

88 O'Connell Street

Tuesday, 13 September 2022

Council

Council Member
Councillor Martin

Public

Contact Officer:
Tom McCready, Director City
Services

QUESTION ON NOTICE

Councillor Martin asked the following Questions without Notice:

In response to the following questions from Councillor Martin, the CEO advised that the replies would be given at the next meeting of Council:

1. In regard to the Land Facilitation Agreement that was released in response to the FOI by former Senator Rex Patrick, refers to the existence of a side deed in relation to the financial arrangements associated with the project. Could the administration advise when that agreement was executed and when in the interests of transparency that document will be released?
2. In relation to 88 O'Connell Street, would the project financier assume the responsibility for any unsold apartments before the City of Adelaide?
3. The LFA reveals that C&G are required to provide regular updates to the Council on the sale of apartments for the purpose of waterfall payment arrangements. C&G claims 60% of apartments by value have been sold. What is, as a number of apartments sold and what percentage of the total number does that represent?
4. The LFA provides for the circumstance in which the developer is required to pay an Open Space Fund levy for failing to provide adequate open space and the City of Adelaide is required in that circumstance to apply for remittance and pay that to the developer. Is the administration concerned that that might create a perception that it is acting outside of the spirit of the legislation and has it taken any legal advice?

REPLY

1. As the Council has not granted any security or mortgaged the land in favour of the financier, the Financiers Side Deed - Land Facilitation Agreement is a tripartite agreement between the developer, Council and the developer's financier which details certain contractual rights to the financier to step in and provide them with the opportunity to complete the development on the same terms as the Land Facilitation Agreement (LFA). This document was signed on 16 June 2022. The release of this document requires engagement with and the consent of both the developer and the developer's financier. At this time, those processes (to obtain the consent to release) have not yet been initiated.

2. In the event the financier steps in and assumes responsibility for the project, it does so on the same terms as the LFA (as if it were the developer). While the Council always retains legal title to all unsold apartments, the financier may continue to undertake the developer's marketing functions to facilitate the sale of unsold apartments on the same terms as provided in the LFA. The financier's right to step in would not impact the waterfall payment arrangements set out in the LFA in any way or transfer ownership of the unsold stock away from Council.
3. The developer provides regular confidential updates to the administration in respect of the sale of apartments (and will continue to do so). That information is commercially sensitive and provided by the developer to Council administration in confidence. The developer would need to consent to the disclosure of this commercially sensitive information as it may have a material adverse effect on or materially prejudice the developer's ongoing sales efforts.
4. It is not uncommon for development style agreements to contain contractual provisions dealing with open space. Both the Council and the developer negotiated the LFA with legal representation and the final open space references in the LFA reflect the negotiated approach in the context of this specific development and a preferred position. The final open space outcome is not determined by Council, but rather administrated by the Office for Design and Architecture SA (ODASA) at the necessary moment, as and when the development progresses, in line with all applicable laws.

Staff time in receiving and preparing this reply	To prepare this reply in response to the question on notice took approximately 5 hours.
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- END OF REPORT -

Council Member
Councillor Martin

Public

Contact Officer:
Tom McCready, Director City
Services

QUESTION ON NOTICE

Councillor Martin asked the following Questions without Notice:

'Further to the undertaking given at the August meeting of Council, could the Administration advise if apartments at the 88 O'Connell site are unsold at the time of the completion of the contract, will they become the property of the Council or of Commercial and General's finance provider or of some other party and, if it is Council that will be required to take ownership of any unsold apartments, what is the agreement in relation to the valuation of the apartments that will be applied for the purpose of any acquisitions?'

REPLY

1. As the ownership of the land remains with Council at all times during the project, all constructed lots (commercial and residential) will also remain in Council ownership. By the Land Facilitation Agreement (LFA), the Council facilitates the transfer of completed lots in the project that have been sold by the developer. If there are unsold lots, these remain in Council's ownership. Provided that Council has received the balance payment in full, it will be required to transfer unsold lots to the developer (or another entity nominated by the developer).

Staff time in receiving and preparing this reply	To prepare this reply in response to the question on notice took approximately 4.5 hours.
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Draft Masterplans for Melbourne Street and O'Connell Street

Tuesday, 13 September 2022
Council

Council Member
Councillor Martin

Public

Contact Officer:
Tom McCready, Director City Services

QUESTION ON NOTICE

Councillor Martin asked the following Questions without Notice:

'Could the administration advise if the proposed timelines for the release of the detailed Masterplans for Melbourne and O'Connell Streets Upgrades and the estimated construction timelines have changed from the timelines advised in the recent public consultations of 2025 and 2028 respectively?'

