



**MINUTES OF COUNCIL MEETING HELD IN THE COUNCIL CHAMBER,  
34 CHURCH STREET, SALISBURY ON**

**24 APRIL 2023**

**MEMBERS PRESENT**

Mayor G Aldridge  
Cr B Brug  
Cr L Brug  
Deputy Mayor, Cr C Buchanan  
Cr J Chewparsad  
Cr A Graham  
Cr K Grenfell  
Cr D Hood  
Cr P Jensen  
Cr M Mazzeo  
Cr S McKell  
Cr S Ouk  
Cr S Reardon

**ABSENT**

Cr S Burner

**STAFF**

Chief Executive Officer, Mr J Harry  
General Manager Business Excellence, Mr C Mansueto  
A/General Manager City Infrastructure, Mr M Purdie  
General Manager Community Development, Mrs A Pokoney Cramey  
A/General Manager City Development, Mr J Darzanos  
Manager Governance, Mr R Deco  
Team Leader Council Governance, Ms J O'Keefe-Craig

The meeting commenced at 6:33pm.

**OPENING PRAYER AND WELCOME**

The Mayor welcomed the public, Elected Members and staff to the meeting.

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The Mayor advised that for security purposes, CCTV is used in the Council Chamber. In accordance with the City's meeting procedures, no audio or video recording is allowed without prior written permission from the Presiding Member.

The Mayor read the Kaurna Acknowledgement.

The Chief Executive Officer read the Opening Prayer.

## **APOLOGIES**

Apologies were received from Cr G Bawden.

## **LEAVE OF ABSENCE**

Nil

## **PUBLIC QUESTION TIME**

Mr David Waylen of the Salisbury Business Association asked the following question during Public Question Time:

### **Question:**

*Can ratepayers have certain expectations of Elected Members?*

## **DEPUTATIONS**

No Deputations were received.

## **PRESENTATION OF MINUTES**

Moved Cr P Jensen

Seconded Cr D Hood

The Minutes of the Council Meeting held on 27 March 2023, be taken as read and confirmed.

**CARRIED**  
**0212/2023**

## **PETITIONS**

No Petitions were received.

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**MWON1 Behavioural Management Standards – Action in relation to Cr Bawden**

Moved Cr C Buchanan

Seconded Cr P Jensen

*Pursuant to section 74 of the Local Government Act 1999, Cr Grenfell declared a general conflict of interest in relation to this matter on the basis that she may have been involved in this matter. Cr Grenfell stated that she will deal with the conflict by withdrawing from the meeting.*

*Cr K Grenfell left the meeting at 6:44pm.*

*Cr L Brug left the meeting at 6:45pm.*

**That Council:**

1. Notes that at its 27 March 2023 meeting, Council received an independent report following a complaint, concluding Cr Grace Bawden breached clauses 1.2, 1.4 and 2.3 of the Behavioural Management Standards
2. Notes that Council took subsequent action as per section 262C(2) of the *Local Government Act 1999* and resolved that it:
  - 2.1 Requires Cr Grace Bawden to reflect on her comments and issue an unqualified public apology in respect of her conduct and referencing the complaint received, with such apology to be presented at the April 2023 Council meeting, in writing or in person, and to be included in the Council Minutes.
  - 2.2 Requires Cr Grace Bawden to reflect on her comments and to publish an unqualified public apology in respect of her conduct and referencing the complaint received, with such apology to be published on her social media page on which Cr Grace Bawden published the material the subject of the complaint made by 24 April 2023.
3. Expresses its disappointment that compliance with the requirements in sections 2.1 and 2.2 above has not been achieved
4. Requests the Mayor to report this non-compliance by Cr Grace Bawden to the Behavioural Management Panel in accordance with the Model Behavioural Management Policy, for failure to comply with a requirement of the Council under section 262C(1) of the *Local Government Act 1999*.

**CARRIED  
0213/2023**

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*Cr B Brug sought leave of the meeting to request that the question and answer from Cr Buchanan is included in the minutes. Leave was granted. The following question was asked by Cr Buchanan:*

***Question:***

*Has the Mayor or the Chief Executive Officer received an apology from Cr Bawden.*

***Answer:***

*The Mayor or the Chief Executive Officer have not received an apology from Cr Bawden.*

*Cr K Grenfell returned to the meeting at 6:47pm.*

**MWON2 Behavioural Management Standards – Action in relation to Cr Burner**

Moved Cr C Buchanan  
Seconded Cr A Graham

*Pursuant to section 74 of the Local Government Act 1999, Cr Grenfell declared a general conflict of interest in relation to this matter on the basis that she may have involved in this matter. Cr Grenfell stated that she will deal with the conflict by withdrawing from the meeting. Cr K Grenfell left the meeting at 06:51 pm.*

**That Council:**

1. Notes that at its 27 March 2023 meeting, Council received an independent report following five different complaints, concluding Cr Severina Burner breached clauses 1.2, 1.3, 1.4, 1.5, 2.2, 2.3 and 2.5 of the Behavioural Management Standards
2. Notes that Council took subsequent action as per section 262C(2) of the Local Government Act 1999 and resolved that it:
  - 2.1 Requires Cr Severina Burner to reflect on her comments and issue an unqualified public apology in respect of her conduct and referencing the complaints received, with such apology to be presented at the April 2023 Council meeting, in writing or in person, and to be included in the Council Minutes.
  - 2.2 Requires Cr Severina Burner to reflect on her comments and to publish an unqualified public apology in respect of her conduct and referencing the complaint received, with such apology to be published on her social media page on which Cr Severina Burner published the material the subject of the complaint made by 24 April 2023.
3. Expresses its disappointment that compliance with the requirements in sections 2.1 and 2.2 above has not been achieved



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4. Requests the Mayor to report this non-compliance by Cr Severina Burner to the Behavioural Management Panel in accordance with the Model Behavioural Management Policy, for failure to comply with a requirement of the Council under section 262C(1) of the *Local Government Act 1999*.
  5. That the question and answer asked by Cr Buchanan be included in the minutes.

**CARRIED**  
**Unanimously**  
**0214/2023**

***Question:***

*Has the Mayor or the Chief Executive Officer received an apology from Cr Burner.*

***Answer:***

*The Mayor or the Chief Executive Officer have not received an apology from Cr Burner.*

*Cr K Grenfell returned to the meeting at 06:55 pm.*

*Cr Buchanan sought leave of the meeting to bring forward Items C2 Elected Member Behaviour – Complaints and C3 Elected Member Behaviour – Complaints. Leave was granted.*

The Mayor brought forward Item *C2 Elected Member Behaviour – Complaints and C3 Elected Member Behaviour – Complaints* as the next Items of business.

## **ORDERS TO EXCLUDE THE PUBLIC**

### **C2 Elected Member Behaviour - Complaints**

Moved Cr K Grenfell

Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*
  - *it relates to information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*
2. *In weighing up the factors related to disclosure,*
  - *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*
  - *Disclosure in public would implicate the personal affairs of the individual*

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*On that basis the public's interest is best served by not disclosing the Elected Member Behaviour - Complaints item and discussion at this point in time.*

3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, Manager Governance, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
Unanimously  
**0215/2023**

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### C3 Elected Member Behaviour - Complaints

Moved Cr K Grenfell  
Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*
  - *it relates to information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*
2. *In weighing up the factors related to disclosure,*
  - *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*
  - *Disclosure in public would implicate the personal affairs of the individual*

*On that basis the public's interest is best served by not disclosing the Elected Member Behaviour - Complaints item and discussion at this point in time.*
3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, Manager Governance, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
Unanimously  
**0216/2023**

The meeting moved into confidence at 6:56pm.

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## GENERAL BUSINESS

*Cr B Brug left the meeting at 06:57 pm.*

*Pursuant to section 75 of the Local Government Act 1999, Cr Jensen declared a material conflict of interest in relation to this matter on the basis that he is a complainant to this matter. Cr Jensen stated that he will deal with the conflict by withdrawing from the meeting.*

*Cr P Jensen left the meeting at 06:57 pm.*

### **C2 Elected Member Behaviour - Complaints**

Moved Mayor G Aldridge  
Seconded Cr S Ouk

#### That Council:

1. Notes that two complaints were received from different complainants, on 23 January 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden.
2. Notes that these complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2, Council, 24 April 2023, item no C2).
3. Receives the independent report from Norman Waterhouse Lawyers on the two complaints received alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden, as included in attachment 1 (Council, 24 April 2023, item no C2).
4. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C2) concludes that Cr Grace Bawden has breached clause 1.2 of the Behavioural Standards by failing to act in a way that generates community trust and confidence in the Council.
5. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C2) concludes that Cr Grace Bawden has breached clause 1.3 of the Behavioural Standards by failing to act in a manner that is consistent with the Council's role as a representative, informed and responsible decision maker, in the interests of its community.
6. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C2) concludes that Cr Grace Bawden has breached clause 1.4 of the Behavioural Standards by failing to act in a reasonable, just, respectful and non-discriminatory way.

