	Parking provided in front and back yards
278-280 (known as 278)	Offices	Dwelling	Not listed – proposed in 2004	Single/double	Before 2000	Parking provided in front and back yards
220-230 (known as 226)	Consulting Rooms	Dwelling	Not listed – proposed in 2004	Single	Before 2000	Parking provided in front and back yards
212-216 (known as 214)	Offices	Dwelling	LHP – proposed in 2004	Double	DA/822/2004	See notes*
208-212	Consulting Rooms	Dwelling	LHP – proposed in 2004	Quadruple	Before 2000	See notes*
196-198 (known as 196)	Consulting Rooms	Dwelling	LHP – proposed in 2004	Single	Before 2000	Parking in front yard only
185-189 (known as 185)	Offices/ Consulting Rooms	Dwelling	LHP – proposed in 2004	2 singles	Before 2000	Parking at rear of site and in front yard
205-207 (known as 207)	Consulting Rooms	Dwelling	Not listed – <u>not</u> proposed in 2004	Single	Before 2000	Parking in front yard only

*Notes for 212-216 Melbourne Street

Development Application 822/2004 entailed 'Restoring the facade, constructing a new verandah, carpark and crossover to existing offices'. At the time, the building was proposed as a Local Heritage Place in a Council Heritage Planning Amendment Report. Prior to lodging this development application, the owner was proposing works that would have detracted from the heritage qualities of this building and the car parking proposed, could have been undertaken without obtaining development approval. The owner was encouraged to lodge a development application to work out the best way to address the proposed car parking without compromising the heritage qualities of the building. The applicant amended the plans in response to advice from Council's Heritage Advisor to ensure that the work complemented the heritage qualities of the building. Additional landscaping was proposed and planted to add to the amenity of the front of the premises and assist with screening the car parking. The applicant sought advice from a traffic consultant on the layout of the car park. Council's Asset Management staff had no objections to the layout proposed and the car park level matches the footpath levels.

The report for the application notes that:

.....Whilst car parking is not normally supported in the front of buildings, given the benefits to the preservation of the existing building and the high quality of presentation proposed, the arrangement is supported in this instance.

*Notes for 208-212 Melbourne Street

These former dwellings have been in commercial use for many years. Archival photos indicate that the crossover and parking spaces from Melbourne Street have existed since at least 1997. A 2003 letter from the doctors who occupied the premises, states that the parking in front was for the patients and the rear parks for the doctors and staff.

The original land parcels (which went from Melbourne Street through to Old Street) were in the same ownership when the rear Old Street allotment (later divided into two (2) allotments) was created. The land division to create the one (1) new allotment that faced Old Street (by combining the two (2) 'backyards') was approved in October 2009 (LD 19/2009) and corresponded with the built form as per DA 648/2008. Another division (the one (1) Old St allotment into two (2) allotments) was approved on 13 April 2016 (LD 5/2016) as per DA 627/14.

It would have been desirable to create a driveway to the rear of the Melbourne Street buildings when the 2009 land division was proposed, but unfortunately, it did not occur and it does represent a missed opportunity. Given that the only parking on-site to the commercially-used 208 and 210 Melbourne Street is now off Melbourne Street, it is unlikely that the situation will change in the near future.

6. Estimate of Resources Required to conduct an Audit of the City and North Adelaide/Methodology of the Audit

Car parking includes a nineteenth or early twentieth century commercial or residential property, generally without a side driveway, where a crossover has been constructed, the fence removed or widened to allow car entry and the front yard devoted to car parking.

Parking occurs mainly in the residential and Main Street Development Plan Zones. It is less commonly found in the Capital City and City Frame Zone. It is generally but not always associated with commercial land uses contained in former residential buildings and can occur in both front and back yards, if accessible.

The application of the methodology used for Melbourne Street would be applied to the whole of the City and North Adelaide and would following the steps set out below:

- To identify existing parking, maps would be produced showing kerb layers and on-street parking controls for every street in the City and North Adelaide, to identify parking sites.
- Following research into the history and circumstances of the identified sites, opportunities to remove parking could be identified.
- The owners could be approached individually with face to face meetings and the incentives package presented and discussed.
- The process would uncover unapproved crossovers which could be removed if Council has the power to do so.
- The identification of crossovers, research into their histories and owner interviews would require many weeks of staff time and hence considerable resources.

7. Proposed Incentive Package

The incentive package described in the Council decision would involve the items listed below.

Permit Parks

An on-street permit parking system would have to be proposed by and developed with Council's On-Street Parking Management Team. Balancing on-street parking needs is a complex issue. There are many implications and trade-offs in addressing on-street parking systems. As a result, alternative parking management solutions are currently being investigated. Extensive public consultation with affected stakeholders (including those in the vicinity of properties with front yard parking) would be required prior to any permit system being implemented.

Kerb and Footpath Reinstatement Costs

The reinstatement of the kerb could be part of the package provided by Council and could be coupled with a verge replanting scheme.

To estimate the approximate costs of the Incentives Package, the rectification of two (2) Melbourne Street East and West crossovers was examined. The estimated costs are as follows:

196 Melbourne Street – single crossover leading to a parking space for six (6) cars

Element	Cost
Kerb and water table reinstatement	\$5880.70
Footpath reinstatement	\$6300.00
Verge reinstatement	\$3570.00
Relocating Existing Services	Site dependant
Total	\$15750.70, excluding any costs associated with services

208-212 Melbourne Street – a quadruple crossover with four (4) car parks at 90 degrees to the street.

Element	Cost
Kerb and water table reinstatement	\$7056.84
Footpath reinstatement	\$6300.00
Verge reinstatement	\$4284.00
Relocating Existing Services	Site dependant
Total	\$17640.84, excluding any costs associated with services

The above estimates do not factor in the costs associated with relocating utilities should that be required.

The costs to Council for the reinstatement work for the kerb, water table, footpath and verge are substantial per property (without considering the impact on services) and can not be estimated at this time until the work is completed to understand how many owners would be willing to enter into the scheme.

The use of Heritage Incentive Scheme for Fencing, Verandahs and other elements

The reinstatement/reconstruction of fences and verandahs could be part of the package offered by Council to co-operating owners and funded through the existing Heritage Incentives Scheme (HIS).

The HIS offers a grant of up to \$20 000 (being 50% of the total project cost) for Minor Conservation Works. For Major Conservation Works, the HIS offers a maximum grant of \$100 000 (being 50% of the total project cost) and a 25% subsidy for works above \$200 000. The HIS also offers funding up to \$10 000 or 75% of the total of professional documentation costs for conservation works and other related documents.

Under the current HIS Operating Guidelines, the following places are eligible for HIS funding:

- LHPs
- SHPs
- Unlisted places identified by Donovan and Associates in 2008-2009 and objector properties associated with the North Adelaide PAR of 2003.
- Other unlisted building of significant historical character based on their merits.

The Guidelines require that the funding of unlisted buildings and character buildings can only occur where a Land Management Agreement is entered into by the owner and secured on the Certificate of Title. There are other requirements for HIS funding specified in the Operating Guidelines.

The impact of the scheme on the effectiveness of the HIS can not be estimated at this time until the work is completed to understand how many owners would be willing to enter into the scheme.

8. Risks

Cost Impacts

Unless any reinstatement is considered as part of public realm/streetscape upgrade (which would involve negotiating with individual owners, the reinstatement of kerbs etc) has the potential to be very costly to Council.

Effectiveness of the Heritage Incentives Scheme (HIS)

Depending on the take-up by owners, the proposed scheme could have significant effects on the budget and therefore operation and primary purpose of the HIS.

Linking of Parking Permit to Council funded Reinstated Elements

Any permit issued would need to be formally linked to the retention of a reinstated front fence, verandah and any other element that received Council funding. It is not clear what mechanism this would employ.

Requirement for Land Management Agreements

If the building was not a heritage place and received HIS funding to remove the crossover, parking space and reinstate the front fence, verandah etc, an LMA would be required to ensure the retention of the funded elements. The owner would be required to enter into an LMA, a process that is expensive and is clear from other previous incentives schemes, acts as a disincentive for owners to become involved.

Loss of Income for Building Owners associated with on-site parking spaces

The estimated value of on-site parking spaces to the building owners of Melbourne Street properties was ascertained. Each space currently commands \$100 to \$150 for open lot car parking per month per space in addition to the building rental. Covered car parking commands more rent per space per month.

Properties with on-site parking spaces are of considerable value to building owners. A property that provides on-site parking commands higher rents, with more paid for covered as opposed to open parking.

It is considered unlikely that many building owners would be willing to sacrifice this ongoing income for the sake of a once-off grant to improve the appearance of their buildings in the streetscape.

The Value of On-Site Parking to Tenants

Tenants are prepared to pay up to \$150 per space per month for on-site parking for the properties they rent. It is thought that many tenants would prefer to retain on-site parking for the convenience it offers and would not be supportive of owners adopting the incentives package.

Particularly in the Melbourne Street example, where many of the land uses are consulting rooms, the removal of on-site car parking would have implications for disabled or elderly customers, increasing the lack of adoption of the Incentive Package.

The Impact of Permanent On-Street Parking on Neighbouring Properties

The provision of permanent on-street parking in front of the subject site, will have impacts on adjacent properties in many locations. The impact will be that what was once parking spaces available to customers of the subject site and nearby properties, would now be permanently unavailable, whether occupied or not.

Increased Lack of On-Street Parking

If all eight (8) of the Melbourne Street properties listed in Table 1 opted into the scheme and surrendered their on-site parking spaces and crossovers, 37 additional cars would have permanent parking spaces on Melbourne Street. There are 134 on-street parking spaces on Melbourne Street. An additional 10 spaces would be created by the removal of the crossovers. A total of 144 on-street parking spaces would be available on Melbourne Street. As a percentage, the 37 new cars gaining an on-street parking for private use would absorb 25.7% of the available parking along Melbourne Street. This represents a significant loss of parking availability of what is a valuable community asset.

Previous and New Development Approvals

Table 7 of the Development Plan stipulates the amount of on-site car parking that should be provided for each new development. In areas of high demand for parking (such as Melbourne Street), consultant traffic reports are often requested to address parking issues. In the Melbourne Street East and West example, the approval of a consulting room land use would trigger the provision of 3 spaces per 100m² of gross leasable floor area to be provided on-site.

If applications are not able to provide the required on-site parking, calculations are made based on the on-street and off-street parking (such as the Dunn Street car park) that are available at particular times.

If the on-site parking was removed from some properties, many of the current approvals would be invalid and approvals associated with calculations based on the existing car parking demand in the area, would be rendered invalid.

Many new applications would not be able to be supported because of a lack of any on-site car parking spaces being able to be provided with the consequence that all parking would be required to be provided on the street.

Impact on Rates

Council grants each commercial parking spaces on the Melbourne Street properties an Assessed Annual Value and rates each space. Each space on Melbourne Street is assessed with a AAV of \$1300. In the case of 196 Melbourne Street, where six (6) open air parking spaces are provided the Total Assessed Annual Value to Council is \$7800.00.

If the proposed scheme goes ahead, Council faces a loss of rate revenue.

Impact on On-Street Parking Meter Income

Currently, there are no metred parks along Melbourne Street. Only minor changes are planned in the foreseeable future.

9. Benefits

The improved appearance of the streetscape through reinstated appropriate fencing, depending on the take-up of the proposed scheme.

Increased safety for pedestrians.

Improved conservation outcomes for properties.

The release of on-street parking spaces as a result of the removal of crossovers.

10. Summary

Car parking includes a nineteenth or early twentieth century property, generally without a side driveway, where a crossover has been constructed, the fence removed or widened to allow car entry and the front yard devoted to car parking.

Most of the parking is historical.

The outcomes that result from this type of development have long been understood with protections now incorporated into the Development Plan.

As the current approval process works well to prevent undesirable crossovers, it is not considered that the current approach to crossovers is failing in a way that it needs amendment.

Parking occurs mainly in the residential and Main Street Development Plan Zones.

It is generally, but not always, associated with commercial land uses contained in formerly residential buildings and can occur in both front and back yards, if accessible.

Following a desk-based survey and research, suitable properties would be identified.

The process would identify unapproved crossovers which could be removed if Council has the powers to do so.

An Incentive Package that achieves the intent of the Council resolution, would involve approaching the owners with an Incentive Package that offers the following:

- A Council-paid package that reinstates the kerb and a verge replanting scheme;
- On-street parking permits as close of possible to the frontage of the property to the equivalent number of on-site spaces that are being relinquished; and
- A Council-paid package funded via the HIS that reinstates/reconstructs fences and verandahs on suitable sites.

The proposal involves the following potential risks:

- The reinstatement of kerbs etc has the potential to be very costly to Council.
- With the loss of on-site parking for some sites, additional disabled car parks may be required to be provided on the street. These car parks require more length on the street, encroach into the footpath and require the construction of ramps. They are very expensive for Council to provide.
- Depending on the take-up by owners, the proposed scheme could have significant effects on the budget and therefore operation of the HIS.
- The on-street parking permit would need to be linked to the retention of the reinstated Council funded elements. The linking mechanism is not known.
- An LMA would be required if the building was not a heritage place and received HIS funding to ensure the retention of the funded elements. The owner would be required to enter into an LMA, which is cumbersome and expensive.
- Properties with on-site parking spaces are of considerable value to building owners. Would many building owners be willing to sacrifice an ongoing income for a once-off grant to improve the appearance of their buildings?
- On-site parking is of value to tenants because of the convenience it offers for tenants and for their clients. Would tenants remain in a building that no longer offered on-site parking?

- The provision of permanent on-street parking in front of the subject site, will have impacts on adjacent properties. Impacts include the permanent lack of availability of these spaces, whether occupied or not.
- As many current approvals for land uses require the provision of on-site car parking spaces, many approvals will be rendered invalid.
- Parking arrangements for new developments will be made more difficult if on-street parking pressures increase.
- Increased pressure would be exerted on existing on-street car parking spaces.
- There would be an impact on the rates Council collects if on-site car parking spaces were removed.

The following benefits could be expected from the proposed scheme:

- The improved appearance of the streetscape through reinstated appropriate fencing, depending on the take-up of the proposed scheme.
- Increased safety for pedestrians.
- Improved conservation outcomes for properties.
- The release of on street parking spaces as a result of the removal of crossovers.

11. Recommendations

The creation of a new Incentive Package as identified in the Council decision is not recommended for the following reasons:

Parking is often voluntarily removed with a change in ownership and/or a change in the land use of the property. When commercial land uses in residential properties revert to their original land uses, parking spaces in front of buildings and their associated crossovers are often removed. Council has existing incentives through the Heritage Incentive Scheme available to assist in encouraging such works to be undertaken. This can also occur when the ownership of a property changes and the new owners seek to improve the appearance with a suite of conservation and reinstatement works. A recent example is 41 Stanley Street, North Adelaide.



41 Stanley Street, North Adelaide – Before



41 Stanley Street, North Adelaide – After a recent change of ownership and conservation works supported by the Heritage Incentive Scheme.

An alternative approach to rectifying the same issue of crossovers may be to undertake a plan for them as part of an asset renewal and street improvement works program. The review of streets would allow an auditing process to identify opportunities to improve the streetscape which would allow for forward budgeting and could deliver a coordinated response in a more cost-effective way. On a street by street basis, crossovers could be identified and audited to understand their approval status. Negotiations could occur to find other solutions for both unapproved and approved crossovers. At this time, Council's heritage staff could approach owners with targeted incentive packages for fence reinstatement and other heritage works.

Heritage Incentives Scheme Allocation over \$50,000

ITEM 5.3 22/01/2019
The Committee

HIS/106/2018
Public

Program Contact:
Shanti Ditter, AD Planning &
Development 8203 7756

Approving Officer:
Clare Mockler, Director
Community

EXECUTIVE SUMMARY:

The Heritage Incentives Scheme (HIS) Operating Guidelines require proposed allocations of more than \$50,000 to be presented to Council for a decision.

This report recommends Council supports the proposed conservation works to St Margaret's, 21 -26 Brougham Place via a grant through the Heritage Incentives Scheme. The works comprise re-roofing and repair or replacement of gutters and downpipes to the house and outbuilding (former croquet pavilion).

RECOMMENDATION:

THAT THE COMMITTEE RECOMMENDS TO COUNCIL

That Council:

1. Approves an allocation of \$76,098.50 for conservation work as contained in Attachment A to Item 5.3 on the Agenda for the meeting of The Committee held on 22 January 2019 for St Margaret's, 21 -26 Brougham Place North Adelaide in accordance with the Heritage Incentives Scheme Operating Guidelines.
-

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	Strategic Alignment – Liveable Promote and protect Adelaide’s built character and heritage through our operations, incentives, policies and direct investment.
Policy	Heritage Incentives Scheme allocations greater than \$40k are in accordance with Council’s Built Heritage Management Policy and HIS Operating Guidelines.
Consultation	Not as a result of this report.
Resource	Not as a result of this report.
Risk / Legal / Legislative	Yes Risk is managed by allocations being reimbursed to owners upon satisfactory completion of the works.
Opportunities	Leveraging other initiatives of Council to further enhance the liveability of the city.
18/19 Budget Allocation	\$1.06 million has been budgeted in 2018/19 with \$693,510 allocated to date.
Proposed 19/20 Budget Allocation	\$1.08 million is proposed as the allocation in 2019/20.
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report.
18/19 Budget Reconsideration (if applicable)	Not as a result of this report.
Ongoing Costs (e.g. maintenance cost)	Not as a result of this report.
Other Funding Sources	The property owner will contribute 50% of the cost of works.

DISCUSSION

1. The Heritage Incentives Scheme (HIS) Operating Guidelines require that allocations of more than \$50,000 are presented to Council for a decision (Refer to [Link 1](#) for the HIS Operating Guidelines).

The HIS Guidelines funding criteria is:


- 1.1. **Professional Advice and Documentation** – Funding of up to \$10k or 75% of the total documentation and professional cost, whichever is the lesser amount.
 - 1.2. **Minor Conservation Works** – For conservation works up to \$40k in cost, a grant of up to \$20k or 50% of the total project cost, whichever is the lesser amount, is available.
 - 1.3. **Major Conservation Works** – For conservation works over \$40k in cost, a grant is available based on the following incremental scale:
 - 1.3.1. 50% subsidy for works up to \$200k (maximum grant of \$100k)
 - 1.3.2. 25% subsidy for works above \$200k (up to maximum grant of \$250k)
2. The Heritage Incentives Scheme is a partnership program between owners of heritage places and Council's Built Heritage Management Program.
 3. A total budget of \$1.06 million has been allocated for 2018/19. At 18 December 2018, a total allocation of \$693,510 has been made for projects.
 4. The proposed allocation is consistent with the Heritage Incentives Scheme Operating Guidelines. The guidelines allow for funding to be allocated to both Local Heritage Places and State Heritage Place.
 - 4.1. St Margaret's, 21 - 26 Brougham Place North Adelaide is listed as a State Heritage Place. The State Government recently announced the 'SA Heritage Grants Program' to assist with the preservation of restoration works for owners of State Heritage properties. The funding provides a maximum allocation of \$20,000 for major projects with a total budget of \$500,000 divided into two rounds of \$250,000. The owner is eligible to apply however, projects that benefit the public realm, activate under-utilised places, support specialised training and/or facilitate tourism may get special consideration.
 - 4.2. St Margaret's was constructed in 1889-90 for wealthy financier Arthur Waterhouse. The house, together with the original croquet pavilion and coach house on Ward Street represents an uncommon example of a grand late Victorian estate in North Adelaide. It is believed that prominent architect George Soward who designed several commercial buildings for Arthur Waterhouse was the architect. The house occupies a commanding location on the corner of Brougham Place and Margaret Street and demonstrates the grand residential character of Victorian residences with Park Lands frontages. Due to its corner site and intact condition the house makes a significant contribution to the historic character of eastern North Adelaide.
 - 4.3. The owners engaged Ron Danvers, an architect with significant heritage experience, to undertake a condition assessment of the house and croquet pavilion and document conservation works. Roof replacement and masonry repairs were identified as the key conservation works. This application for funding is to replace the existing Colorbond roof sheeting with corrugated heritage galvanised sheeting and replace or repair (as required) guttering and downpipes, ensuring that the buildings are watertight and the heritage fabric is conserved.

ATTACHMENTS

Attachment A – Details of Conservation Works

- END OF REPORT -

Attachment A – Details of Conservation Works

Property Details	St Margaret's 21 - 26 Brougham Place NORTH ADELAIDE					
						
Project Category	Major Conservation Works					
Assessment Criteria	Score	Comments				
Needs of Building	2/3	<p>The Owners will replace all of the failing Colorbond roofing and eroded galvanised iron guttering, downpipes and other accessories with heritage galvanised iron. Rainwater accessories will be repaired or replaced as necessary.</p> <p>The extent of works includes the original parts of the house and croquet pavilion.</p> <p>The condition assessment identified failing roof sheeting, leaks in difficult to access locations (such as the central box gutter to the house), inadequate stormwater reticulation and incorrect falls to gutters that have led to overflowing and backing-up. The consulting architect has maintained from the outset that the Colorbond roofing should be replaced and gutters and downpipes repaired or replaced as necessary. The owners have recently completed internal restoration, alterations & additions to the house. They have attempted to manage the inadequacies of the existing roofing and drainage but have now determined that roof replacement is the best option to ensure the long-term conservation of the house and croquet pavilion.</p>				
Visual Contribution to Public Realm	3/3	St Margaret's occupies a commanding location overlooking the Park Lands.				
Heritage Value	3/3	St Margaret's is listed as a state heritage place.				
Level of Past Financial Assistance	3/3	<p>The owners have not received any prior funding for conservation works to the house or croquet pavilion.</p> <p>The owners have been granted \$8250 for 75% reimbursement of architect's documentation fees for the roof and masonry conservation works.</p> <p>The previous owner received \$468 for repairs to the masonry boundary wall.</p>				
Total Score	11/12					
Cost of Roofing Works		<table> <tr> <td>House</td> <td>\$143,217</td> </tr> <tr> <td>Croquet Pavilion</td> <td>\$8,980</td> </tr> </table>	House	\$143,217	Croquet Pavilion	\$8,980
House	\$143,217					
Croquet Pavilion	\$8,980					
Total Cost of Works		\$152,197				
Proposed HIS Allocation	50%	\$76,098.50				

2018/03979
Public

Program Contact:
Shanti Ditter, AD Planning &
Development 8203 7756

Approving Officer:
Clare Mockler, Director
Community

EXECUTIVE SUMMARY:

In 2018, Council supported two resolutions relating to planning policy initiatives in Sydney and Melbourne - one concerning planning mechanisms and heritage initiatives employed by the City of Sydney to protect and preserve historic buildings and streetscapes, and the other seeking information on the new 'Central Melbourne Design Guide' in the City of Melbourne.

Two (2) papers are attached to this report which provide the information sought in the resolutions.

The research undertaken to prepare these papers will be utilised by the Planning and Development Program in future planning activities, including the preparation of a Five (5) Year City Plan.

RECOMMENDATION:

THAT THE COMMITTEE RECOMMENDS TO COUNCIL

That Council:

1. Notes the report and Discussion Papers, Attachment A and Attachment B to Item 5.4 on the Agenda for the meeting of the Committee held on 22 January 2019.)
-

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	Strategic Alignment – Liveable The report supports the goal of protecting and promoting Adelaide’s built character and heritage through investigating possible policy options including incentives.
Policy	This report and Discussion Papers do not have any impacts for existing Council policies or procedures.
Consultation	This report and Discussion Papers have been prepared with targeted consultation.
Resource	There are no resource implications arising from this report and Discussion Papers.
Risk / Legal / Legislative	There are no risks or legal implications arising from this report and Discussion Papers.
Opportunities	The report and Discussion Papers provide the opportunities to learn further about the operations of interstate planning policies.
18/19 Budget Allocation	Not as a result of this report or Discussion Papers.
Proposed 19/20 Budget Allocation	Not as a result of this report or Discussion Papers.
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report or Discussion Papers.
18/19 Budget Reconsideration (if applicable)	Not as a result of this report or Discussion Papers.
Ongoing Costs (eg maintenance cost)	Not as a result of this report or Discussion Papers.
Other Funding Sources	Not as a result of this report or Discussion Papers.