REPLY

1. The Melbourne Street Concept Plan presented to the Committee – Strategic Discussion Forum on 17 May 2022 advised that construction was anticipated to commence in 2025. As Council has received \$1 million in funding from the State Government, works will now commence in 2023.
2. At the meeting of the Council held on 9 August 2022 as part of discussion on Item 10.9 of the Agenda, Main Streets Concept Options:
 - 2.1 Council approved the proposed key deliverables for the State Government's funding of \$1 million for Melbourne Street as detailed in Attachment B.
 - 2.2 Council was advised that the concept plan for O'Connell Street will be progressed in mid-2023 as detailed in the report. Works are anticipated to commence from 2025 onwards, subject to a decision of Council.
 - 2.3 Council noted that concept plans for consultation for Hutt Street, Melbourne Street and Hindley Street will be presented to Council in March 2023 for inclusion in the 2023/24 Business Plan & Budget process and future years.

Staff time in receiving and preparing this reply	To prepare this reply in response to the question on notice took approximately 4.5 hours.
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- END OF REPORT -

Council Member
Councillor Martin

Public

Contact Officer:
Ilia Houridis, Director City
Shaping

QUESTION ON NOTICE

Councillor Martin asked the following Questions without Notice:

'Noting Premier Malinauskas' interview on Radio 891 on 5 September, 2022 in which he stated Council would be contributing to the cost of construction of the new State Swim centre at park 2, possibly through meeting the cost of demolishing the existing Aquatic Centre, could the Administration advise;

1. When was any commitment made?
2. Who was involved in negotiating such an agreement?
3. How many millions of dollars in contributions have been discussed?
4. Have there been any discussions with the cricket and soccer groups who currently use the site earmarked for the State Swim Centre and, if so, has the provision of alternative sites for their use been discussed?'

REPLY

1. No commitment has been made for funding, nor a quantum of funding, with the State Government regarding the new Adelaide Aquatic Centre.
2. Council has already approved the 2022/23 Annual Business Plan and there is no allocation for any contribution to the State Government's development of a new Adelaide Aquatic Centre.
3. The State Government through the Department of Infrastructure and Transport (DIT) have been informed by the Chief Executive Officer that any financial contribution would require a decision of Council. Given the proximity to the Council Caretaker Period which commenced on 6 September 2022, DIT was also informed that this will need to be progressed in the next term of Council.
4. We are maintaining communication with Blackfriars Priory School as the head-lessee of the ovals that will be impacted by the proposed location of the new Adelaide Aquatic Centre. Relocation options for soccer and cricket are being investigated.

Staff time in receiving and preparing this reply	To prepare this reply in response to the question on notice took approximately 4 hours.
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- END OF REPORT -

Council Member
Councillor Martin

Public

Contact Officer:
Amanda McIlroy, Chief
Operating Officer

QUESTION ON NOTICE

Councillor Martin asked the following Questions without Notice:

'Could the Administration provide from public records in respect of each Councillor, by name, in the current term of Council a list of the number of motions on notice lodged, subsequently voted on and lost?'

REPLY

1. This information is publicly available via the minutes of each Council meeting and, following a decision of Council from 9 March 2021, also available via the consolidated registers in the library in the [Meeting & Agendas](#) section on the City of Adelaide website:
 - 1.1. [Register of Motions and Questions from July 2020 – August 2022](#)
 - 1.2. [Register of Motions and Questions from December 2018 – June 2020](#)

Staff time in receiving and preparing this reply	To prepare this reply in response to the question on notice took approximately 4 hours.
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- END OF REPORT -

Council Member
Councillor Martin

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Contact Officer:
Tom McCready, Director City
Services

QUESTION ON NOTICE

Councillor Martin asked the following Questions without Notice:

‘Could the Administration advise what data relating to trees on Council land (planted and removed) is available?’

REPLY

1. We have been recording street tree assets within the Asset Management System Assetic since 2019/20.
2. The table below reflects street and park trees planted, replaced and removed recorded within the Asset Management System.

	2019/20	2020/21	2021/22
Total New	256	275	229
Total Replacement	197	107	162
Tree Removal	110	125	110

Staff time in receiving and preparing this reply	To prepare this reply in response to the question on notice took approximately 4.5 hours.
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