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7. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C2) concludes that Cr Grace Bawden has breached clause 1.5 of the Behavioural Standards by failing to, when making public comments on Council decisions and Council matters, show respect for others and clearly indicate their views are personal and are not those of the Council.
  8. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C2) concludes that Cr Grace Bawden has breached clause 2.2 of the Behavioural Standards by failing to take all reasonable steps to provide accurate information to the community and the Council.
  9. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C2) concludes that Cr Grace Bawden has breached clause 2.3 of the Behavioural Standards by failing to take all reasonable steps to ensure that the community and the Council are not knowingly misled.
  10. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C2) concludes that Cr Grace Bawden has breached clause 2.5 of the Behavioural Standards by not acting in a manner consistent with her role, as defined in section 59 of the *Local Government Act 1999*.
  11. Notes that Council at its 27 March 2023 meeting also received a report on a different complaint, concluding Cr Grace Bawden breached clauses 1.2, 1.4, 2.3 of the Behavioural Management Standards and that Council took subsequent action as per section 262(C)(2) of the *Local Government Act 1999*.
  12. Approves that, pursuant to Section 91(7) of the *Local Government Act 1999*, discussion for this item will remain confidential and not available for public inspection until 30 June 2026.
  13. Approves that, pursuant to Section 91(9)(c) of the *Local Government Act 1999*, the Council delegates to the Chief Executive Officer the power to revoke this order in whole or part.

**CARRIED  
0217/2023**

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*Pursuant to section 74 of the Local Government Act 1999, Cr Mazzeo declared a general conflict of interest in relation to this matter on the basis that she may be involved in this complaint. Cr Mazzeo stated that she will deal with the conflict by withdrawing from the meeting.*

*Cr M Mazzeo left the meeting at 6:58 pm.*

### **C3 Elected Member Behaviour - Complaints**

Moved Mayor G Aldridge

Seconded Cr A Graham

#### That Council:

1. Notes that two complaints were received, on 28 and 29 January 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Severina Burner.
2. Notes that these complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2, Council, 24 April 2023, item no C3).
3. Receives the independent report from Norman Waterhouse Lawyers on the two complaints received alleging breaches of the Behavioural Standards for Council Members by Cr Severina Burner, as included in attachment 1 (Council, 24 April 2023, item no C3).
4. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C3) concludes that Cr Severina Burner has breached clause 1.2 of the Behavioural Standards by failing to act in a way that generates community trust and confidence in the Council.
5. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C3) concludes that Cr Severina Burner has breached clause 1.4 of the Behavioural Standards by failing to act in a reasonable, just, respectful and non-discriminatory way.
6. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C3) concludes that Cr Severina Burner has breached clause 1.5 of the Behavioural Standards by, when making public comments, including comments to the media, on Council decisions and Council matters, failing to show respect for others and failing to clearly indicate her views are personal and are not those of the Council.
7. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 24 April 2023, item no C3) concludes that Cr Severina Burner has breached clause 3.1 of the Behavioural Standards by failing to establish and maintain relationships of respect, trust, collaboration and cooperation with all Council Members.

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8. Notes that Council at its 27 March 2023 meeting received a report on five different complaints, concluding Cr Severina Burner breached clauses 1.2, 1.3, 1.4, 1.5, 2.2, 2.3 and 2.5 of the Behavioural Management Standards and that Council took subsequent action as per s 262(C)(2) of the *Local Government Act 1999*.
  9. Approves that, pursuant to Section 91(7) of the *Local Government Act 1999*, discussion for this item will remain confidential and not available for public inspection until 30 June 2026.
  10. Approves that, pursuant to Section 91(9)(c) of the *Local Government Act 1999*, the Council delegates to the Chief Executive Officer the power to revoke this order in whole or part.

**CARRIED  
0218/2023**

The meeting moved out of confidence at 7:16pm.

#### **MWON1 Additional Motion in relation to C2**

Moved Mayor G Aldridge  
Seconded Cr A Graham

*Pursuant to section 75 of the Local Government Act 1999, Cr Jensen declared a material conflict of interest in relation to this matter on the basis that he is a complainant to this matter. Cr Jensen stated that he will deal with the conflict by withdrawing from the meeting.*

*Cr P Jensen left the meeting at 07:23 pm.*

1. Notes the report presented to Council at its meeting on 24 April 2023 including the findings made by Norman Waterhouse Lawyers in relation to the complaints received, concluding that Cr Grace Bawden has, on the balance of probabilities breached clauses 1.2, 1.3, 1.4, 1.5, 2.3 and 2.5 of the Behavioural Standards (Item no C2 Attachment 1, Council 24 April 2023)
2. Censures Cr Grace Bawden's conduct the subject of findings of breaches of the Behaviour Standards as set put in the NWL report (Item C2, Council 24 April 2023)
3. Requires Cr Grace Bawden to reflect on her behaviour and issue an unqualified public apology for each of the respective breaches and in respect of her conduct, with such apology to be presented at the May 2023 Council meeting, in writing or in person, and to be included in the Council Minutes.

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4. Requires Cr Grace Bawden to reflect on her behaviour and publish an unqualified public apology for each of the respective breaches and in respect of her conduct on her social media page, on which Cr Grace Bawden published the material the subject of the complaints. In addition, requires Cr Grace Bawden to make an apology to the Jewish community and the Holocaust Museum, with such apologies to be made by 22 May 2023.
  5. Requires Cr Grace Bawden to complete a cultural diversity and inclusion training course, with the specific course to be determined by the Mayor on recommendations from the Equal Opportunity Commission or similar body, within 3 months of the Council decision in relation to this matter, subject to the availability of the chosen training provider. With the training to be completed with a City of Salisbury staff member present. The cost of the training to come out of the individual Elected Members Training Budget.

**CARRIED**  
**Unanimously**  
**0219/2023**

*Pursuant to section 74 of the Local Government Act 1999, Cr Mazzeo declared a general conflict of interest in relation to this matter on the basis that she may be involved in this complaint. Cr Mazzeo stated that she will deal with the conflict by withdrawing from the meeting.*

*Cr M Mazzeo left the meeting at 07:39 pm.*

*Cr P Jensen returned to the meeting at 07:39 pm.*



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## **MWON2 Additional Motion in relation to C3**

Moved Mayor G Aldridge  
Seconded Cr A Graham

1. Notes the report presented to Council at its meeting on 24 April 2023 including the findings made by Norman Waterhouse Lawyers in relation to the complaints received, concluding that Cr Severina Burner has, on the balance of probabilities, breached clauses 1.2, 1.4, 1.5 and 3.1 of the Behavioural Standards (Attachment 1, Council 24 April 2023).
2. Censures Cr Severina Burner's conduct the subject of findings of breaches of the Behaviour Standards as set put in the NWL report (Item C2, Council 24 April 2023)
3. Requires Cr Severina Burner to reflect on her behaviour and publish an unqualified public apology for each of the respective breaches and in respect of her conduct on her social media page on which Cr Severina Burners published the material the subject of the complaints made, by 22 May 2023.
4. Requires Cr Severina Burner to reflect on her behaviour and issue an unqualified public apology for each of the respective breaches and in respect of her conduct, with such apology to be presented at the May 2023 Council meeting, in writing or in person, and to be included in the Council Minutes.
5. Requires Cr Severina Burner to issue an unqualified public apology to Cr Moni Mazzeo, specifically in respect of Cr Burner's conduct towards her, by 22 May 2023.
6. Requires Cr Severina Burner to complete a cultural diversity and inclusion training course, with the specific course to be determined by the Mayor on recommendations from the Equal Opportunity Commission or similar body, within 3 months of the Council decision in relation to this matter, subject to the availability of the chosen training provider. The cost of the training to come out of the individual Elected Members Training Budget.

**CARRIED**  
**Unanimously**  
**0220/2023**

*Cr M Mazzeo returned to the meeting at 07:58 pm.*

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## **BREAK**

In accordance with the Code of Practice for Meeting Procedures, the Mayor provided a break to all present. The meeting was suspended at 7:58 pm.

The meeting reconvened at 8:11pm.

*Cr L Brug returned to the meeting at 7:59 pm.*

*Cr B Brug returned to the meeting at 8:13pm*

## **COMMITTEE REPORTS**

### **1 Policy and Planning Committee Meeting**

Moved Cr C Buchanan  
Seconded Cr K Grenfell

That Council:

Adopts the recommendations of the Policy and Planning Committee meeting held on 17 April 2023, listed below,:

**CARRIED**  
**0101/2023**

#### ***Administration***

##### **1.0.1 Future Reports for the Policy and Planning Committee**

Moved Cr C Buchanan  
Seconded Cr K Grenfell

That Council:

1. Notes the report.

**CARRIED**  
**0222/2023**

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***For Decision***

**1.1.1 Policy Review: Affordable and Community Housing Policy - Development of Surplus Council Owned Land**

Moved Cr C Buchanan  
Seconded Cr K Grenfell

**That Council:**

1. Defers consideration of the Affordable and Community Housing Policy – Development of Surplus Council Owned Land (Attachment 1, Item 1.1.1, Policy and Planning Committee, 17 April 2023).
2. Requests a further report be provided investigating the following amendments to the Affordable and Community Housing Policy – Development of Surplus Council Owned Land :
  - a. Increasing the percentage of affordable housing from a minimum of 15% to 15-20% where appropriate when developing surplus Council owned land for residential purposes.
  - b. Increasing the City of Salisbury affordable housing to be set at 15% below the State Government’s affordable housing price points.
3. Considers including in this report, a new objective that Council will seek to partner with Community Housing Providers to provide affordable housing outcomes, including through the identification of land.
4. Requests that Administration investigates opportunities to partner with the Not for Profit sector and the State Government to identify opportunities to deliver a homeless shelter in northern Adelaide.