DISCUSSION

City of Sydney Planning and Heritage Mechanisms

1. In May 2018, Council resolved that Administration provide information on the planning mechanisms and heritage initiatives employed by the City of Sydney to protect historic buildings and streetscapes. The specific initiatives to be reported on included the use of mechanisms such as plot ratio, transferrable floor area (TFA), tower setbacks, signage controls and any other relevant topics.
2. This report describes the findings of investigations into the City of Sydney's planning and heritage mechanisms, a comparison with City of Adelaide mechanisms both past and present and, in response to a separate and later resolution from Council, describes the 'Central Melbourne Design Guide'.
3. The attached Discussion Paper (**Attachment A**) provides the requested information for the City of Sydney. It also reveals that in the 1980s, the City of Sydney and the City of Adelaide had broadly similar mechanisms in place to assist in protecting and preserving historic buildings and streetscapes including plot ratio, transferrable floor area mechanisms and tower setbacks (although the setbacks acted to control sunlight to the footpaths as well).
4. While the City of Sydney has retained these initiatives within its planning policy and continues to use them successfully, the City of Adelaide has lost most of these initiatives. The initiatives have been removed gradually, at times by amendments initiated by the City of Adelaide but more recently by State Government initiated policy. Over time, plot ratio has been removed and building heights lifted or removed entirely, within the Adelaide City Central Business District and on some sites larger than 1500m².
5. Without tight controls over height and plot ratio, it is not feasible to reintroduce a mechanism such as Transferrable Floor Area into the City of Adelaide Development Plan. Under the current and proposed planning reforms, it is not envisaged that Council will have any legislative powers granted to it in the future to enable a change in the current situation.
6. This report has not undertaken a detailed review or analysis of the effects of the different policy arrangements on the achievement of the strategic goals of Adelaide or Sydney.

City of Melbourne Central Design Guide

7. The [City of Melbourne's Central Melbourne Design Guide](#) was prepared to improve the design quality of development outcomes for the streets and public spaces in the central City area and Southbank. The Guide was prepared as a result of what has been considered to be poor public realm design outcomes for tall buildings built in the City of Melbourne over the last decade and is summarised in (**Attachment B**).
8. The Guide has analysed the elements of good urban design as it affects the public realm and presented that information in chapters that progressively delve deeper into the detail of the urban environment. The Guide begins with expanding and improving the pedestrian experience and moves to recommendations to encourage street activity and interaction including welcoming entrances, appropriate weather protection and development that enables street trees to grow.
9. Ultimately, the Guide and the submissions arising from the public notification will be considered by an expert panel and the Minister of Planning. If approved, the Guide will be adopted as an amendment to the City of Melbourne's current planning policies.
10. This process is expected to be completed later in 2019 and further information and any useful learnings can be presented through a workshop to Council at that time.

ATTACHMENTS

Attachment A – City of Sydney Planning and Development Initiatives Discussion Paper.

Attachment B – City of Melbourne Changes to Planning Policy Discussion Paper.

- END OF REPORT -

CITY OF SYDNEY PLANNING AND DEVELOPMENT INITIATIVES DISCUSSION PAPER

1. Purpose of the Paper

On 22 May 2018, Council requested that Administration provide information on the planning mechanisms and heritage initiatives employed by the City of Sydney. The initiatives to be reported on related to protecting and preserving Sydney's heritage and historic streetscapes and including:

- Plot Ratio.
- Transferrable Floor Area.
- Tower Setbacks.
- Signage Controls.
- Any other relevant topics.

Administration also agreed to compare past and current policy approaches (relating to plot ratio, transferrable floor area and tower setback provisions) used in the Adelaide (City) Development Plan.

The information contained in this paper will be used as background detail to inform future planning policy activities.

2. Overview of New South Wales Planning System

The City of Sydney's planning framework operates in the following way:

2.1 Legislation

The *Environmental Planning and Assessment Act 1979* sets out the laws under which planning in New South Wales is carried out. It enables the creation of statutory plans to guide development and land use including the powers to create State Environmental Planning Policies (SEPPs) and Local Environmental Plans (LEPs).

The Sydney Local Environmental Plan 2012 controls planning in the City of Sydney. This instrument contains the planning rules on land use, transport, floor space ratio, heritage, heights of buildings, special character areas and others. Further details are provided in the Development Control Plan for Sydney.

2.2 Decision-making Authorities

As occurs in the South Australian planning system, the circumstances of the application determine who the decision maker is. Some applications require approval from a council, a Regional Panel, a Sydney planning panel or the Minister for Planning.

The City of Sydney is the consent authority for most of the Council area. However, the Planning Minister is the consent authority for the land located around the Sydney Opera House and for development that has a capital value of more than \$10 million dollars. The Planning Minister is also the consent authority for state significant development and major development.

3. City of Sydney's Planning and Heritage Initiatives

3.1 Plot Ratio

The City of Sydney uses the term Floor Space Ratio (FSR) to describe what is called 'plot ratio' in the Adelaide (City) Development Plan. (See [Sydney Local Environmental Plan 2012](#))

For information – The City of Sydney's Floor Space Ratio is defined as FSR is the ratio of a building's floor area to the size of land that the building sits on and is calculated by dividing the total floor area of a building by the total land area of the property (known as the site area).

The City of Adelaide's plot ratio is defined as the ratio between the total building floor area or areas of the building or buildings' and the area of the allotment(s) upon which such building or buildings, are or are intended to be erected.

The Sydney Local Environmental Plan 2012 mandates that the Floor Space Ratio for central Sydney (ie Sydney and Haymarket) is as follows:

- 8:1 is the base FSR.
- An additional 4.5 can be gained for commercial development increasing the FSR for any site to 12.5:1.
- An additional 6.1 can be gained for hotel development increasing the FSR for any site to 14.2:1.
- An additional 10% can be awarded if design excellence, as judged by a Committee, is provided.

The FSR ratios for other parts of Sydney vary considerably and are frequently much lower.

3.2 Transferrable Floor Area (TFA) or Heritage Floor Space (HFS)

The scheme that is equivalent to the original City of Adelaide's Transferrable Floor Area (TFA) Scheme is known as Heritage Floor Space (HFS) (see [Page 55-57 6.10-6.11A of the LEP](#) for the details applying the HFS Scheme). Sydney's HFS scheme has been operating since the 1970s and is extremely successful in providing conservation works and on-going maintenance for heritage places in the City, while allowing developers to buy unused development potential from heritage sites and increase their plot ratio and hence building heights as a result.

The scheme operates in the following way but only applies in central Sydney (Sydney and Haymarket) and only applies to eligible heritage places (see [LEP 2012 Schedule 5](#) – places marked with an asterisk (*) are eligible for the HFS Scheme);

- A heritage item owner may apply to be awarded HFS when seeking approval for conservation works, or as part of a development that includes the land occupied by the heritage item. On the completion of approved conservation works specified in a

Conservation Management Plan, the owner of a heritage place is awarded HFS by the City of Sydney.

- The available HFS from all heritage owners (be they private or Government) is registered with the City of Sydney who provide publicly accessible quarterly updates.
- A developer can buy HFS and apply it to a site that requires it as part of an approved development, in accordance with the ratios described above. The money raised offsets the cost of conserving the heritage place and sets up a fund to allow for ongoing maintenance of the heritage place.
- Selling or transferring HFS is a private transaction between the owner and the prospective buyer and the price of HFS is determined by the amount of HFS required and the operating market conditions. Council is not involved in setting the price of the HFS that is available for sale.
- The sale of HFS is registered on the relevant Certificates of Title. After 25 years, the heritage place is eligible to offer its HFS for sale again.

City of Sydney staff stated that since the 1970s and from a pool of about 200 eligible heritage places, there have been approximately 81 awards of HFS, and 300 allocations of HFS to developers. From initially being worth \$300 to \$400 per square metre, HFS is now estimated to be worth approximately \$1400 per square metre.¹

3.3 Street Frontage (or Podium) Heights and Front, Side and Rear Setbacks

There are two (2) circumstances to present in this discussion; firstly, setback requirements for general development and isolated heritage places and secondly, for Special Character Areas.

3.3.1 Street Frontage (or Podium) Heights

- The existing typical street frontage height in Central Sydney is between 20m and 45m high.
- The Development Control Plan states that buildings built to the street alignment should have a height to street width ratio of at least 1:1 to provide a sense of enclosure to the street.
- Anything more than 45m street frontage height is considered to be overwhelming and hence there is a 45m limit on street frontage height.
- Some narrower streets are only 20m wide and in those streets, buildings should have street frontage heights of 20m only.

3.3.2 Front Setbacks

With regard to the setbacks of any building that is located above the podium:

- Building elements which exceed the required street frontage height must be set back to an average distance of 8m. As this is an average, some elements of the composition may protrude within the 8m setback.

¹Information provided by City of Sydney staff on 26 November 2018.

- The setbacks may be reduced on minor pedestrian streets.
- Any development above a heritage place must be set back a minimum of 10m, but additional depth may be required depending on the Conservation Management Plan recommendations for the place.

3.3.3 Side and Rear Setbacks

Above a height of 45m, windows or balconies of commercial buildings must be set back at least 3m from side and rear property boundaries.

For residential buildings, the side setback distances are increased.

3.4 Building Bulk

The Development Control Plan also seeks to reduce visual and daylight impacts on public spaces by controlling the size and horizontal dimensions of upper level floor plates. The aim is to step the building in progressively once it is beyond a height of 45m and then again when the height reaches above 120m.

3.5 Buildings on the Same Site

Minimum separation distances for buildings on the same site are:

- 6m for commercial to commercial.
- 9m for commercial to residential buildings which are up to a height of 45m.
- 15m for commercial to residential buildings which are higher than 45m.
- 12m for residential to residential buildings which are up to a height of 45m.
- 24m is preferred for residential to residential buildings which are higher than 45m.

3.6 Special Character Areas

Sydney has nine (9) Special Character Areas which are effectively 'local heritage areas'. (See [Section 2.1 of the DCP.](#)) Special provisions apply in the Special Character Areas to street frontage heights and front, side and rear setbacks.

3.6.1 Street Frontage or Podium Heights

Each Special Character Area has its own specified maximum and minimum street frontage heights, based on an analysis of the character of the locality. (See [Table 5.1 in the DCP.](#))

3.6.2 Front Setbacks

Each Special Character Area has front setbacks specified which often vary for every building in the Special Character Area. (See [Table 5.1 in the DCP.](#))

3.7 Public Domain Features

Elements of the public environment such as stone kerbing, street furniture, cast iron letterboxes, sign posts, original light posts, sandstone and milestones or ward markers are to be retained, if they contribute to the significance of the Special Character Area.

3.8 Building Exteriors

There are provisions in the Development Control Plan that relate to external materials and development adjacent to heritage places.

Any development on a site adjacent to a heritage place should consider the following issues in any new design;

- (a) street alignment,
- (b) street frontage heights,
- (c) setbacks above street frontage heights, and
- (d) facade proportions including horizontal or vertical emphasis and enclosed corners at street intersections.

In addition, the exteriors of new buildings should be designed to reinforce the predominant masonry character of the lower levels of central Sydney's buildings.

3.9 Prescriptive Signage Controls

[Section 3.16.11 of the Development Control Plan](#) deals with signage as it relates to heritage places and conservation areas.

The Development Control Plan has numerous provisions to control signage including the power to require a heritage impact statement and signage strategy to be prepared. The purpose of these documents is to consider all existing and future signage needs on the building and factor in any relevant recommendations from Conservation Management Plans.

Generally, the provisions require that existing significant heritage signage be retained and the name of a place not changed without first considering the heritage implications.

Any new signage should be compatible with the building, in design, style, materials, colours, images and lettering styles. It should be reversible and not damage the heritage place. It should be located below the first floor level unless it is an integral part of the heritage value of the place.

Illuminated, dynamic and electronic signs are only appropriate in particular circumstances. There are size and location restrictions for hand-painted signage on windows and for business identification signs on heritage listed dwellings or dwellings in conservation areas.

The City also has 17 Signage Precincts (such as Millers Point and Circular Quay) and in these areas, the requirements for signage are further specified. The requirements for each signage precinct is different and based on an analysis of the character of that particular precinct. (These are referred to in [Section 3.16.12 of the DCP.](#))

For example, for the Town Hall and Martin Place Signage Precinct, signage is required to respond to the character of the locality, the statement of heritage significance and the Public Domain Plan. The precise nature of the signage to be applied to heritage buildings in this precinct is specified with business signs only being permitted where the sign is an integral part of the heritage value and consists of individual metal letters either fixed to the building or to a plate that is fixed to the building. Electronic or dynamic signs are not permitted on Martin Place frontages.

4. City of Adelaide's Planning and Heritage Initiatives

This section describes past and current policy approaches used in the Adelaide (City) Development Plan and in particular, plot ratio, transferrable floor area and tower setbacks.

4.1 Plot Ratio

The concept of plot ratio was introduced with The City of Adelaide Plan in 1974. It applied to most areas of the City and North Adelaide. With successive plans, plot ratio was removed from the commercial zones and changed from being a non-complying trigger to development assessed on its merits. By the time of the introduction of the Capital City Development Plan Amendment in April 2012, plot ratio did not apply in the Central Business Area, Mixed Use, Institutional and Park Lands Zones. For the zones where plot ratio did apply (ie the residential zones), the exceedance of plot ratio was sometimes a non-complying trigger.

Currently, plot ratios only apply in the following zones in the Adelaide (City) Development Plan;

- The majority, but not all, of the Policy Areas in the North Adelaide Historic (Conservation) Zone. For some Policy Areas, the exceedance of plot ratio remains a trigger for non-complying development but in others it is merit or there is no plot ratio specified.
- The Adelaide Historic (Conservation) Zone has a recommended plot ratio and exceedance is not a trigger for the non-complying process.
- The City Living Zone has a recommended plot ratio and exceedance is not a trigger for the non-complying process.
- The Capital City Zone, Main Street, Mixed Use, City Frame, Institutional and Riverbanks have no plot ratio.

4.2 Height Limits

The other significant change that has occurred over time to the Adelaide (City) Development Plan is the increase in height limits in certain zones and the complete removal of height limits in others. The residential areas have mostly retained their low height limits but for the majority of the commercial or mixed use areas, maximum building heights have been significantly lifted.

Currently in the Capital City Zone, an area that represents over two thirds of the area of the Adelaide CBD, the following map indicates the height limits that are in place. (See [Map pp.189-190 from City of Adelaide Development Plan 7 June 2018](#)). It should also be noted that there are additional provisions in the Capital City Zone to exceed the height limit if the development provides certain features.

4.3 Catalyst Site Provisions

The 2012 Development Plan also introduced 'catalyst site' provisions into some zones, both residential and commercial outside the Capital City Zone. The stated purpose of catalyst site provisions was to remove hard barriers to the development of sites over 1500m² to:

- Enable a greater intensity of development to be realised on larger sites.
- Allow more flexible land uses.
- Allow more flexible building heights.

The maximum height of catalyst site development is not specified but is to be determined by the performance of the development and is likely to relate to the size and depth of the allotment and

the capacity of the site to address overshadowing impacts. The terms 'medium' or 'high scale' are used. Catalyst site provisions now apply in the following Zones:

- City Living Zone – Policy Areas 29 and 30.
- Main Street (O'Connell) Zone.
- Main Street (Melbourne East) Zone.
- Main Street (Hutt) Zone.
- Main Street (Adelaide) Zone.
- Mixed Use (Melbourne West) Zone.
- City Frame Zone.
- Institutional (St Andrews) Zone.

4.4 History of Transferrable Floor Area (TFA) in City of Adelaide

Transferrable Floor Area (TFA) was first included in the 1986-91 City of Adelaide Plan in an era when height limits applied. The TFA Scheme operated in a broadly similar way to Sydney in that it sold the potential development space above a heritage place in the CBD to a developer to enable increased height for the developer's site and to establish a fund for conservation and maintenance works for heritage places.

The discussion concerning the removal of TFA from the Development Plan began in c.2003 with the preparation of the General Planning Amendment Report (PAR). The Explanatory Statement and Investigations report detailed that the objective was to move Council's Development Plan to a performance rather than prescriptive approach. As part of this, the existing height limits were reviewed and for the most part increased.

The General PAR explained that since the inception of the scheme in 1986, 11 transactions had occurred with two (2) more possible projects at the time the report was written. The General PAR recommended and succeeded in abandoning the TFA Scheme arguing that there were better heritage and conservation policies in place in the proposed amended Development Plan. In addition, the PAR proposed an increased flexibility of land uses possible for heritage places, which it was argued, was more important than 'a one-off' upgrading of the property. It was also stated that an inherent conflict existed between the desired form of the City and providing ways to allow the height to be exceeded through bonus mechanisms. The General PAR, without the TFA provisions, came into operation via the Development Plan of January 2006.

With the significantly increased or no height limits associated with the 2012 changes to the Development Plan, and the lack of plot ratio operating in the Capital City Zone, it would not be feasible to re-introduce the TFA provisions. TFA, which grants bonus plot ratio and therefore height, can only work if plot ratios and height limits exist and are tightly controlled.

4.5 Tower Setbacks

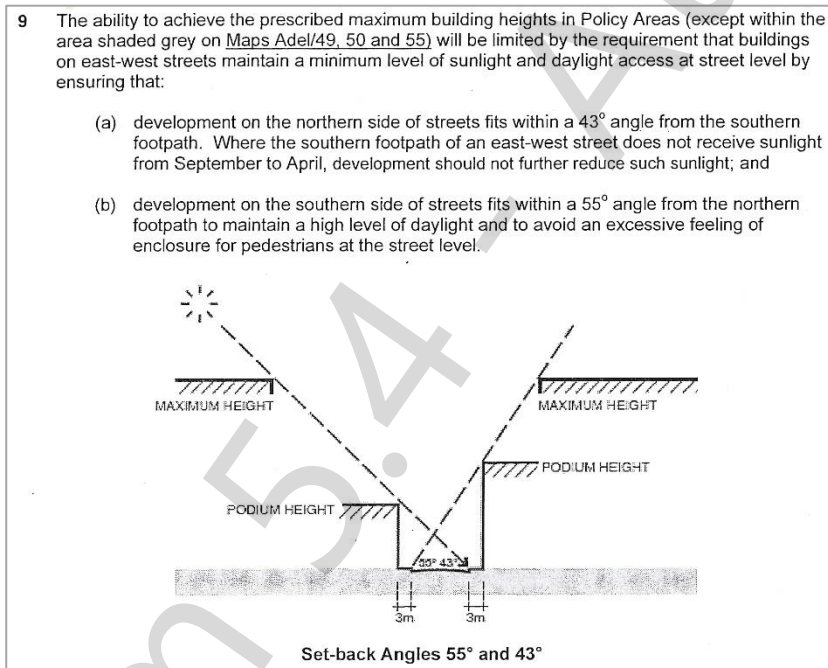
In previous plans, such as The City of Adelaide Plan 1986-91, it specified that, in some precincts, podium heights were set and any elements above the podium, should be set back a designated distance, depending on the locality. The setback was determined by the overall height of the building, its relationship to adjacent buildings, its potential for overshadowing and over-bearing

and its potential for generating adverse microclimatic effects. The broad purpose of this policy was to preserve streetscape amenity.

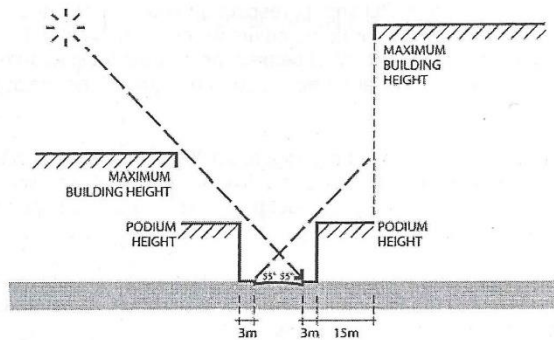
By 2010's Development Plan, ensuring an adequate level of daylight to public and private outdoor open spaces was still considered important. (CW PDC118). Many of the PDCs found in previous Development Plans remained in force, including that new development should:

- Reinforce the desired character with regard to parapet lines, floor levels, height and massing.
- Provide a comfortable human scale by continuing the predominant façade line and setting back upper level behind a podium.
- Recognise prevailing setbacks.

Instead of specifying podium heights and set back distances, the 2010 Development Plan introduced building envelope diagrams in the CBD Zone, then known as the Central Business Area Zone and the Mixed Use Zone. (See diagrams from the 2010 Development Plan below.) The purpose of the building envelope diagrams was to ensure that sunlight and daylight reached street level and that a sense of openness to the sky remained. The diagrams set an envelope based on a 43 degree angle on the northern side of the street and a 55 degree angle on the southern side of the street. This sunlight-related provision acted to encourage buildings to be set back progressively as they increased in height. In some policy areas, more specific building envelopes promoted podiums of three (3) to ten (10) building levels, with taller building elements generally contained within a 55 degree building envelope from the footpath edge.

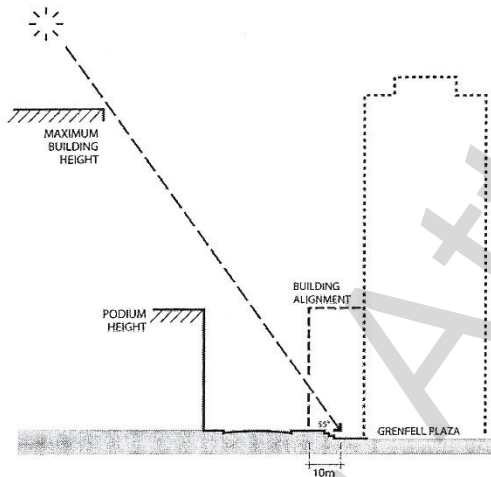


- 11 Buildings higher than the prescribed maximum building heights in each Policy Area may only be appropriate where the proposed building:



Waymouth Street Set-back Angles 55°

- 9 Development on the northern side of Grenfell Street within the area shaded grey on [Maps Adel/49, 50 and 55](#) should maintain the generally consistent parapet line of existing buildings by incorporating a podium height of five to ten building levels. On this frontage, taller elements above the podium should be stepped back from the street alignment according to an angle of 55 degrees to retain sunlight to the Grenfell Plaza and a sense of openness to the sky.



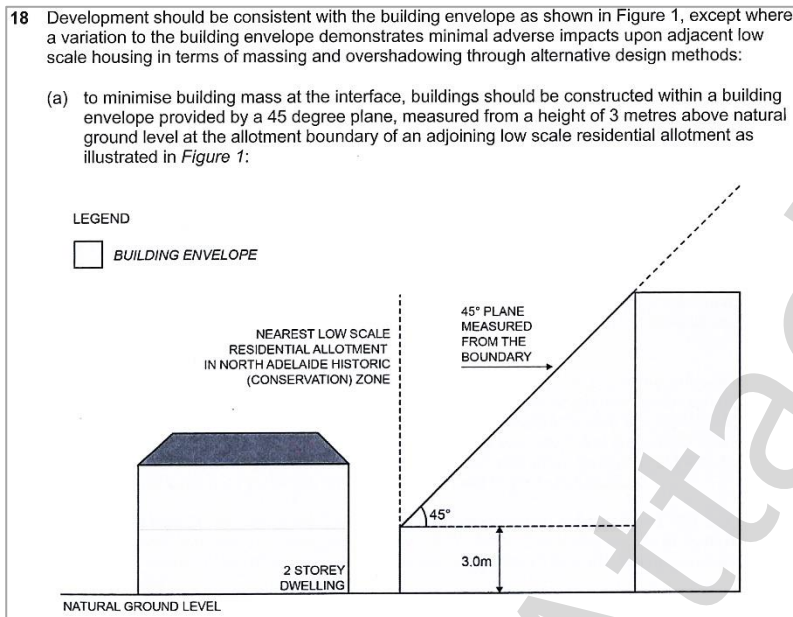
Grenfell Street - Set-back Angles 55°

With time, these specific building envelope diagrams have been deleted from the current Development Plan. However, the Plan contains a number of provisions to influence the design of the taller elements of new development. These provisions propose that new development:

- Retain a sense of openness to the sky and allow daylight to public spaces (CWObj 47(b)).
- Reinforce the prevailing parapet lines, floor levels, height and massing in accordance with surrounding development (CWPDC(a), CW PDC 180, CW PDC 182).
- Provide human scaled development at ground level (PDC 170(b)).
- Clearly distinguish between ground, middle and roof top levels (CW PDC 180).
- Make a feature of the roof top (CW PDC 193).
- In the Capital City Zone (PDC112), be designed to include a podium or street wall height with an upper level setback that is in the order of 3-6 metres.