**CARRIED  
0223/2023**

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### **1.1.2 Draft Strategic Asset Management Plan 2023/24**

Moved Cr C Buchanan  
Seconded Cr K Grenfell

That Council:

1. Notes that the Draft Strategic Asset Management Plan 2023/24 was presented to the Asset Management Sub Committee held on Tuesday, 14 March 2023 for information.
2. Notes that in line with Section 126 (4)(ab) of the Local Government Act 1999 the Draft Strategic Asset Management Plan was presented to the Audit and Risk Committee in April 2023 for comment and noting.
3. Approves the Draft Strategic Asset Management Plan 2023/24 included in Attachment 1 of the report (Item 1.1.2 - Draft Strategic Asset Management Plan 2023/24 – Policy and Planning Committee, 17 April 2023) for the purpose of public consultation, as part of Council's Strategic Management Plans.

**CARRIED  
0224/2023**

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## 2 Finance and Corporate Services Committee Meeting

Moved Cr S Reardon  
Seconded Cr D Hood

That Council:

Adopts the recommendations of the Finance and Corporate Services Committee meeting held on 17 April 2023, listed below, with the exception of item:

### **2.1.6 NAWMA (Northern Adelaide Waste Management Authority) Second Quarter Budget Review 2022/23**

which was withdrawn to be considered separately.

**CARRIED  
0225/2023**

### ***Administration***

#### **2.0.1 Future Reports for the Finance and Corporate Services Committee**

Moved Cr S Reardon  
Seconded Cr D Hood

That Council:

1. Notes the report.

**CARRIED  
0226/2023**

### ***For Decision***

#### **2.1.1 Public Awareness - Rates Notice Information**

Moved Cr S Reardon  
Seconded Cr D Hood

That Council:

1. Notes that Administration coordinates and displays timely and relevant public awareness messages on rates notices and envelopes that are informative to our ratepayers, with the focus for 2023/24 being:

**Quarter 1** – Notification of State Government changes to Regional Landscape Levy.

NAWMA insert – Calendar for Bin collection (will be a separate insert).

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**Quarter 2, 3 and 4** – to be used to further promote Council’s vision of being a progressive, sustainable and connected community. Potential topics could include (but not limited to) are Major Projects (e.g. the opening of the Salisbury Aquatic Centre), Community Wellbeing programs and services and the introduction of the new Customer Request Management system.

**CARRIED  
0227/2023**

## **2.1.2 Higher Value Property Review**

Moved Cr S Reardon  
Seconded Cr D Hood

That Council:

1. Approves for the Higher Property Value Rate Remission for 2023/24 for public consultation purposes and included in the Draft Long Term Financial Plan and Annual Business Plan be set on the following basis and applying to residential properties only:

### **OPTION 2 – Improved Comparability**

<b>Tier</b>	<b>Value Range</b>	<b>Rate Adjustment</b>
1	0- \$700,000	0%
2	\$700,001 - \$780,000	10% reduction in the general rates payable on the value above \$700,000 up to and including \$780,000
3	\$780,001 - \$900,000	20% reduction in the general rates payable on the value above \$780,000 up to and including \$900,000
4	>\$900,000	35% reduction in the general rates payable on the value above \$900,000

With the following exclusions for either option:

- Multiple Dwellings (noting that House and Granny Flat will continue to receive the remission)
- Dwelling(s) + Commercial Undertaking
- Properties entitled to a mandatory rebate.

**CARRIED  
0228/2023**

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### 2.1.3 Budget Status Update

Moved Cr S Reardon  
Seconded Cr D Hood

That Council:

1. Notes the Budget Status Update, and the inclusion of:
  - a. A contingency amount of \$500k provided in the 2023/24 budget to cater for increases in contract renewal increases and authorises the CEO to allocate these funds as required with subsequent reporting in the respective quarterly budget review.
  - b. Expenditure of \$500k in the Consolidated Summary for a CONFIDENTIAL ITEM which is the subject of an April 2023 Council report for consideration and which will form a future budget bid should the item be approved by Council, noting that financial impacts of this item will be amended as detailed in para 3.5 of this report, Finance and Corporate Services Committee, 17 April 2023 Item 2.1.3.
  - c. Various amendments made to the operating budget as detailed in Attachment 2 of this report, Finance and Corporate Services Committee, 17 April 2023, Item 2.1.3.
2. Approves for inclusion in the Draft 2023/24 Long Term Financial Plan and Annual Business Plan for public consultation the four-year Budget Bid Program as per Attachment 3 to this report (Finance and Corporate Services Committee, 17 April 2023 Item 2.1.3), which is inclusive of parts 3 to 6 of this recommendation, with 2023/24 net expenditure totalling:

	<b>Capital Expenditure</b>	<b>Operating Expenditure</b>
Infrastructure	\$35,967,300	\$1,265,000
Information Technology	\$784,200	\$134,600
Plant, Furniture and Equipment	\$2,143,000	\$0
Operating	\$0	\$882,100
<b>Total</b>	<b>\$38,894,500</b>	<b>\$2,281,700</b>

3. Notes the following changes to Operating Budget Bids:
  - OPN001106 Local Heritage Review \$20k be deferred as per Council Resolution 0175/2023, March 2023 noting that a report titled *Thematic Heritage Study – Stage 2*

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*Item Identification* was provided to Council in March 2023.

- OPN001141 CONFIDENTIAL ITEM expenditure increased \$37k and income increased \$54k following review and update of this item (Attachment 4 and paragraph 3.8.1).
4. Notes the following changes to Infrastructure Budget Bids:
- PSN001017 Time Bound Program: Dog Parks for Small Dogs Unity Park Pooraka \$84k - brought forward from 2024/25 to 2023/24 as per Council Resolution 0175/2023, March 2023 (Attachment 5 and Paragraph 3.13.1).
  - PSR001024 SAMP Dog Park Continuity Program \$138k brought forward from 2024/25 to 2023/24 and annual budgets for years 2 \$120k and 3 \$123 added as per Council Resolution 0175/2023, March 2023 (Attachment 6 and Paragraph 3.13.2).
  - STN001125 CONFIDENTIAL ITEM capital expenditure reduced \$110k and operating component income reduced \$85k following finalisation of review and analysis of this item (Attachment 7 and Paragraph 3.11.1).
  - STN001142 CONFIDENTIAL ITEM operating component expenditure reduced \$121k following finalisation of review and analysis of this item (Attachment 8 and Paragraph 3.11.2).
5. Notes the following Infrastructure Bids have been removed from the 2023/24 budget:
- PSN0000960 ELECTED MEMBER BID: Seniors Outdoor Exercise Equipment capital \$80k - removed as per Council Resolution 0175/2023, March 2023 (Paragraph 3.12.1).
  - PSN001133 - ELECTED MEMBER BID: Model Yacht Club Terrace Area capital \$40k - removed as per Council Resolution 0175/2023, March 2023 (Paragraph 3.12.2).
  - PSN001137 - ELECTED MEMBER BID: Playground Shade Heron Reserve, Parafield Gardens capital \$80k - removed as per Council Resolution 0175/2023 (Paragraph 3.12.3).
  - PSN001138 - ELECTED MEMBER BID: New BBQ, Playground Shade & Toilet - Baltimore Reserve capital \$245k - removed as per Council Resolution 0175/2023, March 2023 (Paragraph 3.12.4).



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6. Approves the amendment of Information Technology bid ITN0001069 IT Asset Renewal 2023/24 as detailed in paragraph 3.15.1 of this report to be incorporated into the 2023/24 Long Term Financial Plan and Annual Business Plan for Public Consultation.
  7. Approves the following reports be added to the appropriate Committee Future Reports:
    - City Infrastructure to prepare a report for the Urban Services Committee detailing the program of works provided in budget bids TRR001053 SAMP Bituminous Footpath Service Continuity Program and TRR001055 SAMP Road Reseal Service Continuity Program for the 2023/24 and 2024/25 financial years.
    - City Infrastructure to prepare a report for the Finance and Corporate Services Committee addressing fleet vehicles, including manager vehicles, and the potential to transition to Hybrid and Electric alternatives.

**CARRIED  
0229/2023**

#### **2.1.4 Long Term Financial Plan Scenarios and Rate Strategy 2023/24**

Moved Cr S Reardon  
Seconded Cr D Hood

##### That Council:

1. Considering the risk of costs increasing above current budget estimates eventuating as detailed in paragraph 3.8 of this report (Item 2.1.4, *Long Term Financial Plan Scenarios and Rate Strategy 2023/24*) approves for consultation basis a rate increase based on a **7.9%** average increase, including the minimum, as the basis for setting rates in 2023/24 and year 1 of the Long Term Financial Plan, considering the LTFP and inflation scenarios presented and the advice provided by the Audit and Risk Committee, and approves for this to be included in the Draft 2023/24 Long Term Financial Plan and Annual Business Plan for public consultation.
2. Approves for the Long Term Financial Plan be set with a rate increase of forecast CPI+0.6% for years two to ten, as detailed in scenario 1 (Item 2.1.4, Finance and Corporate Services Committee, 17 April 2023 – Long Term Financial Plan Scenarios and Rate Strategy 2023/24).

- 
3. Notes that the current general rate capping policy as set out in section 3.7 of this report (Item No. 2.1.4, Finance and Corporate Services Committee, 17 April 2023 – Long Term Financial Plan Scenarios and Rate Strategy 2023/24) remains unchanged for 2023/24.
  4. Approves for the Operating Ranges for Financial Sustainability Indicators to remain as follows:
    - a. Operating Surplus Ratio: between 0.5% and 5%
    - b. Net Financial Liabilities Ratio: less than 70%
    - c. Asset Renewal Funding Ratio: between 90% and 110%

**CARRIED  
0230/2023**

#### **2.1.5 Draft 2023/24 Long Term Financial Plan and Annual Business Plan**

Moved Cr S Reardon  
Seconded Cr D Hood

##### That Council:

1. Adopts the Draft 2023/24 Long Term Financial Plan and Annual Business Plan for the purposes of Public Consultation, subject to further editing and formatting improvements without changing the substantive nature of the document, and changes required to reflect relevant decisions of Council made at Finance and Corporate Services Committee Meeting 17 April 2023, and Council 24 April 2023.
2. Notes that the following which have been included in the Draft 2023/24 Long Term Financial Plan and Annual Business Plan (LTFP&ABP) as required by S122(1h) of the *Local Government Act 1999*:
  - a. “ESCOSA Advice Strategic Management Plan Scheme” proposed Action Plan (commencing page 20 of the Draft LTFP&ABP)  
and
  - b. “ESCOSA Advice and City of Salisbury Comments” (commencing page 135 of the Draft LTFP&ABP)

**CARRIED  
0231/2023**

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***For Information***

**2.2.1 Financial Hardship Policy Review**

Moved Cr S Reardon

Seconded Cr D Hood

That Council:

1. Adopts the Financial Hardship Policy as contained in Attachment 1 to this report (Finance and Corporate Services Committee, 17 April 2023, Item 2.2.1), with a review date of March 2027.

**CARRIED  
0232/2023**

*The meeting then proceeded to consider item 2.1.6, which was withdrawn to be considered separately.*

*Pursuant to section 74 of the Local Government Act 1999, Cr S Reardon declared a general conflict of interest on the basis of being a member of the NAWMA Board, noting the exemption provided in section 75D(3). Cr Reardon managed the conflict by remaining in the meeting and voting in the best interest of the community.*

*Pursuant to section 74 of the Local Government Act 1999, Cr K Grenfell declared a general conflict of interest on the basis of being a member of the NAWMA Board and also the NAWMA Audit Committee, noting the exemption provided in section 75D(3). Cr Grenfell managed the conflict by remaining in the meeting and voting in the best interest of the community.*

*Pursuant to section 74 of the Local Government Act 1999, Cr C Buchanan declared a general conflict of interest on the basis of being a member of the NAWMA Board, noting the exemption provided in section 75D(3). Cr Buchanan managed the conflict by remaining in the meeting and voting in the best interest of the community.*

*Cr Ouk returned to the meeting at 8:14pm.*

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**2.1.6 NAWMA (Northern Adelaide Waste Management Authority)  
Second Quarter Budget Review 2022/23**

Moved Cr D Hood

Seconded Cr B Brug

That Council:

1. Approves the Second Quarter Budget Review of the Northern Adelaide Waste Management Authority as contained in Attachment 1 to this report (Finance and Corporate Services, 17 April 2023, Item No. 2.1.6).

**CARRIED  
0233/2023**

*The majority of members voted IN FAVOUR of the MOTION.*

*Cr K Grenfell voted IN FAVOUR of the MOTION.*

*Cr C Buchanan voted IN FAVOUR of the MOTION.*

*Cr S Reardon voted IN FAVOUR of the MOTION.*

***Confidential***

***Refer to CONFIDENTIAL ITEMS section of Council Minutes***

**2.4.1 Update on Action on Rates Assessment Outstanding under  
Section 184 of the Local Government Act 1999**

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### **3 Governance and Compliance Committee Meeting**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

Adopts the recommendations of the Governance and Compliance Committee meeting held on 17 April 2023, listed below:

**CARRIED  
0234/2023**

*Administration*

#### **3.0.1 Future Reports for the Governance and Compliance Committee**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

1. Notes the report.

**CARRIED  
0102/2023**

*For Decision*

#### **3.1.1 Salisbury Water Flow Restriction Policy for Residential Customers Review**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

1. Adopts the Salisbury Water Flow Restriction Policy for Residential Customers as set out in Attachment 1 to this report (Governance and Compliance 17 April 2023, Item No. 3.1.1) with a review date of March 2026.

**CARRIED  
0236/2023**

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### **3.1.2 Dog Registration Fees 2023/2024**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

Approves the 2023/2024 registration categories, fees, eligible rebates and exemptions and late fees as shown in the Proposed Dog and Cat Management Act 1995 Fee Schedule 2023/2024 forming Attachment 3 to the Governance and Compliance Committee agenda, 17 April 2023, Item No. 3.1.2. with the following amendments to Attachment 3:

- a) 2023/24 registration dog fees are set at:
  - o non standard - \$85.00
  - o Standard - \$42.50
  - o Non-standard concession - \$42.50
  - o Standard concession - \$21.25
- b) Seizure fees - \$85.00
- c) Daily and long term fee - \$55

**CARRIED  
0237/2023**

### **3.1.3 Review of Food Act 2001 Inspection Fees Policy**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

1. Adopts the Food Act 2001 Inspection Fees Policy as set out in Attachment 1 to this report (Governance and Compliance Committee 17/04/2023, Item No. 3.1.3).

**CARRIED  
0238/2023**

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### **3.1.4 Review of Enforcement Policy**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

1. Adopts the Enforcement Policy as set out in Attachment 1 to this report (Governance and Compliance Committee 17/04/2023, Item No. 3.1.4).

**CARRIED  
0239/2023**

### **3.1.5 Review of Private Parking Areas Act 1986 - Private Parking Agreements Policy**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

1. Adopts the Private Parking Areas Act 1986 - Private Parking Agreements Policy as set out in Attachment 1 to this report (Governance and Compliance Committee 17/04/2023, Item No. 3.1.5).

**CARRIED  
0240/2023**

### **3.1.6 Review Local Government Act 1999 Order Making Policy**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

1. Adopts the *Local Government Act 1999 Order Making Policy* as set out in Attachment 1 to this report (Governance and Compliance Committee 17/04/2023, Item No. 3.1.6).

**CARRIED  
0241/2023**

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### **3.1.7 Footpath Trading Policy Review**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

1. Adopts the Footpath Trading Policy as set out in Attachment 1 to this report (Governance and Compliance Committee 17/04/2023, Item No. 3.1.7).

**CARRIED  
0242/2023**

### **3.1.8 Review of Prudential Management Policy**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

1. Adopts the revised Prudential Management Policy as set out in Attachment 1 to this report (Governance and Compliance Committee, 17 April 2023, Item No. 3.1.8).

**CARRIED  
0243/2023**

### **3.1.9 Review of Council Decision Construction of Carpark at Tree Top Court**

Moved Cr P Jensen  
Seconded Cr K Grenfell

That Council:

1. Receives the Kelledy Jones internal review as set out in Attachment 1 (Governance and Compliance Committee, 17 April 2023, Item No. 3.1.9).
2. Approves putting the Treetop Court carpark project on hold and undertaking public consultation, on a discretionary basis and in accordance with its Public Consultation Policy, with the applicants, as well as any other impacted resident(s), prior to its re-consideration of the Carpark proposal.

**CARRIED  
0244/2023**



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## 4 Urban Services Committee Meeting

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

Adopts the recommendations of the Urban Services Committee meeting held on 17 April 2023, listed below, with the exception of items:

**4.1.1 Independent Planning Consultation & Arborist  
Engagement – Regulated or Significant Tree Removal  
Appeals**

**4.1.2 Capital Works – March 2023**

**US-OB1 Construction Contracts**

which were withdrawn to be considered separately.

**CARRIED  
0245/2023**

### *Administration*

**4.0.1 Recommendations of the Environmental Sustainability and  
Trees Sub Committee meeting held on Tuesday 11 April 2023**

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

Receive and note the information contained in the Environmental Sustainability and Trees Sub Committee meeting held on 11 April 2023 with respect to the following recommendations:

**CARRIED  
0246/2023**

**4.0.1-ESATS1 Future Reports for the Environmental  
Sustainability and Trees Sub Committee**

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Notes the report.