Further provisions, such as PDC 13 in the Capital City Zone encourage buildings in some localities to have slender tower elements to allow sunlight access to southern footpaths. Similarly, other PDCs act to enable sunlight to enter the Squares (PDC 18).

There are building envelope diagrams in the current Plan but their purpose is to deal with interface issues. (See diagram from 2018 Development Plan below.) They are designed to mitigate the overshadowing impacts from development in a higher commercial zone impacting on adjacent residential development of a lesser height.



5. Conclusion

Council's resolution asked for a report on planning and development initiatives used by the City of Sydney to preserve and protect its heritage buildings. This is presented in Point 3. The Administration further agreed to compare past and present policy approaches used in City of Adelaide planning policy which is presented in Point 4.

It is clear that in the past, both cities have employed similar mechanisms in the planning and development initiatives to support heritage. However, most of the provisions have been removed from current planning policy in the City of Adelaide. Deletions have sometimes occurred as a result of Council initiated decisions, but more frequently and recently, planning policy imposed on the Council area by Ministerial Development Plan Amendments. No further analysis has been undertaken as part of this paper to look into the circumstances of each city to help better understand the consequences of each policy approach.

The City of Sydney's planning and heritage initiatives provide a useful point of comparison for the City of Adelaide with respect to protecting and preserving heritage and historic streetscapes, particularly to inform future planning instruments that may be utilised in the new planning system in South Australia.

CITY OF MELBOURNE CHANGES TO PLANNING POLICY DISCUSSION PAPER

1. Purpose of the Paper

In July 2018, Council ([10 July 2018 ID 18587](#)) requested that the:

- Chief Executive Officer contact the Victorian Minister of Planning to be informed about the then newly released Central Melbourne Design Guide.
- Chief Executive Officer contact the City of Melbourne's Planning Chair, Councillor Nicholas Reese to be informed about the proposed design policy.
- That a workshop be scheduled for Council members to be informed of the changes proposed for planning in Melbourne.

The Administration's response to the motion on notice agreed to 'review of the Central Melbourne Design Guide with a view to presenting a workshop to Council within three to four months'.

2. Purpose of the Central Melbourne Design Guide

The [Central Melbourne Design Guide](#) was prepared by the City of Melbourne to 'raise the bar' on the design quality of development outcomes in the Central City and Southbank localities of the City of Melbourne.

Based on the findings of a research report, the preparation of the Guide resulted from criticisms levelled at tall buildings erected in Melbourne over the past decade and their impacts on the quality of the streetscape and public realm generally. It was a period that was the central city's biggest ever construction boom. The boom coincided with successive planning ministers loosening regulations which led to, in Council's view, the creation of less than optimal public urban spaces.¹

The City of Melbourne considers their streets to be a major public asset. The design quality of Melbourne's streets and public spaces is fundamental to the liveability and economic prosperity of the City. The Guide is intended to be used by all involved in the development of new buildings to improve the outcomes for Melbourne's streets and public spaces.²

3. Summary of the Central Melbourne Design Guide

The Guide is designed to assist new development to provide what is considered by the City of Melbourne to be 'good design' outcomes for the development of private land within the Central City and Southbank. If adopted, the Guide will be incorporated into an amended Melbourne

¹ The Age, 1 July 2018. <https://www.theage.com.au/politics/victoria/new-city-design-rules-to-target-bad-and-good-building-plans-20180630-p4zopf.html>

² Email correspondence from Councillor Nicholas Reece, Chair Planning Portfolio, City of Melbourne to City of Adelaide, dated 21 December 2018.

Planning Scheme (Amendment C308). The Guide is Stage 1 of two (2) stages, the second being Design Excellence component which has not yet been prepared.

The Guide focuses on the key components of design that contribute to the creation of inspiring and lively streets and places, with a particular emphasis on the interface of buildings with the City's public realm. The central message is that the response to context, whether it be the streets and laneways, buildings, or activities is the key to achieving good design outcomes.

The audience for the Guide is intended to be diverse, including the community, designers, planners, and developers and hence it is presented in a largely graphic format, aimed to make the document more accessible.

The Guide has the following six (6) theme headings, which progress from larger design considerations to smaller, more detailed elements of design. The theme headings follow, with the topics covered by each heading:

- Urban Structure aims to encourage development that promotes walkable precincts. It encourages improved pedestrian connections and networks.
- Site Layout aims to ensure that the configuration of ground level spaces and entrances contributes to the use and character of the street and laneways. This section encourages development to respond to the function and character of surrounding main streets, streets and laneways by maintaining continuity in built form and providing space for exterior outdoor activities.
- Building Mass aims to ensure that new development responds to the surrounding context and minimises amenity impacts. This section encourages development to respond to its context, break up the mass of the new buildings, minimise the impacts on public and private amenity and maximise outlook and daylight.
- Building Program asks that the position and design of active uses, services and parking ensure a high quality public realm. This section aims to maximise activity along streets and laneways, limit ground floor services, integrate services to minimise impacts on the public realm, locate car parking underground or sleeve all podium parking with active uses, design for future adaptation, activate the public realm, maximise the number of building entries and opportunities for visual interaction and internal amenity.
- Public Interfaces aims to ensure that new development promotes safe and lively public spaces. The section encourages active street frontages, appropriate welcoming entries with seating on the building/footpath alignment, appropriate weather protection for pedestrians, adequate waste handling areas, street tree growth and that facade projections are discrete and light weight.
- Design Quality is concerned with new development contributing to a high quality and attractive public realm. This section encourages design competitions, the use of multiple designers on any one site to encourage diversity, the inclusion of depth within the façade, that all faces of a building are designed to a high standard, that sustainable systems and technologies are integrated and that external materials are of a high quality.

Each chapter provides extensive examples in the form of hand-drawn illustrations and photos to visually communicate the desired outcomes. The Guide also contains extensive images of what are considered to be poor outcomes.

4. Progress of the Central Melbourne Design Guide

As stated, the Guide was released for consultation as a draft in June 2018 accompanied by considerable engagement with the community and industry groups. An updated version including revised illustrations, but similar content was published in November 2018. The public exhibition period closed on 10 August 2018.

Forty-one (41) submissions were received, mostly from large bodies, with 20 submissions being supportive of the proposed amendment. Approximately 20 submissions were less supportive, with responders most commonly desiring the maintenance of the existing approach to ground level services and above ground car parking.

The City of Melbourne has considered the submissions received and the Minister of Planning has appointed an independent panel to review and hear submissions. A Directions Hearing is scheduled for 31 January 2019 with the Panel Hearing commencing from 25 February 2019.

Before making a final decision on the Amendment, the City of Melbourne will consider the independent panel's advice. If the Amendment is adopted by Council, then it will be submitted to the Minister for Planning for final approval.

5. Next Steps for the City of Adelaide

The final point raised in the Council decision of July 2018, was that a workshop be scheduled for Council members to be informed of the changes proposed for planning in Melbourne. Following the final approval of Planning Amendment 308 by the Victorian Minister for Planning, a workshop time and date can be scheduled for Councillors to provide that information.

2018/19 Grant Recommendation – Recreation and Sport

ITEM 5.5 22/01/2019
The Committee

2016/03310
Public

Program Contact:
Sean McNamara, AD Community
& Culture 8203 7640

Approving Officer:
Clare Mockler, Director
Community

EXECUTIVE SUMMARY:

The purpose of this report is to seek Council endorsement for a 2018/19 Recreation and Sport grant recommendation of \$28k over two years. Recommendations under \$10k that have been approved by the CEO under delegated authority are included in this report for noting.

RECOMMENDATION:

THAT THE COMMITTEE RECOMMENDS TO COUNCIL

That Council:

1. Endorses the following 2018/19 grant recommendation for *Pushing Performance 'Activate Adelaide'* of \$28k over two (2) years; \$14k in 2018/19 and \$14k in 2019/20, Attachment A, to Item 5.5 on the Agenda for the meeting of The Committee held on 22 January 2019.
 2. Notes the 2018/19 recommendations for grants under \$10k that have been approved under CEO delegation to date, Attachment B to Item 5.5 on the Agenda for the meeting of The Committee held on 22 January 2019.
-

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	Strategic Alignment – Liveable The activity in this report supports Council's Strategic Plan action of enhancing the role of the Park Lands in increasing levels of physical activity and wellbeing through formal and informal sport and recreation opportunities.
Policy	The recommendation contained within this report aligns with Recreation and Sport Grants Program Operating Guidelines .
Consultation	Not as a result of this report.
Resource	Administration of Council's Grants Program is undertaken within existing resource allocations.
Risk / Legal / Legislative	All grant recipients are required to provide a Risk Management Plan, Public Liability Insurance, and satisfactorily acquit their project at completion.
Opportunities	The Recreation & Sport Grants Program extends the community value achieved by Council, by enabling community organisations to deliver City of Adelaide's strategic priorities according to community need and opportunities.
18/19 Budget Allocation	The total budget for the Recreation and Sport Grants Program is \$175k.
Proposed 19/20 Budget Allocation	This report recommends that \$14k of the 2019/20 Recreation and Sport Grants Program budget be pre-committed.
Life of Project, Service, Initiative or (Expectancy of) Asset	The project will be delivered over two years subject to Council approval of the 2019/20 budget and satisfactory progress reporting by the recipient.
18/19 Budget Reconsideration (if applicable)	Not as a result of this report.
Ongoing Costs (eg maintenance cost)	Not as a result of this report.
Other Funding Sources	The total cost of the recommended project is \$82k over two years. Other funding sources will contribute \$52k to this project.

DISCUSSION

1. The Recreation and Sport Grants Program consist of the following categories:

Grant Category	Rounds per year		Maximum amount per application	Length of funding agreement	Endorsement
1 – Community Facilities	One (1)	Round 1 (March)	\$70k	1 year	Council (over \$10k) CEO (under \$10k)
2 – Programs	Two (2)	Round 1 (August) Round 2 (March)	\$20k	1-3 years	Council (over \$10k) CEO (under \$10k)
3 – Events	Two (2)	Round 1 (August) Round 2 (March)	\$10k	1-3 years	Council (over \$10k) CEO (under \$10k)
4 – Quick Response	Open all year	All year	\$2k	1 year	Associate Director

2. Round 1 of the Recreation and Sports Grants Program opened in August 2018 and received eleven (11) applications with requests totalling \$190,420.
3. Under delegation, four (4) of the eleven (11) applications were approved for funding;
- 3.1. \$17.5k from 'Programs Category 2'
- 3.2. \$4k from 'Events Category 3'.
4. Details on the grant application, recommended in this report for Council endorsement and the assessment criteria, it has been assessed against by Council administration, are summarised in **Attachment A**.
5. A summary of the grant applications that have been approved to date by the CEO under delegated authority is summarised in **Attachment B**.
6. A financial breakdown of funding approved to date, the grant recommendation in this report and the amount remaining for future 2018/19 funding rounds are as follows:

Recreation & Sport Categories	Council endorsement requested (this report)	Committed funding, previously endorsed or approved	Budget allocation 2018/19	Amount remaining for 2018/19
1 – Community Facilities		\$61k	\$175k	\$41.7k
2 – Programs	\$28k \$14k 2018/19 \$14k 2019/20	\$33.8k (from multi-year funding) \$17.5k		
3 – Events		\$4k		
4 – Quick Response		\$3k		
Total 2018/19	\$14k	\$119.3k		

ATTACHMENTS

Attachment A –2018/19 grant recommendation over \$10k for Council endorsement.

Attachment B –2018/19 grant recommendations under \$10k approved under CEO delegation.

- END OF REPORT -

RECREATION AND SPORT GRANTS PROGRAM

The purpose of the Recreation and Sport Grants Program is to provide financial support to eligible clubs, groups, educational institutions and organisations to ensure the outcomes of Council's Strategic Plan are realised. The recreation and sport grants program embraces all four themes of Council's strategic plan: 'Smart' 'Green' 'Liveable and 'Creative', with a particular emphasis on enhancing the role of the Park Lands in increasing levels of physical activity and wellbeing through formal and informal sport and recreation opportunities, and delivering sport and recreation activity hubs consistent with the Active City Strategy and Adelaide Park Lands Management Strategy.

CATEGORY 2 – PROGRAMS

The purpose of the Programs Funding Category 2 is to support the development of ongoing sport or physical activity programs that increase the participation, wellbeing and resilience of the community.

LIMIT OF FUNDING

Maximum funding \$20k per year for up to 3 years

FUNDING OPPORTUNITIES

Twice per year, funding permitting

ASSESSMENT CRITERIA

No.	Consideration	Weighting %
1	Community Benefit <ul style="list-style-type: none"> • The proposal is for a community level sport and recreation program or event • The proposal encourages broader community participation both among residents and visitors to the City • First priority will be given to organisations active in the City • The proposal demonstrates significant demand for the activity(s) or event(s) • The proposal targets specific populations, and/or people from vulnerable or disadvantaged groups 	40%
2	Strategic <ul style="list-style-type: none"> • Increasing participation by the broadest range of residents in the community life of their neighbourhood • Developing and celebrating strong and resilient city communities that are welcoming and encourage people of all ages, cultures and means to participate in city life, including through volunteer opportunities • Working with community leaders and organisations to support vulnerable members of the community • Working with the community and other stakeholders through a range of initiatives to activate key areas • Enhancing the role of the Park Lands in increasing levels of physical activity and wellbeing through formal and informal sport and recreation opportunities • Streamlining Council processes for events to be hosted in the City and better enable City businesses to benefit from these events 	30%

	<ul style="list-style-type: none"> • Working with existing festivals and events to increase the number and diversity of audiences and visitors • Facilitating the reuse and recycling of equipment, consumables and materials used in festivals and events in the City • Working with partners to promote a comprehensive calendar of events and activities. • Providing support to key festivals and organisations to assist them in offering events and activities that attract visitors to the City 	
3	Activation <ul style="list-style-type: none"> • Promotion of community participation and involvement • Increases people's participation in physical activity and/or events, and attracts more visitors to the City • Leads to ongoing participation in regular physical activity, and/or increased wellbeing and resilience 	20%
4	Financial Risk <ul style="list-style-type: none"> • The proposal is value for money and will provide Council with good return on investment • Level of investment by the applicant • Capacity of the applicant to deliver the project and manage risk 	10%
Total		100%

RECREATION AND SPORT GRANTS PROGRAM - DETAILS OF RECOMMENDATIONS FOR FUNDING (OVER \$10k) – CATEGORY 2: PROGRAMS

Organisation	Description	Previous Funding	Request	Other Funds – In kind	Other Funds – Cash	Total Project Cost	Rating Criteria Out of 10	Recommendation
Pushing Performance	<p>Activate Adelaide Activate Adelaide has been developed by Pushing Performance in conjunction with a range of community organisations such as Baptist Care SA to inspire positive changes and educate on the importance of health & wellness. This program is free to join and has been specifically designed to target a wide range of the community, be inclusive, and enable those involved to get active in city spaces.</p> <p>Funding is sought to implement a calendar of 9 programs for physical activity, health and wellness that target vulnerable persons, older adults, university students and residents to take place in many areas across the city and Park Lands including the Adelaide South West Community Centre, the Uni Village, Elder Park, Whitmore Square, Rymill Park, Helicopter Playground, Wellington Square, Victoria Square and Hurtle Square.</p> <p>The 9 programs will attract up to 20 people per session at 2-4 sessions per week in the first year. This will attract over 200 people in the first instance with initiatives to retain and inspire ongoing physical activity sustainably in the future. Council's funds will support operating costs, marketing and various site fees.</p>	2017/18 \$1,000	Year 1 \$20,000	N/A	Year 1 \$21,190 (Applicant cash & sponsorship)	Year 1 \$41,190	7.96	<p>Year 1 (2018-19) - \$14,000 Year 2 (2019-20) - \$14,000 subject to the results of satisfactory progress reporting by the recipient on key performance indicators.</p> <p>It is recommended that funding will go towards operating costs, marketing, equipment hire and various site fees to support the delivery of 7 of the 9 programs to Activate Adelaide including:</p> <ul style="list-style-type: none"> - Adelaide's homeless/Baptist Care SA - Adelaide's South West/Whitmore Square - 55+ Residents / Wellington Square - International Students / Uni Village - Free Friday Fitness / Victoria Square) - Monday Madness / East End Rymill Park - Successful Saturdays / Hurtle Square <p>Although Pushing Performance is set up as a commercial business, the social and community health benefits of this program are the primary outcome. Funding sought is solely to cover costs of Activate Adelaide.</p> <p>This program aligns with 7 outcomes of Council's Strategic Directions and 7 priorities of Recreation & Sport Grants Program. Funding is subject to Pushing Performance:</p> <ol style="list-style-type: none"> 1. Agreeing and adhering to the grant schedule and key performance indicators set by the City of Adelaide. 2. Delivering a calendar of sessions for 7 programs in 2018/19 and 2019/20. 3. Measuring and tracking participants recruited to the program including those returning regularly. 4. Undertaking regular feedback from participants to measure the social impact of the program. 5. Working with minimum of 2 student accommodation providers 6. Working with existing free running groups by cross promoting 7. Use of approved Council logo on all marketing and promotional communications. 8. Providing the City of Adelaide with reports and acquittals post implementation of the program.
		2018/19 \$2,000	Year 2 \$20,000		Year 2 \$20,890 (Applicant cash & sponsorship)	Year 2 \$40,890		

RECREATION AND SPORT GRANTS PROGRAM - Summary of Funding Recommendations (Under \$10k)

Round 1 of 2018/19 Recreation and Sport Grants Program opened in July 2018. The recommendations below were approved under CEO delegation in 2018/19.

Category 2 - Programs - up to \$10,000 (Multi Year)			
Organisation	Name of Project	Project Details	Amount and Date
<i>Sk8 Therapy</i>	City of Adelaide Skate Workshops	Funding will support skateboard coaching workshops over two years at the skate facility in King Rodney Park on Wakefield Road. These would be held weekly during the school terms, after school hours, to enable maximum accessibility. Each workshop will be run for a duration of 2 hours and coaching will be conducted by A.S.F accredited coaches with an emphasis on safe skating and learning practices, skate park safety and etiquette, education relating to safe skating practices in public areas as well as personal growth and development, respectful conduct and skills-based training.	\$5,000 6 September 2018
<i>South Australian Cricket Association</i>	Multicultural Winter Cricket League	Funding is sought to support the delivery of a multi-cultural winter cricket tournament held in Victoria Park / Pakapakanthi and Denise Norton Park / Pardipardinyilla. The winter league will be encouraging people to be physically active, supporting volunteers to learn new skills, reducing isolation and partnering with key community organisations and service providers to provide information sessions. This program, initially run by the Pashtun Association of SA, will be delivered by the South Australian Cricket Association who will be providing umpires and expanding on target markets in conjunction with the Pashtun Association SA to include more city residents and students. This competition will be run from April to September at five different grounds in the Adelaide Park Lands with up to 30 teams participating.	\$7,500 6 September 2018
<i>Athletics SA</i>	Expansion of Women's Recreational Running Network	Since 2015, The Women's Recreational Running Network (WRRN) has been a successful program within the City of Adelaide (CoA), currently programming a series of six free weekly running groups activating Bonython Park, Torrens Loop and Victoria Park. Athletics South Australia have identified a need to increase the number of runs to attract and engage a new demographic including international students who live, work and study in the City. These runs will activate the South and West Park Lands and will strengthen the liveability of the City by growing the number of people being active in the City every day. This application seeks funding to cover the establishment of 4 new runs by upskilling and training new run leaders, insurance, promotion and marketing.	\$5,000 6 September 2018

Category 3 - Events - up to \$10,000 (Multi Year)

Organisation	Name of Project	Project Details	Amount and Date Awarded
YMCA	Australian Skateboarding League Final	YMCA will deliver a 2 day Skateboarding event run at the skate facility in the east Park Lands. The event will have 2 parts, the first focusing on participation and introducing new skateboarders through clinics run by top level skateboarders. The second part will showcase high level skateboarders across a range of ages through a competition format which will be part of the Australian Skateboarding League. The clinics will target young adults who are currently living in CoA. The competition will be a qualifier for the national final held in March 2019.	\$4,000 6 September 2018

Category 4 - Quick Response - up to \$2,000

Organisation	Name of Project	Project Details	Amount and Date Awarded
<i>Pushing Performance</i>	ACTIV8 Health & Wellness Awareness Program	Pushing Performance developed the Activ8 Adelaide Health & Wellness Initiative in partnership with Council's Participation and Inclusion Team, University of Adelaide and Baptist Care following community consultation at the South West Community Centre. The program has been running for six of its eight weeks and feedback from SWCC and Pushing Performance has been very encouraging. The program is completely free to attend and will run for 8 weeks to be delivered in the South West utilising Whitmore Sq and the South West Community Centre (SWCC). 20 individuals will participate on a weekly basis. Each session will be a different form of activation where participants will be educated (through physical activity) in 8 different ways they could improve their health and wellness. Each session will be 90 minutes long with a nutritional component taking place at the SWCC at the end of each active session.	\$1,000 14 August 2018
<i>Pushing Performance</i>	ACTIV8 Adelaide	Following the pilot of the ACTIV8 Health & Wellness Awareness Program, Pushing Performance will continue the program and also develop a calendar of free health, wellness and physical activity programs over the next two years. After the success of the previous program with a variety of positive case studies, there is clear demand to improve health and wellness in the City. The calendar will comprise of daily programs with various community partners that will not only continue the work with Baptist Care SA, but also target those in the 55+ age range, international students and City workers in four of the City Squares and underutilised areas of the Park Lands.	\$2,000 19 November 2018

Adelaide Oval – submission to Select Committee

ITEM 5.6 22/01/2019
The Committee

Program Contact:
Daniel Bennett, AD Strategy &
Design 8203 7295

Approving Officer:
Beth Davidson-Park, Director
Operations

2011/02224
Public

EXECUTIVE SUMMARY:

On 5 December 2018 the South Australian Legislative Council established a Select Committee to *'inquire into and report on a redeveloped Adelaide Oval'*, including the proposed hotel development considered by Council on 11 December 2018 when it unanimously resolved that:

Council strongly opposes the Adelaide Oval Stadium Management Authority plan to build a hotel on the Park Lands and asks the Lord Mayor to immediately write to the Premier and the members of State Cabinet setting out Council's position on the development while also foreshadowing the inclusion of the matter on the agenda of the next meeting of the Capital City Committee.

This report provides the basis for a submission to the Select Committee, required by Friday 1 February 2019.

The Select Committee has invited the Lord Mayor and CEO to present at the public hearing, currently scheduled for 11am, 5 February 2019.

RECOMMENDATION:

THAT THE COMMITTEE RECOMMENDS TO COUNCIL

That Council:

1. Approves the submission (and covering letter) to the Select Committee established by the South Australian Legislative Council to *'inquire into and report on a redeveloped Adelaide Oval'* included as Attachment A to Item 5.6 on the Agenda for the meeting of The Committee held on 22 January 2019.
-

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	<p>Strategic Alignment – Liveable</p> <p><i>Work with neighbouring councils and the State Government to enhance the facilities, attractions, landscapes and movement networks in the Park Lands to meet the needs and expectations of growing high-density communities living in and near the City.</i></p>
Policy	<p>The Adelaide Park Lands Management Strategy (APLMS) includes Adelaide Oval and the surrounding precinct as part of the Core Riverbank Precinct, which:</p> <ul style="list-style-type: none"> • Provides for a diverse range of social, recreational, sporting, entertainment, commercial and government activities”. <p>Within the context of the APLMS, Adelaide Oval and the Memorial Drive Tennis complex is categorised as a “Major Hub” which may include:</p> <ul style="list-style-type: none"> • Appropriately scaled built form • Commercial offerings eg café, restaurant, bar. <p>In particular, for this precinct, the APLMS envisages:</p> <ul style="list-style-type: none"> • “An enhanced interface along Pennington Terrace will draw people into a large hub established around Adelaide Oval”. • “Improved access between Pennington Terrace and the Oval will also be created to improve accessibility to the Oval hub and to encourage greater use of its northern park setting”. <p>NOTE: The Adelaide Oval Redevelopment and Management Act 2011 disables the application of the APLMS to the Core Area (but not to the adjacent Licence Area)</p>
Consultation	Public consultation is not required. Submissions to the Select Committee are open to the public.
Resource	This matter is being considered using existing resources.
Risk / Legal / Legislative	Submissions are being sought by a Select Committee established by the South Australian Legislative Council and required by Friday 1 February 2019.
Opportunities	To inform the public and parliamentary debate on this matter.
18/19 Budget Allocation	Not required
Proposed 19/20 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Submission is required by 1 February 2019
18/19 Budget Reconsideration (if applicable)	Not required
Ongoing Costs (eg maintenance cost)	Not as a result of this report

Other Funding Sources	Not available
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DISCUSSION

Background – hotel proposal and Select Committee

1. On 25 November 2018, the Adelaide Oval Stadium Management Authority (AOSMA) announced the proposed hotel via a media release which can be found here ([Link 1](#)). This was followed by a fact sheet, which can be found here ([Link 2](#)).
2. On 5 December 2018 the South Australian Legislative Council established a Select Committee to 'inquire into and report on a redeveloped Adelaide Oval, with particular reference to -
 - 2.1. *The economic and financial benefits of the redevelopment of Adelaide Oval, including to whom the benefits are accruing*
 - 2.2. *The operations and financial management of the Adelaide Oval*
 - 2.3. *The corporate governance of the Oval, including the Stadium Management Authority*
 - 2.4. *The financial returns to the South Australian National Football League, the South Australian Cricket Association, and the Adelaide and Port Adelaide Football Clubs*
 - 2.5. *The financial contributions into the Oval infrastructure and into the broader sporting community from the Oval's operations*
 - 2.6. *The proposed hotel development at the Adelaide Oval, and the process by which the Government considered the proposal and approved financing the proposed hotel development*
 - 2.7. *The impacts on the hotel industry in Adelaide of the proposed hotel development*
 - 2.8. *The legislative, regulatory and other legal frameworks governing the operations of the Adelaide Oval, and any opportunities for improvement*
 - 2.9. *The impact of the Oval and its operations on the surrounding parklands and the legislative, regulatory and other legal frameworks governing further development in the parklands*
 - 2.10. *Any other related matters.'*
3. Submissions to the Select Committee are required by Friday 1 February 2019.
4. The Select Committee has invited the Lord Mayor and CEO to present at the public hearing, currently scheduled for 11am, 5 February 2019.
5. In summary, the Committee's Terms of Reference contemplate matters beyond the proposed hotel, not all of which the City of Adelaide is in a position to address.
6. At its meeting on 11 December 2018 Council resolved that it:

“Strongly opposes the Adelaide Oval Stadium Management Authority plan to build a hotel on the Park Lands and asks the Lord Mayor to immediately write to the Premier and the members of State Cabinet setting out Council's position on the development while also foreshadowing the inclusion of the matter on the agenda of the next meeting of the Capital City Committee”.
7. Detailed plans for the hotel as approved by the State Commission Assessment Panel (SCAP) on 21 December 2018 can be found here https://dpti.sa.gov.au/data/assets/pdf_file/0009/525636/Adelaide_Oval_Hotel_Lodged_Plans_-_DA_020_L098_18_-_App_3780_-_Adelaide_Oval_SMA.pdf
8. SCAP approved the plans for the Adelaide Oval hotel on 21 December 2018 under the provisions of the *Adelaide Oval Redevelopment and Management Act 2011*.
9. The hotel development application is considered a complying form of development, as defined by the Development Act 1993, and was required to be granted Development Plan consent no later than 2 weeks after the lodgement of the application on 12 December 2018.
10. Copies of the plans have been provided to the City of Adelaide, which is responsible for issuing final development approval following lodgement of certified building documentation. There is no legislative ability at this stage of the process for the City of Adelaide to review the merits or assess the proposal. The City of Adelaide is required to issue Development Approval within five business days of the receipt of the Building Rules Consent from the private certifier.

Background – Adelaide Oval Redevelopment

11. To facilitate the redevelopment of Adelaide Oval, the then State Government brought into effect the *Adelaide Oval Redevelopment and Management Act 2011* (the Adelaide Oval Act) ([Link 3](#)).
12. During the drafting of the legislation a number of matters were resolved through consultation with the City of Adelaide, such as the retention of the name “Adelaide Oval” and the Morton Bay Figs along the northern boundary.
13. The Adelaide Oval Act commenced on 29 August 2011 and:
 - 13.1. Establishes a ‘Core Area’ and:
 - 13.1.1. Requires that the City of Adelaide grant a lease to the Minister for Transport and Infrastructure for the Core Area for a period of up to 80 years ([Link 4](#)).
 - 13.1.2. Authorises a sub-lease to the Stadium Management Authority
 - 13.1.3. Removes any requirement for the Adelaide Park Lands Management Strategy (as required by the *Adelaide Park Lands Act 2005*) or Community Land Management Plan (as required by the *Local Government Act 1999*) to apply to the Core Area
 - 13.1.4. Provides that the Core Area “*must be used predominantly for the purposes of a sporting facility (including related uses and with recreational, entertainment, social and other uses being allowed on an ancillary or temporary basis from time to time)*”.
 - 13.2. Establishes a Licence Area and:
 - 13.2.1. Requires that the City of Adelaide grant a Licence to the Minister for Transport and Infrastructure for a period of up to 20 years, with one or more rights of renewal for a total period of up to 80 years
 - 13.2.2. Provides for a sub-licence
 - 13.2.3. Provides for the Licence Area being used for a limited range of activities and uses ([Link 5](#)), subject to the provisions of the City of Adelaide’s Community Land Management Plan.
 - 13.3. Does not alter the status of the Core or Licence Areas as Park Lands
 - 13.4. Includes a number of provisions aimed at facilitating the redevelopment of the Oval, namely:
 - 13.4.1. Changes to the relevant Development Plan regarding the uses for the Core and Licence Areas
 - 13.4.2. Making development undertaken within the Core or Licence Areas in connection with either the redevelopment of Adelaide Oval or a lease / licence to be complying development.
 - 13.5. Envisaged the completion of the Adelaide Oval redevelopment by 31 December 2014.

Community Land Management Plan (CLMP)

14. The Community Land Management Plan for Tarntanya Wama (Park 26), which includes Adelaide Oval, was developed in 2009, prior to the redevelopment of the Oval. The *Adelaide Oval Redevelopment and Management Act 2011* (Adelaide Oval Act) preserves that CLMP as the relevant management plan applicable to the Licence Area, pursuant to s. 196 of the *Local Government Act 1999*. That management plan (CLMP) remains in place until a replacement management plan can be agreed upon by the Minister responsible for the Adelaide Oval Act and the City of Adelaide. That CLMP is currently being reviewed.

Associated matters of relevance since the completion of the redeveloped Adelaide Oval

15. Subsequent to the redevelopment of Adelaide Oval, there have been a number of requests from the Department of Planning, Transport and Infrastructure and / or the Stadium Management Authority (SMA) for additional changes to the adjacent area known as the Adelaide Oval Licence Area, as shown here ([Link 6](#)).
16. During the latter stages of the redevelopment the Department of Planning, Transport and Infrastructure (DPTI) requested the removal of an old Avenue of White Cedar Trees running diagonally across the area to the north of the Oval. The City of Adelaide opposed this removal but through the provisions of the Adelaide Oval Act, the then Development Assessment Commission decided that the avenue should be removed.
17. Also during the latter stages of the redevelopment, DPTI proposed the construction of a permanent 100 space bitumen car park to the north of the Oval and the associated redesign of the laneway in from Pennington Terrace. The City of Adelaide provided conditional support for this redevelopment.
18. In September 2015, following the completion of the redevelopment in March 2014, the SMA requested an expansion of the playing area of Oval No 2 to provide for first class cricket. This entailed the loss of 15 trees and associated re-landscaping works, including the construction of a retaining wall and access path. The City of Adelaide provided conditional support for this project.

19. Subsequent to the expansion of Oval No 2, it was found necessary to redesign the associated pathway which extends from Montefiore Hill to the southern extremity of Oval No 2. The City of Adelaide provided conditional support for an upgrade using the existing alignment (with variations only to accommodate the new retaining wall).
20. In June 2017, the City of Adelaide approved a request from the SMA to stage an already sold-out Midnight Oil concert on Oval No 2 in October 2017. Two further requests for music concerts on Oval No 2 have also since been approved, namely, in June 2018 for a concert in November 2019 and in October 2018 for a concert in March 2019.
21. Following a resolution of Council in February 2018, the City of Adelaide made a series of submissions to the Liquor and Gambling Commissioner regarding an application from the SMA for a redefinition of their permanent Liquor Licence Arrangements on the eastern and northern sides of the Oval. This matter was resolved in late August 2018 following considerable representation from adjacent residents. The area to the north used for liquor consumption was reduced in scale and the times of operation tightly controlled.

Addressing the Select Committee's Terms of Reference

22. The following Terms of Reference cannot be addressed by the City of Adelaide due to a lack of available information:
 - 22.1. *The economic and financial benefits of the redevelopment of Adelaide Oval, including to whom the benefits are accruing*
 - 22.2. *The operations and financial management of the Adelaide Oval*
 - 22.3. *The financial returns to the South Australian National Football League, the South Australian Cricket Association, and the Adelaide and Port Adelaide Football Clubs*
 - 22.4. *The financial contributions into the Oval infrastructure and into the broader sporting community from the Oval's operations*
23. The following Terms of Reference can be addressed by the City of Adelaide:
 - 23.1. *The corporate governance of the Oval, including the Stadium Management Authority*
 - 23.2. *The proposed hotel development at the Adelaide Oval, and the process by which the Government considered the proposal and approved financing the proposed hotel development*
 - 23.3. *The impacts on the hotel industry in Adelaide of the proposed hotel development*
 - 23.4. *The legislative, regulatory and other legal frameworks governing the operations of the Adelaide Oval, and any opportunities for improvement*
 - 23.5. *The impact of the Oval and its operations on the surrounding parklands and the legislative, regulatory and other legal frameworks governing further development in the parklands.*
24. In addition, it is considered appropriate to address the impacts of the Oval's operations on adjacent residents. The proposed draft submission and covering letter regarding these matters forms **Attachment A**.

Adelaide Park Lands Authority

25. The Adelaide Park Lands Authority will consider the opportunity to provide a submission to the Select Committee at its meeting on 24 January 2019.

ATTACHMENTS

Attachment A – Draft submission and covering letter to the South Australian Legislative Council's Select Committee established to 'inquire into and report on a redeveloped Adelaide Oval'

- END OF REPORT -

Covering letter (draft)

Ms Leslie Guy
 Secretary
 Select Committee - Adelaide Oval Hotel Development
 C/- Parliament House
 GPO Box 572
 ADELAIDE SA 5001

Dear Ms Guy

Re: Select Committee – Adelaide Oval Hotel Development

In response to the Select Committee's invitation, the City of Adelaide welcomes the opportunity to provide this written submission and make oral representations on 5 February 2019.

Context

This submission is made in the context of City of Adelaide's role as a:

- Relevant statutory authority under the *Local Government Act (SA) 1999* ("**LG Act**")
- Entity with the custodial care control and management of most of the Adelaide Park Lands (as defined by the *Adelaide Park Lands Act (SA) 2005* ("**APL Act**")
- Lessor to the Minister for the Adelaide Oval Core Area.

The City of Adelaide is not supportive of the proposal by the Adelaide Oval Stadium Management Authority ("**SMA**"), with the support of the Minister, to undertake the proposed hotel development in the Adelaide Oval Core Area. This was unanimously resolved at a meeting of Council on 11 December 2018.

Whilst there may be different reasons for each Elected Member's opposition to the hotel project, the unanimous resolve clearly evidences a bipartisan position and the importance of this issue in the view of the City of Adelaide.

The Adelaide Park Lands are unique and the original vision of Colonel Light was to provide for a city in a "park setting". As a result, there is a detailed and complex regime in relation to the use and management of the Adelaide Park Lands.

For the most part this management regime is contained within the provisions of the LG Act and the APL Act. This regime includes (amongst other things):

- The provision of a number of statutory principles to have regard to and to seek to apply in relation to the care, control and management of the Park Lands
- The establishment of the Adelaide Park Lands Authority (APLA)
- The requirement for APLA, the City of Adelaide and the State Government to reach agreement on a management strategy which is subject to periodic review
- The obligation on the City of Adelaide to ensure there are community land management plans maintained in respect of the Park Lands which must be consistent with the management strategy.

In addition, the Adelaide Park Lands and City Layout are included on the National Heritage List and the values which underpin this listing must be respected.

Also, recently the SA Heritage Council (on 6 December 2018) resolved, in relation to the Adelaide Park Lands, Squares and City Layout that it would write to Minister Speirs recommending the Adelaide Park Lands, Squares and City Layout be recommended to the Planning Minister for State Heritage Area consideration.

Adelaide Oval Redevelopment

The Adelaide Oval Redevelopment was facilitated by the passing of the *Adelaide Oval Redevelopment and Management Act (SA) 2011* ("**AOR&M Act**").

The purpose of the AOR&M Act was to facilitate the redevelopment of Adelaide Oval ensuring the delivery of a world class sporting stadium to secure Adelaide's place on the "world sporting map".

Within the AOR&M Act there are a number of important elements to ensure that the redeveloped Adelaide Oval retained a "feel" which would reflect its context and location in the Park Lands. This included the importance of ensuring (amongst other things) the historic scoreboard was retained, the Moreton Bay fig trees were suitably protected and that the northern end of the Oval remained open. These are unique elements which all contribute to the open and "park setting" of the Adelaide Oval.

Objection

The City of Adelaide values and recognises the contribution the redeveloped Adelaide Oval has made to the city. It is considered an important asset and provides economic benefits as well as other social benefits increasing the vibrancy of the city. The purpose of the Oval's redevelopment was to enhance its tradition as a sporting venue (noting that on occasions it has also hosted major music concerts).

The success and value of the redeveloped Adelaide Oval stems from its contribution as a complementary venue to the existing facilities in the City. Hence the reason for the original plans including a dedicated footbridge to connect Adelaide Oval with the City.

It is submitted that Adelaide Oval was never intended to be further developed beyond its traditional sporting purpose, particularly as a hotel.

Any such hotel would likely impact on the success of the existing (approximately) 56 hotels in the City and (at least) 21 planned hotels.

The AOR&M Act and Core Lease both recognise the integral Park Lands setting of the Oval and therefore any development of the site must be consistent with the:

- Statutory principles which underpin the values of the Park Lands
- National Heritage Listing Values.

It remains, however, that the redeveloped Adelaide Oval is located in the Adelaide Park Lands and consequently it is vital that the continued use and operation of Adelaide Oval recognises the importance of this setting.

The AOR&M Act provided mechanisms to ensure that that redevelopment proceeded efficiently to meet some strict time frames for seasonal sporting requirements. This outcome has been achieved.

It is submitted that the intention of the AOR&M Act was not to facilitate further development in an unchecked manner – this is considered inconsistent both with the original purpose of the redevelopment and the statutory principles in the APL Act.

Lack of Consultation

Subsequent to the redevelopment of Adelaide Oval, the City of Adelaide, as custodian of the land, has experienced a lack of meaningful consultation regarding the further use and development of the Stadium, particularly with respect to the:

- Development and use of Oval No 2 to the west, its enlargement, changes to pedestrian access, and use as a site for large music concerts
- Expansion of Liquor Licence areas to the east and north
- Proposal for a hotel, the plans for which were revealed to Council members the day before being released publicly.

Summary

The City of Adelaide is not supportive of the proposal by the Adelaide Oval Stadium and Management Authority (“**SMA**”), with the support of the Minister, to undertake the proposed hotel development in the Adelaide Oval Core Area.

In addition to the detail in this letter, we attach a written submission restating these and other reasons why the City of Adelaide is not supportive of the hotel development. This letter and the attached submission may be read together.

In summary the proposal to now further develop the Adelaide Oval complex by the construction of a hotel facility:

- Is considered completely inconsistent with the:
 - Objectives of the AOR&M Act (as originally enacted)
 - Statutory principles in the APL Act
 - Values which underpin the National Heritage Listing of the Park Lands and City Layout
- Will detract from the uniqueness of the Park Lands setting for the redeveloped Oval (in its current built form)
- Is likely to have a negative economic impact on hotels and other businesses in the City.

In addition, the City of Adelaide is deeply concerned about the lack of meaningful consultation regarding further development of the Oval and its consequent lack of ability to influence outcomes.

We look forward to providing our further oral submissions at the hearing on 5 February 2019.

Yours faithfully

[Lord Mayor/CEO]

SELECT COMMITTEE OF LEGISLATIVE COUNCIL – DRAFT SUBMISSION

ADELAIDE OVAL HOTEL DEVELOPMENT

The City of Adelaide values and acknowledges the contribution the redeveloped Adelaide Oval has made to the City as a sporting and entertainment venue. It is considered an important asset and provides economic benefits as well as other social benefits which increase the vibrancy of the City.

However the benefits are related to a number of important and unique features of the Adelaide Oval as a sporting venue. Any proposal to further redevelop Adelaide Oval by the construction of a hotel development is not supported by the City of Adelaide and not considered appropriate or necessary.

The City of Adelaide submits the hotel development should not proceed and by this submission also highlights a number of limits to the current tenure, legislative framework and operational regime for the Adelaide Oval that all need to be considered and addressed to ensure the future benefits are of the redeveloped Adelaide Oval are preserved.

This submission is divided into three key parts.

- Part 1 - executive summary of the City of Adelaide's submission
- Part 2 - general discussion regarding many of the important historical aspects of the Adelaide Oval (including history of the *Adelaide Oval Redevelopment Act (SA) 2011* ("AOR& M Act"))
- Part 3 - table of specific comments relating to the Committee's terms of reference.

PART 1

Executive summary

Adelaide Oval is an integral part of the Adelaide Park Lands, which are protected through the following principal mechanisms:

- The Adelaide Park Lands Act 2005
- The values which underpin the National Heritage Listing
- A management strategy agreed upon by the City of Adelaide and the State Government

In addition, just recently, the SA Heritage Council has recommended the Adelaide Park Lands for consideration as a State Heritage Area.

Nowhere is it envisaged, in any of these governance documents, that the Adelaide Park Lands should include a hotel. Such a development is considered not acceptable and furthermore jeopardises the success of current and proposed private hotels in the City.

The City of Adelaide has supported the redevelopment of Adelaide Oval and recognises the contribution that the stadium makes to the sporting life of the City. However, that redevelopment was completed almost five years ago and the legislation facilitating that did not properly consider the of the future use of this area (being Park Lands).

Since that time, the City of Adelaide, as custodian of the land, has been excluded from meaningful consultation on subsequent changes (including the use of Oval No 2 for a (already sold out) music concert and the expansion of liquor licence areas outside of the stadium). This lack of consultation has meant that the City of Adelaide has been unable to adequately address the interests of its residents.

The City of Adelaide would like to have a more constructive, consultative relationship with the Stadium Management Authority in order to rebuild the trust between the two organisations, in turn leading to a better managed and integrated facility.

PART 2

1. Adelaide Park Lands

The Adelaide Park Lands are the City of Adelaide's defining feature and included on Australia's National Heritage List. The Park Lands were part of Colonel Light's vision for "a city in a park".

The importance of the Park Lands was recognised through the development of the *Adelaide Park Lands Act 2005*.

The SA Heritage Council on 6 December 2018 resolved, in relation to the Adelaide Park Lands, Squares and City Layout that it would write to Minister Speirs recommending the Adelaide Park Lands, Squares and City Layout be recommended to the Planning Minister for State Heritage Area consideration.

For the most part this regime for the care, control and management of the Park Lands is contained within the provisions of the *Local Government Act (SA) 1999* ("LG Act") and the *Adelaide Park Lands Act (SA) 2005* ("APL Act"). This regime includes (amongst other things):

- The provision of a number of guiding statutory principles (see **Attachment A**) that any person (including the Stadium Management Authority) responsible for the care, control and management of the Park Lands must have regard to and seek to apply those principles set out in section 4 of the APL Act
- The establishment of the Adelaide Park Lands Authority (APLA)
- The requirement for APLA, the City of Adelaide and the State Government to reach agreement on a management strategy which is subject to periodic review
- The obligation on the City of Adelaide to ensure there are community land management plans maintained in respect of the Park Lands which must be consistent with the management strategy.

This statutory regime ensures there are multiple layers of protection for the Park Lands and opportunity for public consultation and stakeholder input into the care, control and management of the Park Lands.

2. Adelaide Oval and surrounds

The City of Adelaide is located on the Red Kangaroo Dreaming place of the Kurna people. Adelaide Oval is part of this place and as such is of spiritual and cultural significance for Kurna people. Without speaking for the Kurna community, we know that Adelaide Oval also has post-colonisation sporting significance for Kurna people. A hotel on this site is possibly inconsistent with the significance of the site to the Kurna community.

See **Attachment B** for further information regarding the cultural significance of Adelaide Oval.

Established in 1871, the Adelaide Oval is of local, national and international significance. It has been the major focus for the development of sport within South Australia since its inception, providing a central venue within the Park Lands. Adelaide Oval has been and remains a place of high social significance due to its association with famous sports people and events.

Within the Park Lands context, the Adelaide Oval, its vistas and setting are of high cultural and landscape value.

Adelaide Oval to this day is still considered by many to be the most picturesque in the world, due to its setting and open, informal character. The adjacent Pennington Gardens West and

Creswell Gardens are of landscape significance in design and as the ceremonial entrance to the Oval complex.

The Adelaide Oval historically represents the importance of the game of cricket in the development of sport in South Australia. As the first official site for the establishment of a cricket ground in the colony, the Oval's history illustrates the diversification of sports throughout successive periods of the state's development, from establishment to today.

A sense of public ownership of the Adelaide Oval has evolved over time – it is considered illustrative of the Australian lifestyle with its opportunities for leisure.

The setting in Adelaide's Park Lands, the scale, relationship of the Oval's built development, open space and views from and through the ground all contribute to the open and 'park setting' character of the place. Adelaide Oval is considered unique in the world, with its character developed from its relationship to the surrounding landscape setting.

The community has strong cultural associations with Adelaide Oval as the State's earliest and central sports venue within the Adelaide Park Lands. Cricket, football, and other sports activities as well as entertainment events associated with the Oval have historically reflected the leisure and sporting activities of successive generations of sports-minded South Australians.

3. Adelaide Oval Redevelopment Management Act

The purpose of the AOR&M Act was to facilitate the redevelopment of Adelaide Oval.

The AOR&M Act gave effect to a number of specific amendments to provide a pathway for the undertaking of the redevelopment which included creation of two distinct areas, one being the "Adelaide Oval Core Area" and the other the "Adelaide Oval Licensed Area".

The Adelaide Oval Core Area is the area which contains the stadium and some of the surrounding built form (including the Southern Plaza and the area which was previously Victor Richardson Drive).

The area defined as the "Core Area" was made subject to a lease which the City of Adelaide was required to grant to the Minister (on terms specified by the Minister). The hotel development is proposed to be undertaken within the Core Area – that is, the area that is subject to the lease between the City of Adelaide and the Minister.

To facilitate the redevelopment the AOR&M Act removed the application of some sections of the LG Act and the APL Act. It was maintained this was necessary to ensure that that redevelopment was able to proceed and be effected with the necessary degree of efficiency required to meet some strict time frames for seasonal sporting requirements.