**CARRIED  
0247/2023**

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#### **4.0.1-ESATS2 Tree Removal Requests - Monthly Update for February 2023**

Moved Cr C Buchanan  
Seconded Cr S Ouk

That Council:

1. Notes the report.

**CARRIED  
0248/2023**

#### **4.0.1-ESATS3 Review of Tree Removal Request - Various Locations**

Moved Cr C Buchanan  
Seconded Cr S Ouk

That Council:

1. Notes that the following recommendations are a result of appeals lodged by residents and/or Ward Councillors following Administrations initial decision to refuse removal of tree/s in line with Council's approved tree appeals process.
2. Approves the lodgement of development applications that were deferred from the February meeting of Environmental Sustainability and Trees Sub Committee, seeking removal of:
  - a. The regulated *Eucalyptus sideroxylon* tree at the front of 49 Shorney Road, Parafield Gardens, noting that should the application be approved two replacement trees are required to be planted.
  - b. The two regulated *Angophora costata* trees in front of 33 and 35 Statham Avenue, Salisbury East, noting that should the application be approved 4 replacement trees are required to be planted.
  - c. The regulated *Eucalyptus sideroxylon* tree at the front of 5 Banksia Crescent, Parafield Gardens, noting that should the application be approved two replacement trees are required to be planted.

- 
3. Approves the lodgement of a development application seeking removal of:
    - a. The regulated *Corymbia maculata* tree adjacent of 1 Whelstone Court, Salisbury Downs, noting that should the application be approved two replacement trees are required to be planted.
  4. Approves the commencement of the appeal process in line with Council's approved tree appeals process for the following trees:
    - a. The tree at the front of 7 Hodges Court, Parafield Gardens
    - b. The tree at the front of 29 Shepley Crescent, Burton.

**CARRIED  
0249/2023**

#### **4.0.2 Future Reports for the Urban Services Committee**

Moved Cr C Buchanan  
Seconded Cr S Ouk

That Council:

1. Notes the report.

**CARRIED  
0250/2023**

#### **4.1.3 Gulfview Heights Lake - Hot Weather Contingency Update**

Moved Cr C Buchanan  
Seconded Cr S Ouk

That Council:

1. Notes the report.
2. Requests for staff to continue to provide written reports every six months to Ward Councillors via email.

**CARRIED  
0251/2023**

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*The meeting then proceeded to consider item 4.1.1, 4.1.2 and US-OB1, which were withdrawn to be considered separately.*

*Pursuant to section 75 of the Local Government Act 1999, Cr B Brug declared a material conflict of interest on the basis of being a member of the Council Assessment Panel. Cr B Brug stated that he will deal with the conflict by leaving the meeting.*

*Cr B Brug left the meeting at 8:17 pm.*

*Pursuant to section 75 of the Local Government Act 1999, Cr S Reardon declared a material conflict of interest on the basis of being a deputy member of the Council Assessment Panel. Cr Reardon stated that she will deal with the conflict by leaving the meeting.*

*Cr S Reardon left the meeting at 8:17 pm.*

*Pursuant to section 74 of the Local Government Act 1999, Cr L Brug declared a general conflict of interest on the basis of her husband being a member of the Council Assessment Panel. Cr L Brug stated that she will deal with the conflict by leaving the meeting.*

*Cr L Brug left the meeting at 8:17pm.*

### ***For Decision***

#### **4.1.1 Independent Planning Consultant & Arborist Engagement - Regulated or Significant Tree Removal Appeals**

Moved Cr P Jensen  
Seconded Cr S McKell

##### **That Council:**

1. Notes that as part of the current process for appeals an independent arborist is already engaged to assess regulated and significant trees to inform the lodgement of Development Applications.
2. Notes that tree damaging activity, which includes removal is subject to a performance assessment pathway under the *Planning, Development and Infrastructure Act 1999* and cannot be privately certified for planning approval.
3. Notes the increase costs of \$480,000 pa associated with the engagement of a consultant to manage the planning, assessment and Development Application lodgement if the alternate process is implemented

- 
4. Approves that no change be made to the current appeal process due to the increased budget impact and little expected success for the appeals.
  5. Requests the administration to present a report to the Environmental Sustainability and Trees Sub Committee to initiate a tender for selection of an arborist to provide independent assessment of Council tree removal requests and such advice be considered by Council's Development Assessment Manager.

**CARRIED**  
**0252/2023**

*Cr S Reardon returned to the meeting at 8:19 pm.*

*Cr B Brug returned to the meeting at 8:19 pm.*

*Cr L Brug returned to the meeting at 8:19 pm.*

#### **4.1.2 Capital Works - March 2023**

Moved Cr S Ouk

Seconded Cr K Grenfell

*Pursuant to section 74 of the Local Government Act 1999, Cr C Buchanan declared a general conflict on the basis of being an office bearer of the Club named on the lease. Cr C Buchanan stated that he will deal with the conflict by leaving the meeting.*

*Cr C Buchanan left the meeting at 8:19 pm.*

##### That Council:

1. Approves the \$20,000 Non-discretionary 2022/23 Third Quarter Budget Review Bid to transfer this value of available operating funds from GL388-120-3221 Reconciliation Program into \$20,000 capital funds within PR26737 John Street Artwork project as part of the development for the Salisbury City Centre, Indigenous Artwork.
2. Approves the Non-discretionary retiming of \$24,010,000 capital budget funding within the 2022/23 Third Quarter Budget Review Bid, into the 2023/24 Capital Budget, as detailed within Item 4.1.2, Urban Services Committee, 17 April 2023, to align the budget with the revised forecast spend.
3. Approves a non-discretionary bid of \$600k in the 23/24 budget bid process as additional budget for the construction of the new changeroom facility at Hausler Reserve, Paralowie outlined as Option 2 in the Council report (27 March 2023, GB5). This will accommodate an increased

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floor area, formalisation of the carpark and drainage which is required for Development approval.

**CARRIED**  
**0253/2023**

*Cr Buchanan returned to the meeting at 8:20 pm.*

**US-OB1 - Construction Contracts**

Moved Cr B Brug  
Seconded Cr C Buchanan

That Council:

1. Requests the administration to present a report to the Urban Services Committee regarding the status of delivery, key learnings and opportunities for improvement of construction contracts.

**CARRIED**  
**0254/2023**

***Confidential***

***Refer to CONFIDENTIAL ITEMS section of Council Minutes***

**4.4.1 Acquisition of Surplus Land - Bolivar**

**4.4.2 Acquisition of Land - Direk**

**4.4.3 Disposal of Council Property - Salisbury**

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## 5 Community Wellbeing and Sport Committee Meeting

Moved Cr C Buchanan  
Seconded Cr B Brug

That Council:

Adopts the recommendations of the Community Wellbeing and Sport Committee meeting held on 18 April 2023, listed below, with the exception of item:

### 5.1.2 Christmas Carols

which was withdrawn to be considered separately.

**CARRIED**  
**0255/2023**

### *Administration*

#### 5.0.1 Future Reports for the Community Wellbeing and Sport Committee

Moved Cr C Buchanan  
Seconded Cr B Brug

That Council:

1. Notes the report.

**CARRIED**  
**0256/2023**

### *For Decision*

#### 5.1.6 Community Grant Report Grant No. 32/2022-23: Ex-Military Rehabilitation Centre Incorporated - Community Grant Application

Moved Cr C Buchanan  
Seconded Cr B Brug

That the Community Wellbeing and Sport Committee, in accordance with its delegated powers set out in the adopted Terms of Reference:

1. Approves the request for funding for the April 2023 round of Community Grants as follows:
  - a. Grant No. 32/2022-23 the Ex-Military Rehabilitation Centre Incorporated Community Grant Application: to the value of \$2,000: to assist with costs towards the purchase of a Defibrillator.

That Council:

Approves a further \$600 to support the purchase of a defibrillator.

**CARRIED**  
**0257/2023**

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### **5.1.7 Tregoning Green Mural Consultation Feedback**

Moved Cr C Buchanan

Seconded Cr B Brug

That Council:

1. Approves Option 3: Design Concept – Zhuzhu (Guiung Zhu) (included as Attachment 4) for the Tregoning Green rebound wall and basketball court.
2. Notes that Option 3: Design Concept – Zhuzhu (Guiung Zhu) (included as Attachment 4) was the preferred submission following consultation with Salisbury Park Primary School students.

**CARRIED  
0258/2023**

### **5.1.8 St Kilda Tramway Museum Assistance Request**

Moved Cr C Buchanan

Seconded Cr B Brug

That Council:

1. Notes the current agreement with the St Kilda Tramway Museum (Australian Electric Transport Museum (SA) Inc) expires on 30 June 2023.
2. Authorises the Chief Executive Officer or delegate to negotiate and execute a new three-year agreement being entered into with the St Kilda Tramway Museum (Australian Electric Transport Museum (SA) Inc) with a fixed payment of \$5,702 per annum payment covering the three-year agreement.

**CARRIED  
0259/2023**

### **5.2.1 Youth Sponsorship Applications - March 2023**

Moved Cr C Buchanan

Seconded Cr B Brug

That Council:

1. Notes the report.
2. Approves the application to represent NSW at the 2023 Australian National Tenpin Championships and Presidents Junior Interstate Shield (in Tasmania from 2 – 7 July 2023), sits outside of the delegation of the Community Wellbeing and Sport Committee.
2. Notes the application to represent Australia at the ESU International Global Public Speaking Competition (London 8-12 May 2023) has been withdrawn by the applicant.