However the AOR&M Act included obligations in relation to the development and use of the Adelaide Oval. This included the retention of a number of important physical elements to ensure that the redeveloped Adelaide Oval retained the "feel" which would reflect the Adelaide Oval's history, context and location in the Park Lands.

This included the importance of ensuring (amongst other things) the historic scoreboard was retained, the Moreton Bay fig trees were suitably protected and that the northern end of the Oval remained open. These are unique elements which all contribute to and enhance the open and "park setting" of the Adelaide Oval.

4. Status as Park Lands

It remains that the Adelaide Oval forms part of the Adelaide Park Lands. Consequently it is the City of Adelaide's position that future decisions relating to the Oval must still have regard to this special location, including having regard to the statutory principals under the APL Act.

In addition, in order to integrate the management of the Oval with the surrounding Park Lands, it is necessary that the Stadium Management Authority engage in meaningful consultation with the City of Adelaide.

It is submitted that the legislative intention of the AOR&M Act was not to facilitate further development in an unchecked manner – the very purpose of the AOR&M Act was to facilitate the redevelopment of Adelaide Oval in its current form – this has been achieved. Any further development is considered inconsistent both with the original legislative purpose and principles that are to apply to statutory principles in the APL Act this outcome has been achieved.

It is also submitted that the development of the proposed hotel is detrimental to the “look and feel” of Adelaide Oval and will compromise the unique and special nature of the current design which has been such an important element of the Oval's historic and well documented contribution to the city.

5. Permitted purpose

The redevelopment of Adelaide Oval was proposed to ensure that Adelaide had a world class sporting facility available to ensure Adelaide remained relevant to attracting and securing these events. Included at the time of the redevelopment ensuring the stadium would be ready for world cup cricket and for the upcoming AFL football season.

Whilst it is recognised that other uses may be made of the redeveloped Oval from time to time, the construction of a hotel and the introduction of this business changes the character of the Oval and it is no longer considered to be a venue that is predominately used for those designated events. It is a business being operated (in the Park Lands) and introduced after the completed redevelopment.

While not applicable to the Adelaide Oval Core Area, the Adelaide Park Lands Management Strategy supports commercial activity in the Park Lands only where such activity provides community benefit and supports outdoor recreational use of the Park Lands.

6. Investment and other limits

There is further support for the position that the proposal to construct the hotel was not envisaged or allowed for under the AOR&M Act as originally drafted.

The AOR&M Act contemplates:

- A construction period which was to end no later than 31 December 2014
- Various returns that the SMA must deliver through the operations at the Adelaide Oval in recognition of the investment of the original \$535,000,000.00 in the redevelopment.

It is understood that any further investment in the Oval by way of redevelopment would therefore distort the rates of return that are currently provided for in the AOR&M Act.

7. Economic and financial impacts

The redeveloped Adelaide Oval was to provide a venue for people to attend and then return to the City after having attended a sporting match or other event. It was designed in a manner to

complement and accommodate modern day sporting requirements but still ensure through this design that it remained contextual and sympathetic to the surrounds of the Adelaide Park Lands.

It is estimated that 56 hotels exist in the City with a total of 6000 plus rooms.

Hotels currently being constructed will provide 700 new rooms, and a further 21 new hotels with in excess of 1100 rooms have been announced. At least three significant hotels are currently under construction.

The Oval footbridge was constructed to provide a direct and convenient link between the Oval and City so that patrons could access the accommodation, restaurants, transport links and other services already provided in the City.

Although there is an upward trend in average occupancy across tourism accommodation in the City, the proposed Oval hotel unnecessarily jeopardises the success of the existing and planned hotels.

Any proposal to develop a hotel on the Park Lands (being public land held for the benefit of all South Australians), should not be considered without there being an open and considered analysis of the impact of such an activity on private investment.

In addition, irrespective of the financial arrangements for the investment to be made available for this redevelopment, the hotel redevelopment would have immediately a comparative commercial advantage over all other hotel developments in the CBD in that:

- There is no “purchase price” to be paid for the land and/or no holding costs in the form of rent or other returns
- The land is not subject to any Council rates
- The land is not subject to any other government levies or charges.

This places the hotel development proposal in an advantageous position comparative to other hotel operators and other parties considering undertaking hotel investment. This comparative advantage is considered neither fair nor equitable for other business operators in the CBD who pay rates to support the operations of the City.

8. Development Act

The provisions in the AOR&M Act regarding complying development were intended to facilitate the main redevelopment of the Oval, not subsequent or ongoing forms of development.

PART 3

The City of Adelaide provides the following table specifically addressing the Select Committee’s Terms of Reference.

Comments on Terms of Reference

Item	Terms of Reference	Comments by City of Adelaide
1	The economic benefits of the redevelopment of the Adelaide Oval, including to whom the benefits are accruing	There does not appear to be any available information to assess any economic benefits of the redevelopment of the Adelaide Oval, including to whom the benefits are accruing. In addition, any complete assessment of the economic benefits needs to include an assessment of the economic impact (in terms of loss of trade) likely to follow from a development being undertaken on public land when such developments are typically delivered by the private sector.
2	The operations and financial management of Adelaide Oval	There does not appear to be any available information to confirm the implications of the hotel development proposed for the financial operations of the Authority.
3	The corporate governance of the Oval, including the Stadium Management Authority	<p>The City of Adelaide is currently excluded from the governance structure and considers it should be included as the custodian of the land (core area, licensed area and the adjacent Park Lands) and the representative of the residents of the City and North Adelaide.</p> <p>The AOR&M Act requires a review to ensure (now that the contemplated redevelopment has been completed) necessary measures are placed on the activities to be undertaken (both in terms of use and development) at the Adelaide Oval and there are appropriate processes to ensure stakeholder engagement and approval. This is consistent with the Park Land status of the land.</p>
4	The financial return to the South Australian National Football League, the South Australian Cricket Association and the Adelaide and Port Adelaide Football Clubs	There does not appear to be any available information to confirm the implications of the hotel development proposed for the financial return to the South Australian National Football League, the South Australian Cricket Association and the Adelaide and Port Adelaide Football Clubs.
5	The financial contributions into the Oval infrastructure and into the broader sporting community from the Oval's operations	There does not appear to be any available financial information regarding the expected financial contributions to the Oval infrastructure and into the broader sporting community.
6	The proposed hotel development at the Adelaide Oval, and the process by which	Is it submitted that the consultation with the City of Adelaide regarding the proposal was inadequate. As custodian of the land the City of Adelaide expects to be

Item	Terms of Reference	Comments by City of Adelaide
	the government considered the proposal and approved financing the proposed hotel development	meaningfully involved in the consideration of matters of this magnitude. The lack of consultation reflects the inadequate provisions in the Adelaide Oval Redevelopment and Management Act 2011 for the involvement of the City of Adelaide in the future of Adelaide Oval.
7	The impacts on the hotel industry in Adelaide of the proposed hotel development	<p>There does not appear to be any detailed analysis of the impacts on the hotel industry of the proposed hotel development.</p> <p>It is estimated that 56 hotels exist in the City with a total of 6000 plus rooms.</p> <p>Hotels currently being constructed will provide 700 new rooms, and a further 21 new hotels with in excess of 1100 rooms have been announced. At least three significant hotels are currently under construction.</p> <p>The Oval footbridge was constructed to provide a direct and convenient link between the Oval and City so that patrons could access the accommodation, restaurants, transport links and other services already provided in the City.</p> <p>Although there is an upward trend in average occupancy across tourism accommodation in the City, the proposed Oval hotel unnecessarily jeopardises the success of the existing and planned hotels.</p> <p>Irrespective of the financial arrangements for the investment to be made available for this redevelopment, the hotel redevelopment would have immediately a comparative advantage over all other hotel developments in the CBD in that:</p> <ul style="list-style-type: none"> • There is no “purchase price” to be paid for the land and/or no holding costs in the form of rent or other returns • The land is not subject to any Council rates • The land is not subject to any other government levies or charges.
8	The legislative, regulatory and other legal frameworks governing the operations of the Adelaide Oval, and any opportunities for improvement	The Adelaide Oval Redevelopment and Management Act 2011 was enacted to facilitate the redevelopment of the Oval, which was completed in March 2014.

Item	Terms of Reference	Comments by City of Adelaide
		<p>While the generous provisions of the legislation were necessary at the time to bring about the successful redevelopment, they have since led to an opportunistic series of developments and activities that were not envisaged during the original Oval redevelopment, namely:</p> <ul style="list-style-type: none"> • The expansion of Oval No 2 • The use of Oval No 2 (west of the stadium) and Stella Bowen Park (north of the stadium) for music concerts and other large-scale events • Expansion of liquor licencing areas to the north and east of the stadium <p>The proposed hotel presents uncertainty regarding the future ambitions of the SMA.</p> <p>Given the redevelopment of the Oval has been complete for some time, the City of Adelaide considers it is timely to review the legislation, paying particular attention to:</p> <ul style="list-style-type: none"> • The opportunity for the City of Adelaide to play a role in the management of the stadium and licenced area • The required clarity regarding future development, activities and uses consistent with the Park Lands setting of the facility.
9	The impact of the Oval and its operations on the surrounding Park Lands and the legislative regulatory and other legal frameworks governing further development in the Park Lands	<p>The Oval is situated in a very prominent and highly contested area of the Adelaide Park Lands.</p> <p>The Oval relies on the aesthetic appeal of its Park Lands setting for its success. More attention should therefore be paid in the legislation to the preservation and enhancement of the Park Lands setting.</p> <p>The Adelaide Park Lands are included in Australia's National Heritage List and appropriate measures need to be in place to ensure the values and integrity of this listing are not further compromised as they have been with the loss of the view from Montefiore Hill across to the City.</p>

Item	Terms of Reference	Comments by City of Adelaide
10	<p>Any other related matters:</p> <p>Impacts of the Oval's redevelopment on adjacent residents.</p>	<p>The Oval is situated less than 245 metres from local residents and there appears to be no requirement for the SMA to take into account and respect the well-being of the local community.</p>

Attachment A

From the Adelaide Park Lands Act 2005**4—Statutory principles**

- (1) The following principles are relevant to the operation of this Act:
- (a) the land comprising the Adelaide Park Lands should, as far as is reasonably appropriate, correspond to the general intentions of Colonel William Light in establishing the first Plan of Adelaide in 1837;
 - (b) the Adelaide Park Lands should be held for the public benefit of the people of South Australia, and should be generally available to them for their use and enjoyment (recognising that certain uses of the Park Lands may restrict or prevent access to particular parts of the Park Lands);
 - (c) the Adelaide Park Lands reflect and support a diverse range of environmental, cultural, recreational and social values and activities that should be protected and enhanced;
 - (d) the Adelaide Park Lands provide a defining feature to the City of Adelaide and contribute to the economic and social well-being of the City in a manner that should be recognised and enhanced;
 - (e) the contribution that the Adelaide Park Lands make to the natural heritage of the Adelaide Plains should be recognised, and consideration given to the extent to which initiatives involving the Park Lands can improve the biodiversity and sustainability of the Adelaide Plains;
 - (f) the State Government, State agencies and authorities, and the Adelaide City Council, should actively seek to co-operate and collaborate with each other in order to protect and enhance the Adelaide Park Lands;
 - (g) the interests of the South Australian community in ensuring the preservation of the Adelaide Park Lands are to be recognised, and activities that may affect the Park Lands should be consistent with maintaining or enhancing the environmental, cultural, recreational and social heritage status of the Park Lands for the benefit of the State.
- (2) A person or body—
- (a) involved in the administration of this Act; or
 - (b) performing a function under this Act; or
 - (c) responsible for the care, control or management of any part of the Adelaide Park Lands,

must have regard to, and seek to apply, the principles set out in subsection (1).

Attachment B

Extract from the City of Adelaide's Cultural Landscape Assessment of the Adelaide Park Lands, author – Dr David Jones

Cultural Significance of Adelaide Oval

Adelaide Oval does not exist in isolation. Together with Lights Vision, Pennington and Creswell Gardens and many small-scale elements such as the Hercules statue, fountains and memorials it is an integral part of the Adelaide Park Lands and Park 26 in particular.

The Cultural Landscape Assessment recognises Park 26 as a nationally significant tract of land comprising sites and places of both national and state cultural heritage significance and merit that have associations to pre-contact and post-contact Kaurna and Aboriginal activities and meanings, post-contact sporting and cultural activities, significant iconic vantage points, an important series of colonial and post-colonial meeting points, the original ford and subsequent first bridge sites, an iconic statue containing both settlement and town planning meanings, the first tree planted as a war memorial in Australia for the fallen of World War I, and a large landscape possessing the philosophical and design intent of August Pelzer. It is a national, state and local place of cultural heritage merit containing considerable meanings and features of historic, aesthetic, social, geographical, design, and cultural associations and merit.

Adelaide Oval has consistently maintained its function over the years as a sporting venue and meeting place. The Oval has been a sporting ground space that has been used as a sporting venue consistently since the 1840s whether for football, cricket, etc., and was used as a meeting place by Aboriginal and Kaurna communities prior to European settlement

Historical and culturally the Oval has served as a major venue for South Australia's sporting events and often major cultural events, with pre-settlement associations in terms of function to activities that occurred in the same location by the Kaurna community.

Concise Statement:

Adelaide Oval, established in 1871, is of local, national and international significance as South Australia's primary venue for cricket – with matches held at the Oval since 1871 to the present day.

Adelaide Oval has been the major focus for the development of sport within South Australia since its inception, providing a central venue within the Park Lands of Adelaide for the games of cricket, football and other sports. The place is of high social significance due to its association with famous sports people and events and is held in high esteem by the community. The Site includes the highly significant 'arts & crafts' style mechanical Scoreboard.

Within the Park Lands context, the Oval, its vistas and its setting are of high cultural and landscape value. The Oval is considered by many to be the most picturesque in the world, due to its setting and open, informal character. The adjacent Pennington Gardens West and Creswell Gardens are of landscape significance in design and as the ceremonial entrance to the Oval complex.

(a) It demonstrates important aspects of the evolution or pattern of the State's history

Historically, Adelaide Oval represents the importance of the game of cricket in the development of sport in South Australia. As the first official site for the establishment of a cricket ground in the colony, the Oval's history illustrates the diversification of sports throughout successive periods of the state's development, from establishment to today.

A sense of public ownership of the Oval has evolved over time, with the Oval considered illustrative of the Australian lifestyle in which public holidays, the forty hour week and a temperate climate gave opportunities for leisure.

(d) It is an outstanding representative of a particular class of places of cultural significance

The Adelaide Oval is a significant cricket venue because of its setting and established character. Adelaide Oval is renowned as Australia's most picturesque sports ground, one of five grounds in Australia where test cricket is regularly played.

The setting in Adelaide's Park Lands, the scale, relationship of the Oval's built development, open space and views from and through the ground all contribute to the open and 'park setting' character of the place. Adelaide Oval is considered unique in the world, with its character developed from its relationship to the surrounding landscape setting.

(f) It has strong cultural or spiritual associations for the community or a group within it

The community has strong cultural associations with Adelaide Oval as the State's earliest and central sports venue within the Adelaide Park Lands. Cricket, football, and other sports activities as well as entertainment events associated with the Oval have historically reflected the leisure and sporting activities of successive generations of sports-minded South Australians.

Socially, the Adelaide Oval is a place revered by successive generations for its distinctive setting, location and use. It is held in esteem as the central site of memorable cricket and football matches and their players - commemorated in part by the buildings, gates, and other memorials in the grounds. with the grounds. The infamous "Bodyline" incident during the 1933 Test series at the Oval is significant in the Oval's sporting history.

Indigenous Statement of Significance

Background

The City of Adelaide is located on the Red Kangaroo Dreaming place of the Kaurna people. Adelaide Oval is part of this place and as such is of spiritual and cultural significance for Kaurna people.

Adelaide Oval is located in the River Torrens valley, where Kaurna people celebrated life through public ceremonies, games, religious observances and other social activities. Visitors to Kaurna lands witnessed and participated in 'public' events on the northern banks of the Karra Wirra Parri (River Torrens). Adelaide Oval stands on the banks of the River Torrens, which was formerly used for camping. After the arrival of Europeans and before Adelaide Oval was established, the Kaurna and other Indigenous groups continued their traditions of public performance for visitors to the 'country'. Kaurna people were displaced from the area along the River Torrens as the City and Park Lands were established and progressively developed by settlers.

Following the establishment of Adelaide Oval as a sporting venue, Indigenous people were involved in the staging of two corroborees at the Oval. Some Indigenous participation in sport at the Oval occurred during the nineteenth and twentieth centuries, but was limited due to settler attitudes and available opportunities. Indigenous involvement was most notable in the sport of football, with several revered Indigenous players of note. The Oval is considered a forum in which indigenous and non – indigenous people have been able to interact through sport and other events, contributing in part to the development of cultural relations between non indigenous and indigenous people.

Statement of Significance

Adelaide Oval is located on part of the Kaurna land of the Adelaide Plains and therefore is of significance to the Kaurna peoples. The Oval site was known as a camping ground before the establishment of the Oval in 1871.

The Oval is also of note, reflecting the local history of Indigenous participation in sport.

For Indigenous people, Adelaide Oval provides a place where racial stereotyping can be overcome through the ethos of sport, presenting an opportunity for participation and contest, irrespective of race.

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Item 5.6 - Attachment A

Section 270 Internal Review of Decision – Hurtle Square Tree Replacement

Outcome of internal review of a decision

ITEM 5.7 22/01/2019
The Committee

Program Contact:
Jacki Done, AD People &
Governance 8203 7256

2018/02970
Public

Approving Officer:
Steve Mathewson, Director
Services

EXECUTIVE SUMMARY:

Section 270 of the *Local Government Act 1999 (SA)* provides procedures for the review of decisions and requests for services.

At its meeting on 24 July 2018 Council resolved that: *Council requests Administration to replace all of the trees along the eastern side of the North Eastern quadrant of Hurtle Square with ‘matching, same size trees ensuring consistency of growth and enhancement of the panoramic vista of the area’ as requested in the petition from the owners/ occupiers of 12 – 14 Hurtle Square tabled at Item 6.1 of the Council Agenda dated 12 June 2018.*

A request was subsequently received to review this decision and the process associated with the receipt of a petition on the topic. In accordance with the Corporate Complaint Handling Operating Guideline, an internal investigation has been undertaken and is now presented to Council as the ‘reviewer’ given the request relates to a decision of Council.

The investigation has recommended that Council reconsider its decision with all relevant information available to them to make an informed decision.

The Committee Chair will provide opportunity for this topic to be discussed prior to seeking a motion for a recommendation for Council. The discussion will be facilitated by the Administration.

RECOMMENDATION:

THAT THE COMMITTEE RECOMMENDS TO COUNCIL

That Council:

1. Receives and notes (pursuant to section 270 of the *Local Government Act 1999*) the Outcome Report (Attachment A to Item 5.7 on the Agenda for the meeting of The Committee held on 22 January 2019) of the internal review of Council’s decision at its meeting of 24 July 2018 *‘to request the Administration to replace all of the trees along the eastern side of the North Eastern quadrant of Hurtle Square with ‘matching, same size trees ensuring consistency of growth and enhancement of the panoramic vista of the area’ as requested in the petition from the owner/ occupiers of 12 – 14 Hurtle Square’; and*
2. Authorises the Chief Executive Officer to:
 - 2.1. prepare a further report canvassing all relevant issues to be taken into account to make a decision regarding the retention, or otherwise, of the trees;
 - 2.2. undertake consultation, in accordance with the Public Consultation Policy, with of the residents of Hurtle Square in relation to the retention of the trees, and
 - 2.3. when re-considering this matter, the report provides reasons for either the replacement, or the retention, of the trees
3. Authorises the Chief Executive Officer to respond to all applicants with the outcomes of this meeting.

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	Strategic Alignment - Corporate Activities This report contributes to Council's 2016-2020 Strategic Plan by providing opportunity to for members of the public to request reviews of decisions to provide transparency.
Policy	Not as a result of this report.
Consultation	Consultation with internal staff on process requirements.
Resource	Not as a result of this report.
Risk / Legal / Legislative	Section 270 of the Local Government Act SA (1999) Internal review of council actions.
Opportunities	Not as a result of this report.
18/19 Budget Allocation	Not as a result of this report.
Proposed 19/20 Budget Allocation	Not as a result of this report.
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report.
18/19 Budget Reconsideration (if applicable)	Not as a result of this report.
Ongoing Costs (eg maintenance cost)	Not as a result of this report.
Other Funding Sources	Not as a result of this report.

DISCUSSION

1. Section 270 of the *Local Government Act 1999* (the Act) requires all councils to have a procedure for the review of decisions of Council, employees of Council, or other persons acting on behalf of the Council.
 - 1.1. City of Adelaide's procedures under Section 270 of the Act are contained within Council's Corporate Complaints Handling Operating Guideline.
2. Council resolved at its meeting on 24 July 2018 that: *Council requests Administration to replace all of the trees along the eastern side of the North Eastern quadrant of Hurtle Square with 'matching, same size trees ensuring consistency of growth and enhancement of the panoramic vista of the area' as requested in the petition from the owners/ occupiers of 12 – 14 Hurtle Square tabled at Item 6.1 of the Council Agenda dated 12 June 2018. A request for the review of this Council decision was submitted by a number of applicants.*
3. The events relating to the decision are as follows:
 - 3.1. At the Council meeting on 12 June 2018, a petition was received and noted by Council. The petition contained 35 signatories, with 27 signatories indicating yes and 8 signatories indicating no, to a request that the City of Adelaide replace all the trees along the eastern side of the north eastern quadrant of Hurtle Square, with matching, same size trees, ensuring consistency of growth and enhancement of the panoramic vista of the area. The petition was distributed to Council Members as a separate document to Item 6.1 on the Agenda for the meeting of Council held on 12 June 2018.
 - 3.2. At the Council meeting on 12 June 2018, a deputation was listed on the Agenda to be heard from Ms Libby Hicks-Maitland on Hurtle Square tree replacement. Ms Libby Hicks-Maitland was not present in the Council Chamber.
 - 3.3. Item 11.5 on the Agenda for the Council meeting on 12 June 2018 was a proposed Motion on Notice from Councillor Antic:

'That Council requests Administration to replace all of the trees along the eastern side of the North Eastern quadrant of Hurtle Square with 'matching, same size trees ensuring consistency of growth and enhancement of the panoramic vista of the area' as requested in the petition from the owner / occupiers of 12-14 Hurtle Square tabled at Item 6.1 of this Council'.

In the absence of Councillor Antic, the motion was withdrawn from consideration.
 - 3.4. At the Council meeting on 24 July 2018 Mr Matthew Kennedy addressed the Council by way of a deputation in relation to the petition received and noted by Council at the meeting on 12 June 2018. Mr. Kennedy spoke in favour of the tree replacement.
 - 3.5. At the Council meeting on 24 July 2018, Councillor Antic presented a Motion on Notice that:

'Council requests Administration to replace all of the trees along the eastern side of the North Eastern quadrant of Hurtle Square with 'matching, same size trees ensuring consistency of growth and enhancement of the panoramic vista of the area' as requested in the petition from the owner / occupiers of 12-14 Hurtle Square tabled at Item 6.1 of the Council Agenda dated 12 June 2018'.

This motion was put and carried.

In response to this Motion on Notice, the Administration Comment stated that the two Trees in question had been assessed to be healthy and in good condition ([Link 1](#)).
 - 3.6. On 24 August 2018, a works notification letter was sent to residents to advise them of the removal works concerning the two trees. The letter stated *'the nature-strip in front of your building has recently been upgraded. Since that time, a request was put to Council to remove the remaining two trees and replace them with newly planted Jacaranda mimosifolia trees and matching plantings at their bases to have a consistent landscape. Council has agreed to this request. This work is due to commence on Thursday 30 August and completed by the Friday of the same week'* ([Link 2](#)).