**CARRIED  
0260/2023**



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***For Noting Only: Decisions Made Under Committee Delegation:***

**5.1.1 Community Event Sponsorship Grant Application**

That the Community Wellbeing and Sport Committee, in accordance with its delegated powers set out in the adopted Terms of Reference:

1. Approves the following application through Round twelve (12) of the Community Events Sponsorship Program as follows:
  - a. Grant No. 1/2023:, Northern Districts Athletics Club Inc, application for \$5,000.00 for its Salisbury.RUN.

**5.1.3 Community Grant Report  
Grant No. 29/2022-23: Para Hills East Soccer Club -  
Community Grant Application**

That the Community Wellbeing and Sport Committee, in accordance with its delegated powers set out in the adopted Terms of Reference:

1. Approves the request for funding for the April 2023 round of Community Grants as follows:

Grant No. 29/2022-23 the Para Hills East Soccer Club Community Grant Application: to the value of \$5,000: to assist with the purchase of playing uniforms for the senior men's and women's teams.

**5.1.4 Community Grant Report  
Grant No. 30/2022-23: Salisbury United Junior Soccer Club -  
Community Grant Application**

That the Community Wellbeing and Sport Committee, in accordance with its delegated powers set out in the adopted Terms of Reference:

1. Approves the request for funding for the April 2023 round of Community Grants as follows:

Grant No. 30/2022-23 the Salisbury United Junior Soccer Club Community Grant Application: to the value of \$5,000: to assist with the purchase of various sporting equipment to utilise at training, for their junior teams.

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**5.1.5 Community Grant Report**  
**Grant No. 31/2022-23: Pooraka Tennis Club Incorporated -**  
**Community Grant Application**

That the Community Wellbeing and Sport Committee, in accordance with its delegated powers set out in the adopted Terms of Reference:

1. Approves the request for funding for the April 2023 round of Community Grants as follows:
  - a. Grant No. 31/2022-23 the Pooraka Tennis Club Incorporated Community Grant Application: to the value of \$4,000: to assist with costs towards items required for the AGM and End of Season Presentation Day, along with the purchase of additional sporting equipment & apparel: tennis weights & cloth, tennis racquets, balls & uniforms.

*The meeting then proceeded to consider item 5.1.2, which was withdrawn to be considered separately.*

**5.1.2 Christmas Carols**

Moved Cr C Buchanan

Seconded Cr L Brug

*Pursuant to section 74 of the Local Government Act 1999, Cr B Brug declared a general conflict of interest in relation to this matter on the basis that he was involved with the 2022 Lions Christmas Carols. Cr B Brug stated that he will deal with the conflict by voting in the best interest of the community.*

*Pursuant to section 74 of the Local Government Act 1999, Cr L Brug declared a general conflict of interest in relation to this matter on the basis that she was involved with the 2022 Lions Christmas Carols. Cr L Brug stated that she will deal with the conflict by voting in the best interest of the community.*

**That Council:**

1. Approves hosting the 2023 City of Salisbury Christmas Carols with a budget of \$50k at Carisbrooke Park (or as the Working party recommends) on a tentative date of Saturday 9 December 2023 from 6.00pm until 9.00pm.

- 
2. Approves the inclusion of an additional non-discretionary \$20k in the Draft 23/24 Operating Budget and notes that the \$30k for Christmas Carol Grants will be transferred to this event fund.
  3. Notes that a small community carols working group will be formed including representatives from volunteer organisations, local schools and not for profit organisations to assist with organising and delivering the event.
  4. Approves that Cr B Brug and Cr Grenfell, will represent Council on the Community Carols working group.
  5. Requests that the Community Carols working group reports back to the Community Wellbeing and Sport Committee including progress reports.

**CARRIED  
0261/2023**

*The majority of members voted IN FAVOUR of the MOTION.  
Cr L Brug voted IN FAVOUR of the MOTION.  
Cr B Brug voted IN FAVOUR of the MOTION.*

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*Confidential*

*Refer to CONFIDENTIAL ITEMS section of Council Minutes*

- 5.4.1 Salisbury Memorial Park and Chapel of the Holy Family Mausoleum Review**
- 5.4.2 Autism SA Tenancy Proposal**
- 5.4.3 Indoor Recreation Centres - Strategic Review and Management Contract**

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## **6 Innovation and Business Development Committee Meeting**

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

Adopts the recommendations of the Innovation and Business Development Committee meeting held on 18 April 2023, listed below, with the exception of item:

### **6.1.3 Community Bus Service**

which was withdrawn to be considered separately.

**CARRIED**  
**0262/2023**

### ***Administration***

#### **6.0.1 Future Reports for the Innovation and Business Development Committee**

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Notes the report.

**CARRIED**  
**0263/2023**

### ***For Decision***

#### **6.1.1 City Centre Revitalisation Project Update**

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Notes the report.

**CARRIED**  
**0264/2023**

#### **6.1.2 Digital Strategy - Community Communication Framework**

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Approves the proposed approach to communicate the Council activities on the use of technology to support delivery of enhanced Council services to the community, as outlined in this report (Item No. 6.1.2, Innovation and Business Development Committee, 18 April 2023).

**CARRIED**  
**0265/2023**

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**6.1.4 Recommendations of the Salisbury Living Sub Committee meeting held on Tuesday 11 April 2023**

Moved Cr C Buchanan  
Seconded Cr S Ouk

**SLSCC1 Future Reports for the Salisbury Living Sub Committee**

That Council:

1. Notes the report.

**CARRIED  
0266/2023**

***For Information***

**6.2.1 Project Connect (ERP Implementation) Update**

Moved Cr C Buchanan  
Seconded Cr S Ouk

That Council:

1. Notes the report.

**CARRIED  
0267/2023**

**6.1.3 Community Bus Service**

Moved Cr C Buchanan  
Seconded Cr K Grenfell

That Council:

1. Reaffirms its commitment to providing an essential community bus service for residents of the City of Salisbury and approves the budget bid TRN001143 for inclusion as a non-discretionary budget bid as part of the 2023/24 budget process.
2. Approves:
  - a. The extension of the existing service up to 31 December 2023 to enable time to implement the revised service, should this be included in the 2023/24 budget.
  - b. Writing to the South Australian Government seeking:
    - i. Approval to utilise their public transport network bus stops to support a proposed new community

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bus route.

- ii. Funding for upgrades for proposed new bus stops.

- 6. Approves the establishment of a working group consisting of a representative from Central, Para, Hills and West Wards Crs C Buchanan, K Grenfell, S McKell and P Jensen to provide a recommendation to the Community Wellbeing and Sport Committee on proposed bus routes and other matters related to the community bus service by 30 June 2023.

*Cr Graham sought leave of the meeting to speak for a second time.  
Leave was granted.*

**CARRIED  
0268/2023**

*A **DIVISION** was requested by Cr Reardan and the following members responded to the Mayor's call as having voted in favour of the **MOTION**:*

*Crs B Brug, L Brug, C Buchanan, J Chewparsad, A Graham, K Grenfell, D Hood,  
P Jensen, M Mazzeo, S McKell and S Ouk*

*The following members responded to the Mayor's call as having voted against the **MOTION**:*

*Cr S Reardon*

*The Chairman declared the **MOTION** was **CARRIED***

### ***Confidential***

***Refer to CONFIDENTIAL ITEMS section of Council Minutes***

#### **6.4.1 Recommendations of the Confidential Salisbury Living Sub Committee meeting held on Tuesday 11 April 2023**

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## **7      Audit and Risk Committee Meeting**

Moved Cr K Grenfell  
Seconded Cr B Brug

That Council:

Adopts the recommendations of the Audit and Risk Committee meeting held on 12 April 2023, listed below:

**CARRIED  
0269/2023**

### ***Administration***

#### **7.0.1      Future Reports for the Audit and Risk Committee**

Moved Cr K Grenfell  
Seconded Cr B Brug

That Council:

1.      Notes the report.

**CARRIED  
0270/2023**

#### **7.0.2      Actions List**

Moved Cr K Grenfell  
Seconded Cr B Brug

That Council:

1.      Notes the report.

**CARRIED  
0271/2023**

### ***For Decision***

#### **7.1.1      BDO's Annual Audit Plan for 30 June 2023**

Moved Cr K Grenfell  
Seconded Cr B Brug

That Council:

1.      Notes the report

**CARRIED  
0272/2023**



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### **7.1.2 Draft 2023/24 Long Term Financial Plan and Annual Business Plan**

Moved Cr K Grenfell

Seconded Cr B Brug

That Council:

1. Notes that the Audit and Risk Committee has reviewed the Council's Draft 2023/24 Long Term Financial Plan and Annual Business Plan in accordance with s126(4)(a,b) of the *Local Government Act 1999*.
2. Notes that the Audit and Risk Committee have considered the following which have been included in the Draft 2023/24 Long Term Financial Plan and Annual Business Plan (LTFP&ABP) as required by S122(1h) of the *Local Government Act 1999*:
  - a. "ESCOSA Advice Strategic Management Plan Scheme" proposed Action Plan (commencing page 20 of the Draft LTFP&ABP)  
and
  - b. "ESCOSA Advice and City of Salisbury Comments" (commencing page 135 of the Draft LTFP&ABP)
3. Notes that the Audit and Risk Committee has considered the scenarios provided within this report and has formed the view, that considering the costs at risk of higher than current budget increases eventuating which will be further discussed with Council, a rate increase within the range of 7.0% and 8.0% is appropriate to maintain Council's financial sustainability balanced with the needs of the community for affordability, and further the Committee advised that should Council determine a rate increase of less than 6.5%, consideration will need to be given to reduction in service levels.

**CARRIED  
0273/2023**

### **7.1.3 Audit & Risk Committee Performance Self-Assessment Survey Outcome**

Moved Cr K Grenfell

Seconded Cr B Brug

That Council:

1. Notes the report.

**CARRIED  
0274/2023**

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#### **7.1.4 Draft Strategic Asset Management Plan 2023/24**

Moved Cr K Grenfell

Seconded Cr B Brug

That Council:

1. Notes that, in line with Section 126 (4)(ab) of *the Local Government Act 1999*, the Audit and Risk Committee considered the Draft Strategic Asset Management Plan 2023/24 as attached in the report (Item 7.1.4 - Draft Strategic Asset Management Plan 2023/24, Audit and Risk Committee – 12 April 2023)

**CARRIED  
0275/2023**

#### **7.1.5 Asset Policy Review**

Moved Cr K Grenfell

Seconded Cr B Brug

That Council:

1. Notes that the Audit and Risk Committee recommends the Asset Depreciation Policy, as set out in Attachment 1 to this report (Audit Committee 12/04/2023 Item No. 7.1.5), to Council for adoption.

**CARRIED  
0276/2023**

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### **7.1.6 3-Year Internal Audit Plan 2022/23-2024/25**

Moved Cr K Grenfell  
Seconded Cr B Brug

That Council:

1. Notes the updates made to the 3-year Internal Audit Plan 2022/2023 to 2024/2025 as set out in Attachment 1 to this report (Audit and Risk Committee, 12 April 2023, Item No. 7.1.6).
2. Notes the mapping of internal audits to the current identified risks in the strategic risk register as set out in Attachment 2 of this report (Audit and Risk Committee, 12 April 2023, Item No.7.1.6).
3. Notes the accompanying high-level indicative draft scope for pending audits as set out in Attachment 3 of this report (Audit and Risk Committee, 12 April 2023, Item No.7.1.6).

**CARRIED  
0277/2023**

### **7.1.7 Audit & Risk Committee Annual Work Plan 2022/2023 and 2023/2024**

Moved Cr K Grenfell  
Seconded Cr B Brug

That Council:

1. Approves the updated Audit & Risk Committee Annual Work Plan for the year 2022/2023 and 2023/2024 as set out in Attachment 1 to this report (Audit & Risk Committee, 12 April 2023, Item No.7.1.7).

**CARRIED  
0278/2023**

### ***For Information***

#### **7.2.1 Salisbury Aquatic Centre Project**

Moved Cr K Grenfell  
Seconded Cr B Brug

That Council:

1. Notes that the Audit and Risk Committee reviewed the risk management methodology and strategy for the Aquatic Centre Project.
2. Notes that construction works are progressing in accordance with the construction program, and the current practical completion date of 4 April 2024 remains unchanged.
3. Notes that clearly defined project management processes and

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systems, consistent with Council's Capital Delivery Framework, are being implemented to provide management principles and guidance, transparency and the ability to capture learnings for future project delivery.

4. Notes that the governance framework is based on other recent major capital projects such as the Salisbury Community Hub and the Burton Community Hub.
5. Notes that KPMG has been engaged for the duration of the project, in a project management advisory and quality assurance role, to support the project team.
6. Notes that Rider Levett Bucknall (RLB) has been engaged for the duration of the project, to prepare pre-tender, 30% and 60% design milestone cost estimates, certify monthly progress claims, assess and negotiate contract variations, and provide project finance modelling and reporting at bimonthly PCG meetings.
7. Notes that Kelledy Jones Lawyers are supporting the project team as required, in relation to contract management.
8. Notes that extensive site investigation and analysis works were undertaken by Council pre-tender, and that the associated reports including known risk and limitation were communicated to the tenderers, in the tender documents.
9. Notes that the project Risk Register is an active document which is used by the project team to record and monitor all project and financial risks, throughout the different project stages.

**CARRIED**  
**0279/2023**

### **7.2.2 Outstanding Actions Arising from Internal Audits**

Moved Cr K Grenfell  
Seconded Cr B Brug

That Council:

1. Notes the update in this report and the full Internal Audit Log Actions Register in Attachment 1 to this report (Audit and Risk Committee, 12 April 2023, Item No.7.2.2).
2. Notes the update on the Capital Works Project Audit Pressure Points Action List in Attachment 2 to this report (Audit and Risk Committee, 12 April 2023, Item No.7.2.2).

**CARRIED**  
**0280/2023**

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### **7.2.3 Position Paper Revenue Recognition**

Moved Cr K Grenfell

Seconded Cr B Brug

That Council:

1. Notes the Revenue Recognition Position Paper (as included in Attachment 1, Audit and Risk Committee meeting, 12 April 2023, item no 7.2.3) which is an internal document developed to support the administration in correctly accounting for revenue in relation to Accounting Standards AASB 1058 *Income of Not-for-Profit Entities* and AASB 15 *Revenue from Contracts with Customers*.

**CARRIED  
0281/2023**

### ***Confidential Items***

***Refer to CONFIDENTIAL ITEMS section of Council Minutes***

**7.4.1 Quarterly Cybersecurity Report October 2022 - December 2022**

**7.4.2 ERP / Project Connect Verbal Update**

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## **8 Council Assessment Panel Meeting**

Minutes of the Council Assessment Panel Meeting held on 28 March 2023 were noted by Council.

## **9 CEO Review Committee**

No CEO Review Committee meeting was held in April 2023.

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## GENERAL BUSINESS

*Cr S McKell left the meeting at 09:11 pm.*

*Cr S McKell returned to the meeting at 09:14 pm.*

### **GB1 Elected Members Behavioural Support Policy**

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Notes that Council resolved at its meeting on 19 December 2022 to establish a Working Group consisting of the Mayor, Deputy Mayor Cr Buchanan, Cr B Brug, the CEO and the Manager Governance to prepare recommendations to the Policy and Planning Committee for consideration on Behavioural Management Policy and Support Policy, with input from Norman Waterhouse Lawyers.
2. Notes that Council needs to consider whether or not to adopt an Elected Member Behavioural Support Policy within 6 months after the conclusion of the November elections, and that Council resolves it will not adopt such policy at this point in time, in anticipation of the findings and recommendations of the Working Group which will further inform Council's future position, which will report back to the May Council meeting.
3. Notes that in context of various complaints being managed under the current LGA Model Behavioural Management Policy, the Working Group will be reviewing the experiences and lessons learned from this first application of the complaints management process, which will further inform its recommendations on the Behavioural Management Policy and Support Policy.

**CARRIED  
0282/2023**

*Cr L Brug left the meeting at 09:15 pm.*

*Cr L Brug returned to the meeting at 09:18 pm.*

### **GB2 New Drainage Works (DWN00132 - Elected Member Bid)**

Moved Cr C Buchanan

Seconded Cr K Grenfell

That Council:

1. Notes interim update report.
2. Requests the Administration provide detailed costings for the scope of work detailed in the report from item 3.1.1 to 3.1.11 and the report be submitted to the May 2023 Urban Services Committee.

**CARRIED  
0283/2023**

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### **GB3 Electric Vehicle Charging Stations - RAA**

Moved Cr B Brug  
Seconded Cr D Hood

That Council:

1. Approves that the RAA locate a Tier 2 Electric Vehicle Charger at:
  - a. James Street, Salisbury car park next to the SA Power Network transformer;
2. Approves that the RAA locate a Tier 2 Electric Vehicle Charger at:  
The south-east side of the Mobara Car Park off Mawson Lakes Boulevard
3. Authorises the Chief Executive Officer to negotiate and execute the RAA EVCN Agreement - DC T2 (Attachment 1, Item GB3, Electric Vehicle Charging Stations – RAA, Council, 24 April 2023).

**CARRIED**  
**0284/2023**

### **GB4 Salisbury Aware Revitalisation**

Moved Cr L Brug  
Seconded Cr S McKell

That Council:

1. Approves the change to the production and distribution of Salisbury Aware as outlined in this report (Section 3.7, Council, 24 April 2023, item no GB4).

**CARRIED**  
**0285/2023**

## **MAYOR'S DIARY**

### **MD1 Mayor's Diary**

Moved Cr S Ouk  
Seconded Cr B Brug

That Council:

1. Notes this information.

**CARRIED**  
**0286/2023**



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## REPORTS FROM COUNCIL REPRESENTATIVES

### Cr P Jensen

- LGA Ordinary General Meeting (OGM) – Cr Jensen attended the OGM as a voting delegate. The City of Salisbury won the LGA Risk Management Award. A presentation was also provided from the Electoral Commissioner.