- 3.7. On 28 August 2018, a complaint was received by Administration from a resident of Hurtle Square, advising they did not agree with Council's decision to replace the Trees. A response was provided to the resident on 31 August 2018, notifying the avenues available by way of complaint and/or request for review of the decision ([Link 3](#)). Similar complaints were received, and similar responses were provided. The tree removal was put on hold until 13 September 2018.
- 3.8. On 3 September 2018, Council received the first formal request for an internal review pursuant to section 270 of the LG Act in relation to Council's decision to remove, and replace, the Trees. Further requests for a review of the decision were subsequently submitted by a number of other applicants.
- 3.9. On 4 September 2018, the Administration acknowledged receipt of the request for review. The tree removal was subsequently put on hold pending the outcome of the review. Each complaint received was acknowledged.
- 3.10. On 7 September 2018, a request to release the petition was received. Section 18.20 of the City of Adelaide Standing Orders states that *'members of the public may seek a copy of the full petition upon written request to the Chief Executive Officer'*.
- 3.11. On 10 September 2018, the Chief Executive Officer approved the release of the petition and this was then sent to the applicant on the 11 September 2018
- 3.12. A subsequent petition in favour of keeping the Trees was received in October 2018. The Administration confirmed with the applicant that the petition would be presented to the Council for its consideration after the completion of the caretaker period, and at the meeting of Council for which the outcome of this review is to be considered, being the meeting of 29 January 2019
- 3.13. The Administration has since also received an additional five (5) informal requests to make a deputation in relation to the Trees at the Council meeting of 29 January 2019.
4. Following consideration of the matters raised in applications received for review, it was deemed that the complaints could be broadly considered under the headings below, which, taken together, address all of the specific concerns, namely:
 - 4.1. Lack of 'due process' with the petition
 - 4.2. The wording of the petition
 - 4.3. Arborist advice
 - 4.4. Hurtle Square Project Works and
 - 4.5. Merits review
5. The outcome of the Review found that:
 - 5.1. The Administration and the Council followed an appropriate governance process in relation to its receipt of the petition, and presentation to the Council, including the deputation received at the Council meeting of 24 July 2018, following which, the relevant decision of the Council was made.
 - 5.2. However, as a responsible, informed decision maker, acting in accordance with the principles of good governance, transparency and accountability, it was incumbent on the Council, in making a decision contrary to the advice of its own expert arborist, to ensure that it gave due consideration to all relevant matters in making its decision, which necessarily included matters pertaining to the clarity, transparency and representative nature of the petition, as well as the Council's Tree Management Framework.
 - 5.3. Upon review of the audio and visual recordings of the meeting, while matters such as the 'weed' status of the trees was briefly canvassed, it is evident that the Council gave considerable weight in its decision making to the request made in the petition.

- 5.4. However, in making that decision the following is noted:
- 5.4.1. the request on the front page of the petition (which formed the basis of the Motion on Notice), is a different proposition to that contained in the emails sent to some residents stating that, "I have asked the ACC for 2 more trees as there are gaps". It can reasonably and objectively be presumed that not all of the signatories were clear as to what they were providing a signature to, or at the very least, there were "live" issues regarding the same at the time the Council considered the petition
 - 5.4.2. it could not be said that the signatories to the petition were representative of the number of residents in Hurtle Square who likewise had an interest in this matter. Given the weight placed on the request made under the petition by the Council, evidenced in the audio and visual record of the debate on the motion, this was a significant matter to take into account. Although it was raised in passing in the debate on the motion, that "Hurtle Square is bigger than one (1) apartment block", this issue does not seem to have been addressed, or taken into account, by the Council in its decision making
 - 5.4.3. Council's own expert arborist recommended retention of the Trees as they were in good health and
 - 5.4.4. the Council's policy position, as set out under the Tree Management Framework, which supported retention of the Trees, was not raised with the Council for its consideration at the time it made its decision

ATTACHMENTS

Attachment A – Hurtle Square Outcome of 270 Report

- END OF REPORT -

CITY OF ADELAIDE

Section 270 Review on Council Decision Hurtle Square Tree Replacement

January 2019

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Item 5.7 - Attachment A

1. INTRODUCTION

- 1.1 Review conducted pursuant to section 270 of the *Local Government Act 1999* ("the LG Act") of the Council's decision at its meeting of 24 July 2018 *'to request the Administration to replace all of the trees along the eastern side of the North Eastern quadrant of Hurtle Square with 'matching, same size trees ensuring consistency of growth and enhancement of the panoramic vista of the area' as requested in the petition from the owner/ occupiers of 12 – 14 Hurtle Square'*.
- 1.2 The objective of this Report is to assist Council in making a determination to finalise the review process.
- 1.3 The requests for review have been managed in accordance with Council's Internal Review of Council Decisions Procedure, pursuant to Section 270 of the LG Act.
- 1.4 As stated in Council's Corporate Compliant Handling Guideline, Council becomes the 'reviewer' where the application relates to a decision of Council.
- 1.5 The Committee will consider and discuss the outcome of this review at its meeting on 22 January 2019 and provide a recommendation to the Council for its consideration at its meeting of 29 January 2019.
- 1.6 The review was completed by Jess Kirk, Senior Consultant Risk & Audit, with the assistance of legal advice from KelledyJones Lawyers.
- 1.7 As part of this review:
 - all written complaints and requests for an internal review received up to the date of this review have been considered and taken into account;
 - the City of Adelaide Standing Orders and Local Government Meeting Regulations have been considered and applied in the determination;
 - audio and video recordings from the relevant meetings have been reviewed;
 - external legal advice has been sought; and
 - emails and correspondence between staff pertaining to this matter, leading up to the Council's decision at its meeting of 24 July 2018, have been reviewed.

2. BACKGROUND

- 2.1 A review pursuant to section 270 of the LG Act has been requested by a number of applicants in relation to the Council's decision to remove two (2) Desert Ash Trees ("the Trees") from the eastern side of the north eastern quadrant of Hurtle Square.
- 2.2 By way of background, a letter titled '*Hurtle Square Project Works*' was sent to Hurtle Square residents on 20 March 2018, updating them about general enhancements in the area. The letter stated that Council's arborist had inspected certain trees within the area, and had identified four (4) which, in the arborist's opinion, had reached a point in their lifespan where they had lost vitality, had high levels of dead wood, poor structure and offered a low aesthetic appeal. These trees were to be replaced with advanced Jacaranda trees. The letter did not address Tree retention and was only to inform the community of the upcoming works.
- 2.3 At that time it was not proposed that the Trees, subject to this internal review, be removed and replaced, as it was the arborist's opinion that the Trees were:
- approximately 60 years old;
 - eight (8) to nine (9) metres in height;
 - healthy, with low levels of deadwood; and
 - had a life expectancy of more than five (5) years.
- 2.4 Subsequent to the notification sent to the residents in relation to the proposed removal and replacement of the four (4) trees, a petition dated 29 May 2018 was submitted by Ms. Elizabeth Hicks-Maitland requesting that:
- ... Adelaide City Council replace all the trees along the eastern side of the North Eastern quadrant of Hurtle Square with 'matching, same size trees ensuring consistency of growth and enhancement of the panoramic vista of the area.*
- 2.5 At Council's meeting of the 12 June 2018, the petition was received and noted (item 6.1). To provide more context, the petition itself is not included as part of the report presented to Council. The petition was received and noted by the Council. Item 5.1 on the agenda was a deputation request by Ms. Hicks-Maitland, however as Ms. Hicks-Maitland was not present in the Chamber at the meeting, the deputation did not proceed.
- 2.6 Councillor Antic had proposed a Motion on Notice (item 11.5) for the meeting which read:
- to request the Administration to replace all of the trees along the eastern side of the North Eastern quadrant of Hurtle Square with 'matching, same size trees ensuring consistency of growth and enhancement of the panoramic vista of the area' as requested in the petition from the owner/ occupiers of 12 – 14 Hurtle Square tabled at Item 6.1 of this Council.*
- 2.7 Councillor Antic was an apology for the meeting, and in accordance with Standing Orders, the motion was withdrawn from consideration at that meeting.

2.8 At Council's meeting of the 24 July 2018 a deputation from Mr. Matthew Kennedy, in relation to the petition received and noted by Council at its meeting of 12 June 2018 was heard (Item 7.3). Whilst the Minutes do not reflect whether Mr. Kennedy spoke for, or against, the petition considered by Council at its meeting of 12 June 2018, a review of the petition notes that "Matthew Kennedy" of 10A 8 – 10 Hurtle Square" recorded a "yes" to the question contained on the petition.

2.9 Later that meeting, at item 15.1, the following Motion on Notice was presented by Councillor Antic:

Council requests the Administration to replace all of the trees along the eastern side of the North Eastern quadrant of Hurtle Square with 'matching, same size trees ensuring consistency of growth and enhancement of the panoramic vista of the area' as requested in the petition from the owner/ occupiers of 12 – 14 Hurtle Square tabled at Item 6.1 of the Council Agenda dated 12 June 2018.

2.10 The Agenda report accompanying Item 15.1 contained an 'Administration comment', confirming that Council's arborist had assessed the Trees as being in good health and recommended the retention of the same.

2.11 The Motion on Notice was moved and subsequently carried by Council.

2.12 This decision was contrary to the Administration's recommendation, in addition to the assessment of Council's arborist.

2.13 A review of the recordings from the meeting of 24 July 2018 indicate that the Council considered this item for twenty-four (24) minutes during the meeting, prior to the motion being put, and carried. The audio/ visual can be found online. Please see link for video. <https://www.cityofadelaide.com.au/your-council/meetings/live-streaming/>

2.14 Following the decision of the Council made at its meeting of 24 July 2018, on 24 August 2018 a works notification letter was sent to the Hurtle Square residents to advise of the removal works concerning the Trees. The letter stated, amongst other things that:

The nature-strip in front of your building has recently been upgraded. Since that time, a request was put to Council to remove the remaining two trees and replace them with newly planted Jacaranda mimosifolia trees and matching plantings at their bases to have a consistent landscape. Council has agreed to this request. This work is due to commence on Thursday 30 August and completed by the Friday of the same week.

2.15 On 28 August 2018, a complaint was received by Administration from a resident of Hurtle Square, advising they did not agree with Council's decision to replace the Trees. A response was provided to the resident on 31 August 2018, notifying the avenues available by way of complaint and/or request for review of the decision.

2.16 On 3 September 2018, Council received the first formal request for an internal review pursuant to section 270 of the LG Act in relation to Council's decision to remove, and replace, the Trees. Further requests for a review of the decision were subsequently submitted by a number of other applicants.

- 2.17 Taken together, it can reasonably be construed that the applicants contend that, in resolving to remove the Trees, Council has not considered, or not sufficiently taken into account, all relevant considerations, such that Council was not acting as a representative, informed and responsible decision maker in the interests of its community. Therefore, the decision is contrary to sections 6 and 8 of the LG Act and the *Guiding Principles at regulation 4 to the Local Government (Procedures and Meetings) Regulations 2013*.
- 2.18 On 4 September 2018, the Administration acknowledged receipt of the initial request for review. The removal of the Trees was subsequently put on hold pending the outcome of this review.
- 2.19 Each subsequent application for review that was received by Administration was likewise acknowledged.
- 2.20 On 7 September 2018, a request to release the original petition was received by Administration.
- 2.21 Section 18.20 of the City of Adelaide Standing Orders states that *"members of the public may seek a copy of the full petition upon written request to the Chief Executive Officer"*.
- 2.22 On 10 September 2018, the Chief Executive Officer approved the release of the petition, which was sent to the applicant on 11 September 2018.
- 2.23 A subsequent petition in favour of keeping the Trees was received in October 2018.
- 2.24 The Administration confirmed with the applicant that the petition would be presented to the Council for its consideration after the completion of the caretaker period, and at the meeting of Council for which the outcome of this review is to be considered, being the meeting of 29 January 2019
- 2.25 The Administration has since also received an additional five (5) informal requests to make a deputation in relation to the Trees at the Council meeting of 29 January 2019.

3. TIMEFRAMES

- 3.1 Council's Corporate Complaint Handling Guideline states:
- Best endeavours will be made to ensure that a review of the original decision will be completed within 20 business days of receipt. However, if the decision is to be reviewed by Council, or in more complex cases, a review may take longer.*
- 3.2 As part of this review, it is important to provide context on the extended timeframes required to complete the review, as a result of the local government election process and the operation of the caretaker provisions.
- 3.3 The local government elections were held in November 2018. Accordingly, the Council was required to implement the provisions under its Caretaker Policy, which came into effect from 18 September 2018 to 19 November 2018.
- 3.4 During this period, the Council was in a caretaker period which limited its decision-making powers and functions, so as to not inappropriately bind the incoming Council. It was considered more appropriate for this review to be presented to Council after the conclusion of the caretaker period.

- 3.5 The Administration also sought an external legal review of the preliminary report in December 2018, to ensure the review findings and outcome were soundly based. The external review and subsequent feedback was delivered to the Administration late December 2018.
- 3.6 Given the Christmas closure, Council did not meet for an ordinary meeting between the 11 December 2018 and the first meeting of 2019 is scheduled for 29 January 2019.
- 3.7 The Council Committee is a newly established formal committee and its membership includes all Elected Members. The Committee considers items prior to matters being present at a Council meeting for determination, providing an opportunity for all Members to be informed before making a final decision in relation to a matter.
- 3.8 This report will be presented to the Committee on 22 January 2019 for its consideration, prior to being presented to the Council at its meeting of 29 January 2019 for final determination.

4. THE APPLICANTS' COMPLAINTS

- 4.1 As the applications received for a review under section 270 of the LG Act in relation to the Council's decision pertaining to the Trees are similar in nature, and raise substantially the same issues, they have been dealt with together in this review report.
- 4.2 On a consideration of the matters raised in those applications, it was determined that the complaints can be broadly considered under the below headings, which, taken together, address all of the specific concerns raised, namely:
- lack of 'due process' with the petition;
 - the wording of the petition;
 - arborist advice;
 - Hurtle Square Project Works; and
 - merits review.

4.2.1 Lack of 'due process' with the petition

Before a petition is presented to Council, the Administration ensures it meets the requirements set out in the *Local Government (Procedures at Meetings) Regulations 2013*, and City of Adelaide Standing Orders (section 18 – Public Involvement in Meetings) which are available on the City of Adelaide website. Section 18.19 of the City of Adelaide Standing Orders states that a petition must meet certain criteria, which are as follows:

1. *Be legibly written or typed or printed.*
2. *Clearly set out the request or submission of the petitioners.*
3. *Include the name and address of each person who signed or endorsed the petition.*
4. *Be addressed to Council and delivered to the principle office of Council.*

The petition presented to Council at its meeting 12 June 2018 met the above requirements.

Each signed petition is titled '*Petition to Adelaide City Council. May 2018*' and included '*we, the undersigned, request the Adelaide City Council replace all the trees*

along the Eastern side of the North Eastern quadrant of Hurtle Square, with matching, same size trees, ensuring consistency of growth and enhancement of the panoramic vista of the area'.

The petition contained 35 signatories, with 27 signatories indicating *yes* and eight (8) signatories indicating *no* and was distributed to Elected Members via the online portal.

To provide further context of the Hurtle Square Apartments, the following is noted:

- HURTLE EAST APARTMENTS - CP 21403, 2-6 Hurtle Square, ADELAIDE SA 5000 – This Community Plan has 9 Apartments
- HURTLE EAST APARTMENTS - CP 21404, 8-10 Hurtle Square, ADELAIDE SA 5000 - This Community Plan has 6 Apartments
- HURTLE EAST APARTMENTS - CP 21405, 12-14 Hurtle Square, ADELAIDE SA 5000 - This Community Plan has 6 Apartments
- HURTLE EAST APARTMENTS - CP 21406, 16-20 Hurtle Square, ADELAIDE SA 5000 - This Community Plan has 6 Apartments

The total site consists of has four (4) buildings (as above) comprising four (4) different community plans, with a total of 27 apartments. Upon review of the petition the following is noted:

Of the eight (8) *no* responses received:

- two (2) responses each were provided for residents at 12D, 12C and 2A Hurtle Square;
- the remained were individuals per unit;
- all responses received were from residents who live within the Hurtle Square complex (or included the Hurtle Square address on the petition response);
- two (2) responses were received after the 5pm Friday 25th May 2018 deadline, however these were still included in the petition;
- one (1) response included a long and detailed description as to why the Trees should not be replaced.

Of the 27 *yes* responses received:

- two (2) responses each were provided for 8D, 10A, 8C, 4B, 2C, 8B, 18A with the Hurtle Square complex;
- the remainders of the responses were individual residents per unit;
- eight (8) responses received provided an address that was not within Hurtle Square;
- two (2) responses were completed via email and proxy and were included.

In relation to the petition process, it is to be noted that unlike a community consultation process under the LG Act, the Council does not have any control as to how the process is managed, other than oversight in relation to its presentation to the Council under the requirements of the *Local Government (Procedures at Meetings) Regulations 2013* and City of Adelaide Standing Orders. The Council and its Administration are therefore reliant upon the individuals involved to ensure the process is transparent and equitable.

4.2.2 The wording of the petition

The petition received included the statement *'we, the undersigned, request the Adelaide City Council replace all the trees along the Eastern side of the North Eastern quadrant of Hurtle Square, with matching, same size trees, ensuring consistency of growth and enhancement of the panoramic vista of the area'*.

Whilst this statement does state that **all the trees** are to be replaced (which could be misinterpreted), it is implied to refer to the two trees that have not been included in the Hurtle Square project works, being the only two (2) trees that were remaining in the plan. This plan was communicated to the Hurtle Square residents on 20 March 2018 and stated which trees were to be removed and replaced as part of the project.

However, it is important to note that the statement contained within the petition has the potential for misinterpretation and it may be that some signatories were not aware, or entirely clear, in relation to what the petition was seeking, being removal of the Trees, with the re-planting of two (2) new trees.

In this regard, the documents submitted with the petition also contain several emails to residents from a resident stating that, *"I have asked the ACC for 2 more trees as there are gaps"*, which, of course, could be construed as a different proposition to removing the Trees, to be replaced with two (2) new trees.

The Motion on Notice included on the agenda from Councilor Antic for the meeting of 12 June 2018 (withdrawn) and then presented again on the 24 July 2018, does only relate to the Trees, which are also referenced in the Administration comment of the associated report, and depicted in the pictures provided in the response. That consideration of the matter by the Council only pertained to the Trees is also confirmed upon review of the Council audio and visual video.

Notwithstanding this, it remains the case that taken together, both the statement contained in the petition, together with the associated emails, on any objective consideration leads to the inescapable conclusion that there may have been some confusion amongst the signatories with regards to what the petition was seeking to achieve.

4.2.3 Arborist advice

The report accompanying the Motion on Notice that was ultimately put, and carried, by the Council at its meeting of 24 July 2018 contained an Administration response confirming that the Trees were determined to be healthy and in good condition by the council's arborist.

As stated in that report, the Council's policy position is to always remove as few trees as possible, particularly when trees are in good health. The Trees were assessed by the council's experienced arborist who confirmed *"the two trees (desert Ash) which have been retained have been assessed as approximately 60 years old, 8-9 metres high, healthy with low levels of dead wood with a life of more than 5 years. By contrast the trees which were removed in Hurtle Square had high levels of deadwood, poor structure, low vitality and low lead density"*. The conclusion was that the Trees were not required to be removed on the basis of safety concerns, and as they were healthy, they were to be managed as per usual maintenance regimes.

The Council also has a Tree Management Framework, which was first adopted on 18 March 2014.

The Framework addresses issues such as tree selection and diversity, maintenance and management, public liability issues, traffic, public consultation and notification, trees on private land, significant trees and development and assessment controls.

Upon review of this Framework, it can be confirmed that the Administration comment contained in the report for the Council's consideration at its meeting of 24 July 2018, as well as the arborists advice, was consistent with the guidance contained in section 5.6 of the Framework, which states as follows:

Tree Removal

All trees are considered worthy of retention however there are times when a tree's removal may need to be considered particularly when it: -

- *Presents an unacceptable risk to public safety*
- *Is dead or in poor health; or*
- *Is inappropriate to a particular area, e.g. removal of willows and poplars along the River Torrens.*

In assessing a tree for removal under normal operating conditions the following criteria are considered:

- *Why is tree removal being considered*
- *Does the tree meet the criteria of a regulated or significant tree, if not, how big is it, what is the tree species*
- *Is it indigenous to the area or of historical, botanical or cultural significance*
- *What is the tree's current structural condition and general health*
- *What are the known characteristics of the tree – for example is this tree short lived or structurally fragile*
- *Is it an appropriate tree for the location*
- *Are site conditions appropriate for tree species*
- *What are the risks associated with leaving the tree in its current position*
- *Does it contain hollows that are used for nesting or potentially could be used for nesting or refuge*
- *Is it visually appropriate to leave the tree in its location*
- *What impact will the tree's removal have on the landscape character of the area*
- *Is it practical to plant a replacement tree before removing the existing tree*
- *Will structural pruning or other work practices remedy the problem*
- *Are there any other means by which the issue may be resolved – modifying layout of adjoining footpath, relocation of furniture, installation of root barrier*
- *Improved ground surface treatment*
- *Can safety concerns be addressed by pruning; and*
- *What time frame is appropriate for the removal of the tree and If time permits can replacement trees be planted in the immediate vicinity to reduce the visual loss of the tree*

4.2.4 Hurtle Square Project Works

The Hurtle Square Project Works incorporated planning and design of a kerb and water table (including minor footpath works) and road resurfacing for Hurtle Square (East) from Halifax to Carrington Streets. The project was initiated to resolve a localised drainage issue and to lift local amenity to match recent works carried out

on Hurtle Square (West). Residents were kept informed by works notification letters illustrating what works were occurring in the area, and when.

A letter was sent to residents of Hurtle Square on 20 March 2018 from the City of Adelaide Team Leader Horticulture. The purpose of the letter was to update residents on general enhancements of the area in front of their properties. The letter stated that the Council's arborist inspected the trees within the works area and had identified four (4) trees that had reached a point in their life where they had lost their vitality and offered low aesthetic appeal. The letter confirms that because of this, those trees were to be replaced with advanced Jacaranda trees. As they had been assessed as healthy, this notification did not include the proposed removal of the Trees.

As part of these works, a resident asked Administration to also remove and replace the Trees which occurred through a number of mediums including email and face to face discussions. The response from Administration was that it did not have authority to do so and other measures could be taken, such as a petition of Motion on Notice. This was the appropriate response from the Administration.

In accordance with Council's 24 July 2018 decision regarding to remove and replace the Trees, the Chief Executive Officer, and through him, Council employees, has an obligation to carry out the removal and replacement of the Trees. In the circumstances there is no obligation to consult with the community on the removal of the Trees, as they are not regulated trees as defined under the *Development Act 1993*.

The Administration did advise residents of the Council's decision regarding the Trees, by way of subsequent works notification letter sent on the 24 August 2018.

This letter prompted a number of complaints being received by the Administration, and the subsequent requests for a review of Council's decision under section 270 of the LG Act.

As a result, the removal and replacement of the Trees has been put on hold whilst this review was conducted.

4.2.5 Merits review

As per Councils Corporate Complaint Handling Operating Guidelines a review for the purposes of section 270 of the LG Act *"will include an assessment of merits of the decision"*.

Accordingly, the internal review process is required to be in the nature of a merits review, and not simply a process review (where only the legality of the decision-making process is reviewed), by reason of both the statutory position under section 270, as well as Council's Policy.

The purpose of this review is to reconsider the facts, law and policy aspects of the original decision and determine the 'correct or preferable decision'. That is, that the decision is made according to law, and if there is a range of decisions that are correct in law, the best on the relevant facts. It is directed to ensuring fair treatment of all persons affected by a decision and improving the quality and consistency of decision making.

5. THE 24 JULY 2018 COUNCIL DECISION

- 5.1 Upon review of the audio and visual recordings of the meeting, both the sequence of events and the Council's reasons for its decision can be determined. Council considered this item for twenty-four (24) minutes. Please see link for video.
<https://www.cityofadelaide.com.au/your-council/meetings/live-streaming/>
- 5.2 Six (6) Members spoke to this motion
- 5.3 As a point of reference; one Member asked a question as to whether the Desert Ash Tree species was still being planted in the council area, as it had been deemed a weed in South Australia. The Associate Director Property confirmed that it is no longer being planted in the Council area and that particular Member confirmed being in favour of the motion, on the basis that the Trees are deemed a weed while the proposed replacement trees, being Jacaranda Trees, were not.

6. OUTCOME AND RECOMMENDATIONS

- 6.1 The Administration and the Council followed an appropriate governance process in relation to its receipt of the petition, and presentation to the Council, including the deputation received at the Council meeting of 24 July 2018, following which, the relevant decision of the Council was made.
- 6.2 However, as a responsible, informed decision maker, acting in accordance with the principles of good governance, transparency and accountability, it was incumbent on the Council, in making a decision contrary to the advice of its own expert arborist, to ensure that it gave due consideration to all relevant matters in making its decision, which necessarily included matters pertaining to the clarity, transparency and representative nature of the petition, as well as the Council's Tree Management Framework.
- 6.3 Upon review of the audio and visual recordings of the meeting, while matters such as the 'weed' status of the Trees was briefly canvassed, it is evident that the Council gave considerable weight in its decision making to the request made in the petition.
- 6.4 However, in making that decision the following is noted:
- the request on the front page of the petition (which formed the basis of the Motion on Notice), is a different proposition to that contained in the emails sent to some residents stating that, "*I have asked the ACC for 2 more trees as there are gaps*". It can reasonably and objectively be presumed that not all of the signatories were clear as to what they were providing a signature to, or at the very least, there were "live" issues regarding the same at the time the Council considered the petition;
 - it **could not** be said that the signatories to the petition were representative of the number of residents in Hurtle Square who likewise had an interest in this matter. Given the weight placed on the request made under the petition by the Council, evidenced in the audio and visual record of the debate on the motion, this was a significant matter to take into account. Although it was raised in passing in the debate on the motion, that "Hurtle Square is bigger than one (1) apartment block", this issue does not seem to have been addressed, or taken into account, by the Council in its decision making;

- Council's own expert arborist recommended retention of the Trees as they were in good health; and
- the Council's policy position, as set out under the Tree Management Framework, which supported retention of the Trees, was not raised with the Council for its consideration at the time it made its decision.

6.5 All of which leads to the conclusion that, on balance, the Council's decision-making process in relation to the Trees could have been more robust. Accordingly, to ensure best practice governance transparency and accountability, it is now recommended that:

- the Council re-consider this matter, by way of requesting a further report canvassing all of the relevant issues to be taken into account in making a decision regarding the retention, or otherwise, of the Trees;
- although there is no statutory requirement to do so, that the Council consider whether it wishes to undertake consultation, in accordance with its Public Consultation Policy, with of **all of the residents** of Hurtle Square in relation to the retention of the Trees, in informing its decision; and
- when the Council re-considers this matter, that it provides its reasons for its decision, whether that is to replace, or to retain, the Trees based on all relevant information.

6.6 Irrespective of the manner in which Council resolves to determine this matter, it is acknowledged that the applicants and/or other residents have a recourse to the Ombudsman if they remain dissatisfied.

Local Government (Ratepayer and Related Measures) Amendment Bill 2018

ITEM 5.8 22/01/2019
The Committee

Program Contact:

Jacki Done, AD People & Governance 8203 7256

Approving Officer:

Steve Mathewson, Director Services

2018/02619
Public

EXECUTIVE SUMMARY:

The Honourable Claire Scriven MLC introduced the Local Government (Ratepayer and Related Measures) Amendment Bill 2018 (the Bill) into the South Australian Parliament on 24 October 2018.

While the Bill was passed by the Legislative Council (incorporating one amendment) ([Link 1 – Bill](#)), the Government has indicated that it will not support the Bill until it has received Local Government Association (LGA) feedback on the proposed regime.

The LGA has requested comments from Councils, and the LGA Board is anticipated to discuss its response to the Bill at its meeting on 31 January 2019.

This report and the attached table **Attachment A** presents an overview of the Bill with discussion of the Administration view of the likely impacts of its implementation on the operations of the City of Adelaide and other Councils.

Council Members' views are sought at the Committee meeting of 22 January 2019 in order to inform the preparation of Council's proposed response to the LGA relating to the measures proposed in the Bill.

RECOMMENDATION:

THAT THE COMMITTEE RECOMMENDS TO COUNCIL

That Council:

1. Notes the report and discussion on potential impacts of the Local Government (Ratepayer and Related Measures) Amendment Bill 2018 as set out in Attachment A to Item 5.8 on the Agenda for the meeting of The Committee held on 22 January 2019.
2. Adopts the proposed responses as set out in Attachment A to Item 5.8 on the Agenda for the meeting of The Committee held on 22 January 2019, in relation to the reforms proposed in the Local Government (Ratepayer and Related Measures) Amendment Bill 2018.
3. Authorises the Lord Mayor to provide a written response on behalf of Council to the Local Government Association of South Australia in relation to the Local Government (Ratepayer and Related Measures) Amendment Bill 2018.

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	This report relates to corporate activities which enable the City of Adelaide to achieve its strategic objectives, rather than any one theme of the Strategic Plan.
Policy	While this report will not impact Council policies and procedures, a number of the reforms included in the Local Government (Ratepayer and Related Measures) Amendment Bill 2018 could require changes to City of Adelaide policies and procedures as described in Attachment A to this report.
Consultation	Council Members were advised via an eNews article dated 20 December 2018 of the Local Government (Ratepayer and Related Measures) Amendment Bill 2018 and the Local Government Association response to the Bill. Members' feedback is now sought regarding the proposed reforms.
Resource	Not as a result of this report.
Risk / Legal / Legislative	Not as a result of this report.
Opportunities	Subject to the approval of Council, opportunity exists to engage via the Local Government Association of South Australia and other channels in order to influence the legislative development of proposed reforms to the local government sector.
18/19 Budget Allocation	Not as a result of this report.
Proposed 19/20 Budget Allocation	Not as a result of this report.
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report.
18/19 Budget Reconsideration (if applicable)	Not as a result of this report.
Ongoing Costs (eg maintenance cost)	Not as a result of this report.
Other Funding Sources	Not as a result of this report.

DISCUSSION

1. The Local Government (Ratepayer and Related Measures) Amendment Bill 2018 (the Bill) was introduced into the South Australian Parliament by the Labor Opposition on 24 October 2018. The Bill was passed by the Legislative Council (incorporating one amendment) with the support of the Greens, SA Best and Independent, Hon John Darley MLC ([Link 1 – Bill](#)).
2. Government Members' support for the Bill will be needed in the House of Assembly if the Bill is to be passed and come into law.
3. The Government has indicated that it will not support the Bill at least until it has received feedback from the Local Government Association of South Australia (LGA). The SA Parliament does not sit again until Tuesday 12 February 2019.
4. The Bill comprises measures including:
 - 4.1. Establishment of a Local Government Commission in place of the Local Government Grants Commission, to undertake an expanded role including powers to suspend Elected Members
 - 4.2. Mandating a review of the *Local Government Act 1999* and the *Local Government (Elections) Act 1999* within 12 months of commencing the proposed reforms
 - 4.3. Introduction of new duties for Council Members not to make vexatious complaints or behave improperly, and a new provision enabling a vote of no confidence in a Presiding Member which if exercised could, on a simple majority, send a council to a general election
 - 4.4. Changes related to Governance including removal of Council Members from Audit Committees
 - 4.5. Removal of some confidentiality provisions that could weaken the commercial position of councils by signalling the anticipated cost of a project before it is put out for tender, as well as that of external parties seeking to negotiate/transact with councils
 - 4.6. Restrictions on the elements allowed to make up council CEO salary packages, and a requirement to publish CEO employment contracts
 - 4.7. Expansion of some existing requirements for performance reporting, business and budget planning, aspects of which could result in additional regulatory burden and complexity for Councils to administer
 - 4.8. Additional requirements for disclosure of Council Members' and employees' travel, credit card expenditure, and council gifts
 - 4.9. Requiring publication of public consultation policies.
5. The LGA has shared its views regarding the Bill ([Link 2 - LGA paper](#)).
6. A detailed summary of the legislative provisions has been prepared for consideration of Council (**Attachment A**). The table summarises comparable interstate Local Government regulatory regimes and presents City of Adelaide (CoA) Administration comments regarding the potential impacts of each clause in addition to a summary of the LGA's views.
7. Council Members' views are sought regarding the reforms proposed in the Bill, and the Administration comments, as well as approval for the Lord Mayor to write to the LGA providing those views, for consideration of Council on 29 January 2019, in time for submission to the LGA Board meeting scheduled for 31 January 2019.
8. The response to the LGA may also be used during any other discussions in which the Lord Mayor, other Council Members, or the Chief Executive Officer may wish to participate concerning the Bill, and broader local government reforms.

ATTACHMENTS


Attachment A – Local Government Reform Measures (SA Labor Party) – Draft CoA responses clause by clause.

- END OF REPORT -


Local Government Reform Measures (SA Labor Party) - Draft CoA responses by clause:

Clause Amendments	Provision
2	● Commencement – no transitional period, 3 months transition on limited number of clauses
4 s4 LG Act 1999 (LGA)	- Interpretation - Commission or Local Government Commission means SA Local Government Grants Commission
5 (inserts) s8A LGA	● Annual review of SA Council performance of councils by Commission – beyond existing reporting requirements, some hard to measure
6 s50 LGA	● Public consultation policy of Council to be published prominently online eg via social media
7 s56 LGA	● General election to be held if prescribed number of (half plus one) members pass resolution of no confidence in Mayor – cost & administration
8 s62 LGA	● General duties not to make frivolous complaints, travel overseas without council resolution and must report back to council
9 (inserts) s79A LGA	● Publication including on social media of credit card expenditure by Council Member's name, within 14 days of end of month (30 days preferred)
9 (inserts) s79B LGA	● Publication including on social media of travel by Council Members by name within 14 days of end of month (30 days preferred)
9 (inserts) s79C LGA	● Publication of certain gifts to Council Members <i>funded by council</i> including on social media within 14 days of end of month (30 days preferred)
10 s90 LGA	● Meetings to be held in public except in special circumstances. Deletion/amendment of clauses as proposed may adversely impact council's commercial negotiations, and potentially put parties dealing with councils at a commercial disadvantage by allowing disclosure in a way that could confer commercial advantage on 3 rd parties
	● Minute each Council Member who votes on a resolution to exclude the public
11 s91 LGA	● Disclosure of minutes and release of documents may not be prevented (in order to prevent disclosure of votes on resolution to exclude public)
12 s95 LGA	● Conduct at meetings – (● <i>new duties not to behave improperly or cause interruption to another member</i>), with provision for Presiding Member (rather than majority) to suspend another Council Member
13 (inserts) s95A LGA	● Non-compliant petitions may not be refused unless non-compliance calculated to mislead. 60 days for Council to consider and respond
14 (inserts) s99A LGA <i>NB amended during passage (LegCo)</i>	● Remuneration of CEO must only comprise: Salary/super; Vehicle and ICT (or allowances for either/both) [<i>Amendment</i> : may also include provision of place of Council-owned residence, if wholly outside Metropolitan Adelaide]
14 (inserts_ s99B LGA	● Employment contract of CEO to be published within 14 days of entering into employment, on social media – <i>NB retrospective application</i>
15 s105 LGA	● Register of remuneration, salaries and benefits to be published prominently on Council website
16 (inserts) 105A LGA	● Publication of Council staff credit card expenditure with position of employee including on social media, within 14 days after end of each month (30 days preferred, possible legal risk/industrial issue)
16 (inserts) 105B LGA	● Publication of Council gifts to council staff with position of employee including on social media, within 14 days after end of each month (30 days preferred)
17 s109 LGA	● General duty for staff not to travel overseas without a Council resolution and to report to Council within 2 months
18 s115 LGA	● Returns must include particulars of travel undertaken beyond SA during the return period (register of interests – incorrect placement in Bill).
19 (inserts) 119A LGA	● Travel by employees to be published prominently online including social media within 14 days at end of each month, and within 3 months, by position title (30 days preferred, incorrect placement in Bill)

Clause Amendments	Provision
20 s123 LGA	● Annual business plans and budgets to include far greater level of detail and itemised approach to new projects plus consideration of public proposals
21 s126 LGA	● Audit Committee to be comprised from a list of persons established by the Auditor-General, not to include any Members/employees of council
22 s264 LGA	● Complaint lodged in District Court – Commission added to list of those who must investigate in first instance
23 s265 LGA	● Hearing by District Court - Commission included in list of parties which may investigate matters to which the complaint relates
24 inserts Ch. 13 Part 1A	
New s269A LGA	● Preliminary - Designated behaviour means failure by a Council Member to observe a prescribed provision of the code of conduct under s63
New s269B LGA	● Local government Commission may deal with certain complaints relating to Members' code of conduct – Commission responsibilities vs Ombudsman etc not defined
New s269C LGA	● Action Local Government Commission may take including: <ul style="list-style-type: none"> ● Reprimand (including publicly) the Council Member ● Require the Council Member to undertake training or issue an apology etc ● Require the Council Member to reimburse Council
New s269D LGA	● ● Suspend or disqualify the Member if there is a serious failure to observe a prescribed provision (without eg Ministerial intervention)
New s269D LGA	● Delegation - Commission may delegate or sub-delegate a function or power under the new Part 1A in writing to a person/position, absolutely/conditionally including powers of suspension etc
25 amends Sched 3	
26	● Commission to review Acts asap after s24 comes into operation and report to Minister <12 months (ambitious), considering: <ul style="list-style-type: none"> ● scheme for review and complaints ● rebates on and exemptions from rates ● amendments to ensure diversity of representation ● codes of conduct ● matters connected with establishment of register of State-owned land under CC&M of Councils ● introduction of compulsory voting in Council elections ● potential to simplify the Act ● efficiencies from cross-council collaboration including by identifying legislative barriers Report to be tabled in both Houses within 6 sitting days of receipt
Schedule 1	● No requirement to consult local government sector in review of scheme that regulates us
Schedule 1	● Transitional provision for audit committee requirements

 Disagree / adverse impact / potential large change required

 Potentially impractical or adverse impact in current draft / some change

 Agree / no adverse impact / minimal change required

Interstate comparison – summary:


The relevant legislation of other states/territories bar ACT generally doesn't contain many similarities. No other state/territory jurisdictions prescribe the level of detail proposed in the Bill.

Some of the more obvious linkages include:


- **Performance Reporting**
Only Victoria and Tasmania have performance reporting legislated with the Victorian model being the most advanced (<https://knowyourcouncil.vic.gov.au/>). NSW is looking to introduce a performance measurement framework based on the Victorian model.
- **Travel/gifts** (staff and councillors)
Existing practice is to declare gifts on a Gifts and Benefits register but this is not prescribed to the level of detail in the Bill, and other jurisdictions' legislation contains no specific mention of publishing travel details on websites.
- **Conduct at meetings**
Most states have a code of conduct for Council Members e.g. WA, VIC, NSW, NT and TAS, however none specify interruptions during council meetings. Only NSW legislation has a clause for 'acts of disorder at Council meetings' and their [draft Model Meeting Code](#) goes to considerable lengths to define inappropriate behaviour.
- **CEO remuneration and contract**
No other jurisdiction specifies mandatory legislative components of CEO remuneration nor publication of the employment contract of the CEO.
- **Annual budget/business plans**
Other jurisdictions do not specify as much detail in terms of contents of the annual business plan and budget and community proposals for the next year's activity.
- **Audit committees**
Only a couple of jurisdictions specify the composition of Audit Committees in local government regulation. WA requires majority of Audit Committee members to be Council Members while QLD and TAS specify a maximum number of committee members that can be Council Members.

Provisions with CoA and LGA comment, clause by clause detail:

LGA and CoA comments are mostly aligned, with a few exceptions where CoA (usually) has identified concerns not yet noted by LGA.

 Disagree / adverse impact / potential large change required

 Potentially impractical or adverse impact in current draft / some change

 Agree / no adverse impact / minimal change required

Clause	Provision	Detail	LGA Comment	CoA comment
2	Commencement	<p>Act to commence on:</p> <ul style="list-style-type: none"> • date of Royal Assent (no transition period) • 3 months afterward Royal Assent – <ul style="list-style-type: none"> ○ s 4 (LG Grants Commission > LG Commission) ○ s5 (annual performance review by LG Commission) ○ s8 (general duties), and ○ s22 (complaint to District Court) 	<p>Notes need for delayed commencement of some parts.</p> <p>Need time for councils and Govt to develop new structures and processes to implement many new compliance requirements. Three months is insufficient time for that to occur.</p>	<p>Nil and in limited cases 3 months lead time is insufficient. Transitional period of minimum of 6 months (and more in some instances) would allow for smooth implementation and any necessary changes to Council processes and systems. Implementation of some provisions could require up to 18 months to fulfil new compliance requirements.</p>
4 amends s4 LG Act 1999	Interpretation	<p>Commission or Local Government Commission means SA Local Government Grants Commission under the <i>South Australian Local Government Grants Commission Act 1992</i></p>	<p>Recognises potential advantages of the expanded role as (1) already holds significant data about councils, and (2) allows for centralisation of state government roles related to local government. Prefers to retain current appointment provisions under the Act.</p> <p>May require consequential amendments to other legislation e.g. <i>Cwth Local Government (Financial Assistance) Act 1995</i> and principal function of LGG Commission under that Act to alter membership of the LGGC to ensure relevant expertise.</p>	<p>Presume statutory scope and expertise of LGG Commission will be considered vis a vis expanded role. Consideration should be given to proper development of new structures and processes for the Bill's implementation.</p>

5 inserts s8A LG Act	Annual review of performance of councils	<p>Commission to prepare and publish Annual Review of SA Council Performance, in consultation with LGA:</p> <ul style="list-style-type: none"> Quantitative Performance Indicators (QPIs) relating to delivery of services (quality, cost, equity, timeliness, complaints, other) Requirements re keeping/sharing of data by councils for cross-council performance comparisons <p>Council must provide annual report to Commission with the data required by Commission.</p> <p>Commission may refer matters of concern re QPIs to CEO Office of SA Productivity Commission, on which CEO must report to Minister and which report must be published online</p>	<p>Notes that Councils generally support sector-wide benchmarking.</p> <p>For a streamlined process, it would be best if this was incorporated within the existing requirements for council's annual reporting, rather than creating a separate process.</p> <p>Questions whether Productivity Commission should have a role in reviewing individual councils, (or limit this to sector-wide issues or trends).</p> <p>Queries how the role of the Productivity Commission would interact with the broad remit of the Auditor General to call in matters related to council expenditure for review.</p> <p>Further amendments may be required to give the SA Productivity Commission powers of inquiry for a matter referred to it by the proposed Local Government Commission.</p> <p>Rejects consultation timeframe of 3-6 weeks for Annual Review of SA Council Performance – needs min 8 weeks.</p>	<p>LG benchmarking is desirable but note potential to increase council reporting costs (beyond requirements imposed on other levels of government) e.g. in addition to existing reporting, QPIs would relate to quality and equity of services.</p> <p>Query interaction between Productivity Commission and Auditor-General.</p>
6 amends s50 LG Act	Public consultation	Requires publication prominently online e.g. via social media of a council's public consultation policy	<p>Acknowledges this is already common practice.</p> <p>Identifies need for definitions of 'prominent location', choice of social media channels, and the required frequency of posts.</p>	<p>This information is currently published on CoA website, could be added to CoA Facebook.</p> <p>Query definition of social media/internet platforms for compliance purposes (throughout Bill).</p>
7 amends s56 LG Act	General election to be held in special case	If a prescribed number of members of a council pass a resolution of no confidence in the principal member ie Lord Mayor, the CEO must declare the council under this Division such that a general election must be held for the council asap after the declaration, on a polling day fixed by the CEO in the notice of declaration	<p>This clause would not be required if reasonable powers were provided to a Local Government Commission (or another body) to suspend or disqualify an individual council member, including a presiding member, who is not complying with their duties.</p> <p>A high bar would need to be set to reduce risk of misuse of this provision –</p>	<p>See LGA comments. This provision could result in increased numbers of general elections and therefore costs to councils and Electoral Commission of SA, in addition to voter fatigue and disengagement.</p> <p>Query whether needs higher bar than simple majority. If proceeds need very clear definitions as to prescribed</p>

			<p>the prescribed number should be half plus one.</p> <p>Consider the cost to ratepayers of holding additional elections.</p>	<p>numbers, and what constitutes a 'no confidence' motion.</p>
8 amends s62 LG Act	General duties	<p>Inserts additional duties for members of council:</p> <ul style="list-style-type: none"> • Not to make frivolous/vexatious complaints (in the view of a prescribed authority) regarding alleged breach of code of conduct by another member • Not to undertake o/seas travel funded wholly/partly by council unless council has approved by resolution (other than if not reasonably practicable due to exceptional circumstances, and council resolves to approve within 7 days after travel occurred) • To report to council on the cost and outcomes of the travel within 2 months of traveling, with allowance made for election periods. 	<p>Agrees a stronger deterrent is needed re frivolous/vexatious complaints, but argues this is best addressed through Code of Conduct reforms.</p> <p>Notes that while a CEO is a 'prescribed authority' for determining whether a complaint is vexatious, a CEO has no power to make findings or issue penalties.</p> <p>Notes that advance approval of travel, and post-travel reports, are already common practice in the sector.</p>	<p>O/seas travel permission is required already under CoA standing orders, and Council Members typically report back. This is in line with maintaining a consolidated register for Council Members' overseas travel.</p>
9 inserts s79A LG Act	Publication of credit card expenditure	<p>Details of Council Members' credit card usage to be published prominently on its website and publicised eg via social media platforms, including name of each member and statement of expenses for the month, within 14 days after end of each month, and to remain available for 5 years from publication.</p>	<p>It is understood that some councils have voluntarily adopted processes of publishing information about credit card expenditure. Publication across social media is not required of federal or state government.</p> <p>A council's annual report provides a summary of all expenditure against budget. This should overcome the need for separate reports to be retained online for a period of 5 years.</p> <p>Will increase corporate costs and divert expenditure from elsewhere</p> <p>Risk of bullying, harassment and defamation on social media applies to all provisions requiring social media links to information about individuals.</p>	<p>(green) Agree with policy intent (amber) CoA presently publishes 6 monthly credit card expenditure summary at <i>supplier level</i>. A more regular and detailed requirement will have a resource impact on Council. CoA Council Members don't have credit cards at present – practice is to seek reimbursement after paying for expenses. NB 14 days is not a practicable timeframe for reporting, 30 days is preferred. Process / systems changes require lead time. Potential for bullying or defamatory comments to be made on social media</p>

				on Council pages – would require monitoring to manage risk.
9 inserts s79B LG Act	Publication of travel by members	Details of Council Members' travel beyond SA funded wholly/in part by Council to be published prominently on its website and publicised eg via social media platforms, including costs of accommodation and other expenses (but not land-based travel costs) within 14 days after end of each month, and to remain available for 5 years from publication.	Publication across social media is not required of federal or state government.	(green) Agree with policy intent. (amber) Process/systems changes to current practices require lead time. If this were required, publication of gifts and benefits register would move from quarterly to monthly. NB 14 days is not a practicable timeframe for reporting, 30 days preferred, as may not apply for reimbursement straight away.
9 inserts s79C LG Act	Publication of certain gifts funded by council	Details of any gifts provided to Council Members <i>by Council</i> to be published prominently on its website and publicised eg via social media platforms, including name of each member and statement of expenses within 14 days after end of each month, and to remain available for 5 years from publication.	Gifts and benefits register already required, and could be expanded to include gifts funded by council rather than create a new register.	(green) CoA already has gifts and benefits register in place. Council does not usually provide gifts to Council Members. (amber) If this were required, publication of gifts and benefits register would move from quarterly to monthly. Process / systems changes require lead time. NB14 days is not a practicable timeframe for reporting, suggest 30 days.
			No similar requirement on state or federal government for a register of publicly funded gifts to be maintained and published on social media.	

10 amends s90 LG Act	Meetings to be held in public except in special circumstances	<p>Deletes para 90(3)(b) under which information may be considered by council in confidence if its disclosure could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting business, or proposing to do so, or prejudice the commercial position of council, and disclosure would on balance be contrary to public interest.</p>	<p>The replaced clause doesn't anticipate the same circumstances as current (b) and (d) and may result in councils not receiving the best value during tender processes.</p>	<p>(red) Proposed deletion of 90(3)(b) could prejudice council's commercial negotiations and negatively implicate public interest in commercial negotiations. Potential to undermine council procurement and value for ratepayers, as could require Council to 'signal' anticipated costs of projects before they are put to tender.</p>
		<p>Amends para 90(3)(d) such that confidence is no longer able to be afforded by a council in circumstances where disclosure could reasonable prejudice the commercial position of a person supplying information to council or confer a commercial advantage on a third party, and would be on balance contrary to public interest. Rather such info could only be kept in confidence if it might reasonably be expected to prejudice the <i>future supply of such info</i> to the council and would be on balance contrary to the public interest.</p>	<p>The current process of calling a division to record votes on a motion is already available to council members.</p>	<p>(red) Amendment of 90(3)(d) potentially puts those dealing with council at a commercial disadvantage by allowing disclosure of information in a way that could confer a commercial advantage on a third party. Commercial partners may decide not to disclose commercially sensitive information to council as amendment would omit protections for proponents lodging unique proposals/unsolicited bids to Council.</p>
		<p>The amendment to s90(7) would also newly insert a requirement to record the name of each member who voted on a resolution to exclude the public and consider a matter in confidence, and how they voted. In addition new s90(7aa) would require this information to be minuted.</p>		<p>Green – Re- 90(7): public are already present for votes on moving into confidence, but this amendment may slow process</p>
11 amends s91 LG Act	Minutes and release of documents	<p>Consequential to the amendments immediately above, a council may not make an order to prevent disclosure of a note made in the minutes as to who voted and how on a motion to consider a matter in confidence.</p>		<p>Further to notes re s90(7) above, as public are present for such a vote and Council Members are able to ask for a division in any case.</p>
12 amends s95 LG Act	Conduct at meetings	<p>Imposes new duties on council or council committee members not to:</p> <ul style="list-style-type: none"> Behave improperly/in a disorderly manner Cause an interruption/interrupt another member, 	<p>Broadly consistent with the LGA's code of conduct reform proposal.</p>	<p>Green – reflects current Code of Conduct provisions</p> <p>Amber – for practical reasons, quorum needs to be considered or suspensions have potential to stall decision making.</p>

		<p>unless objecting to words used by a member who is speaking, calling attention to a point of order, or pointing out a lack of quorum.</p> <p>The presiding member (PM) must allow the member to make a personal explanation, but if s/he considers a breach has occurred, the PM may censure the member or suspend him/her for part of/ the rest of the meeting. The member suspended must not enter a meeting in contravention.</p>		<p>Unilateral exercise of this power by PM may undermine democratic process unless council leave/resolution is needed for e.g. suspension to take effect.</p> <p>Only NSW has detailed provisions around inappropriate behaviours, other states generally do not prescribe this level of detail.</p>
13 inserts s95A LG Act	Petitions	<p>Council must not refuse a petition due to non-compliance with the regulations unless such failure was calculated to mislead. Council has 60 days to consider a petition at a council meeting and respond to the petitioner.</p>	<p>Circumvents regulations by allowing people to disregard them. Better to amend the regulations. The clause would require councils to accept a petition that is not legible or does not set out a clear request or submission.</p>	<p>Puts into effect existing good practice at CoA but LGA concerns noted.</p>
14 inserts s99A LG Act	Remuneration of CEO	<p>CEO remuneration must only be comprised of:</p> <ul style="list-style-type: none"> • Salary and superannuation • Vehicle (or allowance) • ICT reasonably required (or allowance) <p>Leave entitlements/ payment in lieu not affected. Only applies from commencement of section.</p> <p>Amendment on passage in Legislative Council: may also include provision of place of residence owned by Council on 24/10/18, if wholly outside Metropolitan Adelaide.</p>	<p>This or similar provision does not apply to CEOs in state or federal government. The proposal could be replaced by a more detailed register of salaries for CEOs.</p> <p>Need clarity around whether this provision would apply to contracts entered into before or after commencement of the clause.</p>	<p>Similar restrictions do not apply to CEOs within State / Federal public sector. Other categories of remuneration may need to be considered e.g. relocation of housing allowance.</p> <p>Legislation in other states is silent on elements comprising CEO remuneration.</p>
14 inserts s99B LG Act	Publication of employment contract of CEO	<p>Within 14 days of entering into/renewing CEO's contract of employment, council must publish contract in prominent location on website, publicise on prominent eg social media platform, and make available for following 5 years. Applies whether contract entered into before or after commencement of provision – retrospective application.</p>	<p>Unnecessary, excessive but based on independent legal advice does not appear to be conflict with employment laws. Could be addressed by more detailed register of salaries for CEOs, to avoid weakening Councils' negotiating position when recruiting CEOs.</p> <p>This provision does not apply to CEOs in state or federal government. See previous re social media risk management.</p>	<p>CEO salaries are already reported on. Continuing to publish this info is appropriate. Publication of CEO contracts could risk infringement of privacy – need to redact personal details. Other details are already published.</p> <p>No similar publication requirements apply within State/Federal PS, nor in other jurisdictions.</p> <p>Query intent - to be retrospectively applied?</p>

15 amends s105 LG Act	Register of remuneration, salaries and benefits	The Register of salaries, already required to set out employees' classifications and wages, is to be required to also be published in a prominent location on council's website.	Consistent with LGA policy and already encouraged.	
16 inserts 105A LG Act	Publication of credit card expenditure	Details of council staff members' credit card usage to be published prominently on its website and publicised eg via social media platforms, including position of each employee entitled to use a credit card and statement of expenses for the month, within 14 days after end of each month, and to remain available for 5 years from publication.	See comments on clause 9	More detailed and regular reporting represents an additional regulatory burden. Process/systems changes require transitional period. Preferable to require sound reporting practices and ensure payments are transparent and staff accountable, per our current reporting. NB 14 days is not practicable, suggest 30 days. Council must be conscious of managing any risk e.g. of harassment, bullying or defamation that could accompany publication on social media.
16 inserts 105B LG Act		Details of any gifts provided to council staff members by Council to be published prominently on its website and publicised eg via social media platforms, including the position title of each employee and description including cost of the gift, within 14 days after end of each month, and to remain available for 5 years from publication.	See comments on clause 9.	Support, but 14 days is not practicable for reporting, prefer 30 days. Require changes to systems/processes necessitating transitional period. Suggest set limit e.g. \$50 or \$75. See comments on clause 9.
17 amends s109 LG Act	General duty	<p>Inserts additional duties for council staff members:</p> <ul style="list-style-type: none"> Not to undertake o/seas travel funded wholly/partly by council unless council has approved by resolution (other than if not reasonably practicable due to exceptional circumstances, and council resolves to approve within 7 days after travel occurred) To report to council on the cost and outcomes of the travel within 2 months of traveling, with allowance made for election periods. 	Refer to comments on clause 8 regarding overseas travel.	While Council Members' overseas travel requires a Council decision, staff members' travel is not always approved by council at present (may be approved by Director). Could be incorporated into the Corporate Travel Operating Guideline.
18 amends s115 LG Act	Form & content of returns	Returns must include particulars of travel undertaken beyond SA during the return period (register of interests).	<p>Work-related travel paid in whole/part by Council is not a private interest and should not be registered as such.</p> <p>115(1a) is not relevant to primary returns as this is completed at the commencement of employment.</p>	<p>Green – Policy outcome re transparency of travel expenditure</p> <p>Red – How is travel related to register of interests? Reporting requirements would be better placed at ch7 part 2 LG Act</p>

			All other reporting requirements are 'as prescribed' so 115(1a) will be the only one specified in the Act. 115(1a) will require an amendment to the Local Government (General) Regulations to amend the form (which currently excludes council funded travel from reporting).	per cl 19 comments below. Drafting perhaps misinterprets purpose of s115.
19 inserts 119A LG Act	Travel by employees	Council to publish in a prominent location on its website particulars including cost of any (non-land based) travel outside of SA undertaken by an employee of council that was or will be funded wholly or partly by council within 14 days and within 3 months of the end of each financial year publish the same information applying to the financial year. The position title is to be used rather than the name of the employee and the information must be published on a prominent platform eg social media, and remain available online for 5 years from the date of publication.	Monthly and annual reporting is a duplication.	Green – Policy outcome re transparency of travel expenditure Amber – This provision duplicates existing requirements and again, 30 days would be preferable to 14. Process/systems change required, necessitating a transitional period. Red – Suggest link to category ie level of employee not title/role as equivalent to using name. How is travel related to register of interests? Travel related reporting requirements would be better placed at ch7 part 2. This clause may misinterpret purpose of s119.
20 amends s123 LG Act	Annual business plans and budgets	<p>Council's business plan and budget for each financial year must:</p> <ul style="list-style-type: none"> newly identify activities or works relating to maintenance, replacement or development of infrastructure outlined in 1 or more of 3 preceding annual business plans or budgets adopted by the council that have not been substantially completed in accordance with the relevant plan or budget; include estimates of revenue and expenses and the financial position of the council over the 3 financial years following the financial year to which the annual business plan relates; if council proposes to provide a new service or facility the estimated cost of which will be \$500K for a new service or \$1m for a new project, council must set out details of the new service or project prominently in the annual business plan, estimate the impact of the new service or project on ratepayers including revenue to be raised from rates under ch10 to fund it, and if relevant whether the amount will be 	<p>Elements of this proposal align with the LGA's reform agenda in terms of providing more information about the sources of funding for council services and projects.</p> <p>Practical impacts of the introduction of an additional consultation step to be undertaken before a draft Annual Business Plan is released.</p> <p>Notes that a number of councils have existing practices for this.</p> <p>Regular monitoring and reporting on expenditure against budget is already undertaken by councils through quarterly and mid-year budget review processes, which are a requirement under the <i>Local Government (Finance Management) Regulations 2011</i>. Any</p>	<p>Green – consistent with long term financial plan and public engagement process, invitation for submissions to annual business planning process. Regular monitoring and reporting already in place.</p> <p>Red - Challenge to isolate new services or facilities and monitor their costs and proportion of rate revenue, and generally inconsistent with practices of other jurisdictions in terms of the level of detail prescribed.</p>

		<p>recovered from ratepayers equally or in a greater or lesser proportion from different classes of ratepayers;</p> <p>Council must also prominently publish on eg social media at least 21 days before publication of a newspaper notification of the public inviting submissions and attendance at a public meeting 21 days later on the draft annual business plan, notification of council's public engagement calling for community members to submit proposals on activities/projects for the next financial year's annual business plan, and is required to ensure any proposals submitted are considered at a meeting.</p> <p>Within 14 days of adopting an annual business plan and budget council must also ensure a report is published prominently online including eg social media link detailing responses to each proposal submitted by a community member.</p> <p>The CEO must report to council asap if council expenditure exceeds 110% of the allocation for a new service or project in that annual business plan or budget, publish the report in a prominent location online, with a link from eg social media.</p>	<p>budget overruns are identified and explained during this process. The resourcing costs of additional reporting on a project by project basis are likely to be significant.</p>	<p>Estimation of impact of new service/project on rates is complicated. Many/most services and projects would be captured as amount is calculated 'over life of project' rather than annually. Query intent of requirement to publish in social media 21 days before a notice is published in newspapers which must give a further 21 days notice of a public meeting and 21 days to make written submissions (process would take 42 rather than 21 days required at present).</p> <p>Council already captures public submissions to the IBP and budget processes, and responds to each submission.</p> <p>Note LGA comment that regular monitoring and reporting on expenditure against budget is already undertaken by councils through quarterly and mid-year budget review processes, which are a requirement under the Local Government (Finance Management) Regulations 2011.</p>
21 amends s126 LG Act	Audit committee	<p>Membership of audit committee to be comprised from a list of persons established by the Auditor-General, not to include members/employees of council, and to comply with regulation requirements. Employees may attend a meeting and a person may be appointed to more than 1 council's audit committee</p>	<p>Inconsistent with LGA policy.</p> <p>Legitimate concerns about costs and availability of independent Audit Committee members particularly in regional areas. Could compromise with the Chair and the majority of members</p>	<p>CoA has 2 Council Members and 3 external parties on Audit Committee, meaning Council Members are the minority. Proposed change could undermine critical function of Audit Committee, being to monitor and ensure sound/robust practices are in place –</p>

			<p>independent and drawn from a list endorsed by the Auditor General, and remaining positions available to Council Members.</p> <p>Benefits to maintaining a direct link between Council Members and their Audit Committees.</p> <p>If this proposal were implemented, the Act may need to allow councils to seek exemptions on the basis of costs and/or difficulty in attracting members.</p>	<p>and reduce accountability, unlike comparable Board Members.</p> <p>Having Council Membership on Audit Committee has positive aspects: the skills and contribution which Council Members bring to Audit Committee, considerations of continuity, and ability to provide clarification and make representations in Chamber when outcomes go to Council.</p> <p>Audit Committee is already accountable, with a public agenda and a report which goes to Council in public.</p> <p>NB cost esp to regional Councils.</p> <p>Exclusion of Council Members from Audit Committee is inconsistent with practices of other jurisdictions.</p> <p>Legislation in WA specifies that majority of members of audit committee <i>are</i> to be Council Members. QLD and TAS legislate for maximum number of Council Members who can be on the Committee.</p>
22 amends s264 LG Act	Complaint lodged in District Court	Commission or person authorised by Commission are included in the list of those who must have investigated a complaint before the complaint may be lodged in the DC (includes Ombudsman and ICAC already). Certain complaints may only be lodged by the Commission/person authorised by the Commission	This section of the Act has been updated to refer to SACAT. The Bill will need to be amended as such.	
23 amends s265 LG Act	Hearing by District Court	Commission included in list of those parties which may investigate matters to which the complaint relates	This section of the Act has been updated to refer to SACAT. The Bill will need to be amended as such.	
24 inserts	Ch. 13 Part 1A	Conduct complaints to Local Government Commission	This is a significant reform proposal and further time is required for new councils to consider. Consideration also needs to be given to how a Commission would be funded and the resources it would require to properly exercise its functions. Currently the Local Government Grants Commission does not require a member with knowledge or experience relevant to investigating and making findings on	

			conduct matters - the membership may need to be expanded. The responsibilities of the Commission and Ombudsman need to be clearly defined to avoid duplication of effort. The introduction of penalties for breaches of the Code of Conduct was strongly supported by LGA members during consultation in 2017.	
New s269A	Preliminary	Designated behaviour means failure by a member to observe a prescribed provision of the code of conduct under s63 Prescribed provision means provisions prescribed under the regulations or if no provisions are prescribed, all provisions		
New s269B	Local government Commission may deal with certain complaints relating to members' code of conduct	Commission may investigate and take action in relation to designated behaviour of members and receive and deal with complaints in relation to such behaviour. Any person may complain to the Commission about designated behaviour of a member of council The Commission may on its own initiative or on receipt of a complaint investigate designated behaviour Doesn't affect ability to complain to ombudsman, and for the ombudsman to investigate. Nor is there any impact on operation of the ICAC Act.		Suggest include 'hierarchy' for complainants. Seek clarity of jurisdiction and process including escalation given potential for duplication of efforts and resources and inconsistent outcomes. May result in forum shopping and waste of resources. Consider Commission expertise, funding and resources required to exercise new functions.
New s269C	Action Local Government Commission may take	Commission may after inquiring/investigating into a complaint: <ul style="list-style-type: none"> • Reprimand the member including publicly • Require the member to undertake training or issue an apology etc • Require the member to reimburse council • Suspend or disqualify the member if there is a serious failure to observe a prescribed provision On disqualification the office becomes vacant and the Commission may prevent the member from participating as a member of council/a subsidiary for up to 5 years		Should suspension/disqualification should be a decision for the Commission or Minister? Additional expertise may be needed given expanded role of Commission.
New s269D	Delegation	Commission may delegate a function or power under the new Part 1A in writing to a person/position, absolutely/conditionally. Particulars include cost of (non land-based) travel beyond SA, noting this does not derogate from the Commission's power to act in a matter and is revocable at will. This may be further delegated.		Section 269C powers, in particular to suspend/disqualify a Council Member, should be subject of a Commission determination rather than the delegate or sub-delegate of the Commission

	25 amends	Sched 3 LG Act	Register of interests – form of returns	Refer to comments on Clause 18.	
	26	Review of LG Act 1999 and LG (Elections) Act 1999	<p>Commission to review both Acts asap after s24 of Act comes into operation and report to the Minster within 12 months, considering:</p> <ul style="list-style-type: none"> • scheme for review and complaints • rebates on and exemptions from rates • amendments to ensure diversity of representation • codes of conduct • matters connected with establishment of register of State-owned land under CC&M of councils • introduction of compulsory voting in council elections • potential to simplify the Act • efficiencies from cross-council collaboration including by identifying legislative barriers <p>Report to be tabled in both Houses of Parliament within 6 sitting days of receipt</p>	<p>Supports investigating additional reform options.</p> <p>This is an ambitious agenda to achieve in 12-15 months with current resourcing.</p> <p>LGA policy does not support compulsory voting in local government elections.</p>	<p>Consultation with the sector being regulated is important – should include requirement to consult both LGA and individual councils in undertaking review.</p> <p>Also, the proposed timeframe of 12 months may be unachievable, to allow for proper consultation.</p> <p>Review could include other matters including e.g. review of rate reduction for charitable bodies and exploration of other legislative changes to allow Council to pursue the best value for ratepayers.</p>
	Schedule 1	Transitional provision	Requirement that audit committee members may only be appointed from the Auditor-General's list does not apply until the start of the financial year following commencement at which point pre-existing members cease to hold office on the committee.		Changes to Audit Committee membership could result in the exclusion of Council Member representation. If implemented, transitional period should allow minimum 6 months from granting of Royal Assent to the Bill.

Exclusion of the Public

ITEM 8.1 22/01/2019
The Committee

Program Contact:
Jacki Done, AD People &
Governance 8203 7256

2018/04291
Public

Approving Officer:
Mark Goldstone, Chief
Executive Officer

EXECUTIVE SUMMARY:

It is the recommendation of the Chief Executive Officer that the public be excluded from this Committee meeting for the consideration of information and matters contained in the Agenda.

For the following Item aligned with the *City of Adelaide Strategic Plan 2016-2020* for Consideration and Recommendation to Council in confidence:

Strategic Alignment – Creative

9.1 New Activation Proposal – Garden of Unearthly Delights [s 90(3) (d)]

For the following Discussion Forum Item aligned with the *City of Adelaide Strategic Plan 2016-2020* in confidence:

Strategic Alignment – Liveable

10.1 Transport Matter [s 90(3) (j) & (d)]

The Order to Exclude for Items 9.1 and 10.1

1. Identifies the information and matters (grounds) from s 90(3) of the *Local Government Act 1999 (SA)* utilised to request consideration in confidence;
2. Identifies the basis – how the information falls within the grounds identified and why it is necessary and appropriate to act in a meeting closed to the public; and
3. In addition identifies for the following grounds – s 90(3) (b), (d) or (j) - how information open to the public would be contrary to the public interest.

ORDER TO EXCLUDE FOR ITEM 9.1:

THAT THE COMMITTEE:

1. Having taken into account the relevant consideration contained in s 90(3) (d) and s 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of The Committee dated 22/1/2019 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 9.1 [New Activation Proposal – Garden of Unearthly Delights] listed on the Agenda in a meeting open to the public would on balance be contrary to the public interest.

Grounds and Basis

This Item would divulge information provided on a confidential basis by a third party – Gardeners of Unearthly Delights. This information has been provided to Council on the basis that the commercial in confidence will be maintained.

The Gardeners of Unearthly Delights have formally requested that the information be considered in confidence and the proposal remains confidential. Disclosure of the information in this report prior to any determination or public announcement is likely to prejudice the event and marketing opportunities.

Public Interest

The Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information. Third parties may determine not to pitch new ideas and projects to Council if Council will not take into account concerns regarding protection of its ideas and information. This may have the impact that Council does not maximise opportunities with partners.

2. Pursuant to s 90(2) of the *Local Government Act 1999 (SA)*, this meeting of The Committee dated 22/1/2019 orders that the public (with the exception of members of Corporation staff and any person permitted to remain) be excluded from this meeting to enable this meeting to receive, discuss or consider in confidence Item 9.1 [New Activation Proposal – Garden of Unearthly Delights] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in s 90(3) (d) of the Act.

ORDER TO EXCLUDE FOR ITEM 10.1:

THAT THE COMMITTEE:

1. Having taken into account the relevant consideration contained in s 90(3) (j) & (d) and s 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of The Committee dated 22/1/2019 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 10.1 [Transport Matter] listed on the Agenda in a meeting open to the public would on balance be contrary to the public interest.

Grounds and Basis

This report includes commercially confidential information provided by the Department of Planning, Transport and Infrastructure (DPTI) in relation to a Transport Matter. This confidential information relates to costs and timeframes including the construction schedule of the Project which may have commercial implications to stakeholders. This information and the concept plans have been provided to Council in confidence by The Department of Planning Transport and Infrastructure who have requested that this information remain confidential.

Public Interest

The Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information may result in release of information prior to the finalisation of 'commercial in confidence' negotiations between the proponent and their suppliers and may materially and adversely affect the financial viability of the proponent in relation to contract negotiations which on balance would be contrary to the public interest.

2. Pursuant to s 90(2) of the *Local Government Act 1999 (SA)*, this meeting of The Committee dated 22/1/2019 orders that the public (with the exception of members of Corporation staff and any person permitted to remain) be excluded from this meeting to enable this meeting to receive, discuss or consider in confidence Item 10.1 [Transport Matter] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in s 90(3) (j) & (d) of the Act.

DISCUSSION

1. s 90(1) of the *Local Government Act 1999 (SA)*, directs that a meeting of a Council Committee must be conducted in a place open to the public.
2. s 90(2) of the *Local Government Act 1999 (SA)*, states that a Council Committee may order that the public be excluded from attendance at a meeting if the Council Committee considers it to be necessary and appropriate to act in a meeting closed to the public to receive, discuss or consider in confidence any information or matter listed in s 90(3).
3. s 90(3) prescribes the information and matters that a Council may order that the public be excluded from.
4. s 90(4) of the *Local Government Act 1999 (SA)*, advises that in considering whether an order should be made under s 90(2), it is irrelevant that discussion of a matter in public may:
 - 4.1 cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
 - 4.2 cause a loss of confidence in the council or council committee.’
 - 4.3 involve discussion of a matter that is controversial within the council area; or
 - 4.4 make the council susceptible to adverse criticism.
5. s 90(7) of the *Local Government Act 1999 (SA)* requires that an order to exclude the public:
 - 5.1 Identify the information and matters (grounds) from s 90(3) of the *Local Government Act 1999 (SA)* utilised to request consideration in confidence;
 - 5.2 Identify the basis – how the information falls within the grounds identified and why it is necessary and appropriate to act in a meeting closed to the public; and
 - 5.3 In addition identify for the following grounds – s 90(3) (b), (d) or (j) - how information open to the public would be contrary to the public interest.
6. s 87(10) of the *Local Government Act 1999 (SA)* has been utilised to identify in the Agenda and on the Report for the meeting, that the following matters are submitted seeking consideration in confidence.
 - 6.1 Information contained in Item 9.1 – New Activation Proposal – Garden of Uneathly Delights:
 - 6.1.1 Is not subject to an Existing Confidentiality Order.
 - 6.1.2 The grounds utilised to request consideration in confidence is s 90(3) (d)
 - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
 - 6.2. Information contained in Item 10.1 – Transport Matter:
 - 6.2.1 Is not subject to an Existing Confidentiality Order.
 - 6.2.2 The grounds utilised to request consideration in confidence is s 90(3) (j) & (d)
 - (j) information the disclosure of which—
 - (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
 - (ii) would, on balance, be contrary to the public interest;
 - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;

ATTACHMENTS

Nil

- END OF REPORT -

Confidential Item 9.1

New Activation Proposal – Garden of Uneathly Delights
Section 90 (3) (d) of the *Local Government Act 1999 (SA)*
Pages 121 to 125