## QUESTIONS ON NOTICE

### QON1 Question on Notice: Homelessness in Salisbury

Cr B Brug has submitted the following Question on Notice:

What is the current update and status of our efforts to help address homelessness in Salisbury?

General Manager Community Development, Amy Pokoney Cramey has provided the following response:

1. There are currently 7 rough sleepers on City of Salisbury and the Northern Homelessness Alliances 'By Name List'.
2. The following information was provided to Elected Members on 31<sup>st</sup> March 2023 via email titled *Update on City of Salisbury Actions Regarding Homelessness and Changes to Civic Square*.

## QUESTIONS WITHOUT NOTICE

No Questions without Notice.

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## MOTIONS ON NOTICE

### MON1 Motion on Notice: Ingle Farm Shopping Centre

Moved Cr L Brug  
Seconded Cr A Graham

That Council:

1. Writes to the Management of Ingle Farm Shopping Centre to bring to its attention the community's concern with dumped shopping trolleys and the traffic management challenges caused by its Montague Road carpark entrance, and seeking its proposed solutions to address these concerns.
2. Writes to the Department for Transport and Infrastructure making them aware of the community's concern regarding traffic management challenges on Montague Road caused by the Ingle Farm Shopping Centre car park entrances and seeks feedback on their proposed solutions to address these concerns.

*Cr Graham, with consent of Cr L Brug, sought and was granted leave of the meeting to vary the motion as follows:*

#### MOTION AS VARIED

1. Writes to the Management of Ingle Farm Shopping Centre to bring to its attention the community's concern with dumped shopping trolleys and the traffic management challenges caused by its Montague Road carpark entrance, and seeking its proposed solutions to address these concerns. Discussions to also include the fixing of pot holes in the carpark and Management of Ingle Farm Shopping Centre to work with their tenants to ensure shopping trolley collection.
2. Writes to the Department for Transport and Infrastructure making them aware of the community's concern regarding traffic management challenges on Montague Road caused by the Ingle Farm Shopping Centre car park entrances and seeks feedback on their proposed solutions to address these concerns.

**CARRIED**  
**0287/2023**

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**MON2 Motion on Notice: Lighting Quality for Pedestrians,  
Mawson Lakes**

Moved Cr B Brug  
Seconded Cr S McKell

That Council:

1. Requests the Administration to present a report to the Urban Services Committee by September 2023, on the level of service and condition of lighting used around all lakes at Mawson Lakes (particularly Sir Douglas Mawson Lakes main lake), including any short and long-term improvement options and associated costings if required.

**CARRIED  
0288/2023**

**MON3 Motion on Notice: New Playground and Upgrade to the  
Existing BMX Track at Diruwa Drive, Salisbury North**

Moved Cr D Hood  
Seconded Cr C Buchanan

That Council:

1. Requests Administration to present a report to the Urban Services Committee on the construction of a new playground and upgrade to the existing BMX Track at Diruwa Drive, Salisbury North, with the report to include cost estimates to inform future budget bids.
2. Requests the Chief Executive Officer write to the Australian Rail Track Corporation advising of safety concerns due to the disrepair of fencing along the train tracks in the vicinity of Passmore Reserve, Salisbury North and request that the necessary repairs be undertaken as a matter of urgency.

**CARRIED  
0289/2023**

*Cr D Hood left the meeting at 09:46 pm.  
Cr D Hood returned to the meeting at 09:47 pm.*

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#### **MON4 Motion on Notice: Valley View Tennis Club Lighting**

Moved Cr L Brug  
Seconded Cr A Graham

That Council:

1. Requests the Administration to investigate the lighting concerns of the Valley View Tennis Club and meet with the club and local Ward Councillors after hours to discuss these concerns.
2. Requests the Administration to report back before the September 2023 Urban Services Committee meeting with the findings and proposed solutions, including costs to upgrade the lighting to allow safe night time operation.

**CARRIED**  
**0290/2023**

#### **MON5 Motion on Notice: Condolences**

Moved Cr C Buchanan  
Seconded Mayor G Aldridge

That Council:

1. Extends its sympathies to family, friends and colleagues following the sudden passing of City of Salisbury Titanium Security Guard Dennis Gauci, who provided excellent support to Council and its community since 2014, and will be remembered for his work ethic and commitment, providing cheerful and exemplary customer service.

**CARRIED**  
**Unanimously**  
**0291/2023**

#### **BREAK**

In accordance with the Code of Practice for Meeting Procedures, the Mayor provided a break to all present. The meeting was suspended at 9:49 pm.

The meeting reconvened at 10:02pm.

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## MOTIONS WITHOUT NOTICE

*Cr Grenfell re-entered the meeting at 10:04pm.*

### **MWON3 Motion Without Notice - Security at Fairbanks Reserve**

Moved Cr C Buchanan

Seconded Cr A Graham

That Council:

1. Notes the increasing number of incidents over the last 10 days at Fairbanks Reserve, including theft, fire and vandalism - theft of basketball backboard, two attempts to set the toilet block alight, and illegal trail bikes tearing up the new turf.
2. Notes that CCTV is expected to be installed in June 2023 and requests the Administration to make effort to bring forward the installation of CCTV as an urgent priority.
3. Requests the CEO to engage security patrols at Fairbanks Reserve until the installation of CCTV is complete.

**CARRIED**  
**0292/2023**

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#### **MWON4 Motion Without Notice – Leave of Absence request**

Moved Cr A Graham  
Seconded Cr K Grenfell

That Council:

1. Notes the request and reasons for Leave of Absence from Cr Burner as provided to the CEO and Mayor *“I would like to formally request the Council to allow me three month's leave. It is not my intention to subject myself to any further bullying, threatening or misconduct by council”*
2. Does not grant a Leave of Absence.

**CARRIED**  
**Unanimously**  
**0293/2023**

#### **MWON5 Motion Without Notice – Leave of Absence**

Moved Cr C Buchanan  
Seconded Cr A Graham

That Council:

1. Notes the reasons for the Leave of Absence request from Cr Burner and requests the CEO to write to Cr Burner requesting that she provides details of the unsubstantiated allegations in accordance with the reporting provisions of the Model Behaviour Management Policy and again provides information to Cr Burner on how to make such complaints.

**CARRIED**  
**Unanimously**  
**0294/2023**

### **OTHER BUSINESS**

There were no Other Business items.

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## ORDERS TO EXCLUDE THE PUBLIC

### 2.4.1 Update on Action on Rates Assessment Outstanding under Section 184 of the Local Government Act 1999

Moved Cr K Grenfell

Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*
  - *it relates to information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*
2. *In weighing up the factors related to disclosure,*
  - *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*

*On that basis the public's interest is best served by not disclosing the **Update on Action on Rates Assessment Outstanding under Section 184 of the Local Government Act 1999** item and discussion at this point in time.*
3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, General Manager, Business Excellence, A/General Manager, City Infrastructure, General Manager, Community Development, A/General Manager City Development, Manager Governance, Manager Financial Services, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
**0295/2023**

The meeting moved into confidence at 10:36pm.

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#### 4.4.1 Acquisition of Surplus Land - Bolivar

Moved Cr K Grenfell  
Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(b)(i) and (b)(ii) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*
  - *it relates to information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and*
  - *information the disclosure of which would, on balance, be contrary to the public interest.*
2. *In weighing up the factors related to disclosure,*
  - *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*
  - *Non-disclosure of the matter and discussion of this item in confidence would protect confidential information and Council's commercial position.*

*On that basis the public's interest is best served by not disclosing the **Acquisition of Surplus Land - Bolivar** item and discussion at this point in time.*

3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, General Manager, Business Excellence, A/General Manager, City Infrastructure, General Manager, Community Development, A/General Manager City Development, Manager Governance, Manager Financial Services, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
**0296/2023**



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#### 4.4.2 Acquisition of Land - Direk

Moved Cr K Grenfell

Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(b)(i) and (b)(ii) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*

- *it relates to information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and*

- *information the disclosure of which would, on balance, be contrary to the public interest.*

2. *In weighing up the factors related to disclosure,*

- *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*

- *Non-disclosure of the matter and discussion of this item in confidence would protect confidential information and Council's commercial position.*

*On that basis the public's interest is best served by not disclosing the **Acquisition of Land - Direk** item and discussion at this point in time.*

3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, General Manager, Business Excellence, A/General Manager, City Infrastructure, General Manager, Community Development, A/General Manager City Development, Manager Governance, Manager Financial Services, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
**0297/2023**

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#### 4.4.3 Disposal of Council Property - Salisbury

Moved Cr K Grenfell

Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(b)(i) and (b)(ii) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*

- *it relates to information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and*

- *information the disclosure of which would, on balance, be contrary to the public interest.*

2. *In weighing up the factors related to disclosure,*

- *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*

- *Non-disclosure of the matter and discussion of this item in confidence would protect confidential information and Council's commercial position.*

*On that basis the public's interest is best served by not disclosing the **Disposal of Council Property - Salisbury** item and discussion at this point in time.*

3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, General Manager, Business Excellence, A/General Manager, City Infrastructure, General Manager, Community Development, A/General Manager City Development, Manager Governance, Manager Financial Services, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
**0298/2023**

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#### 5.4.1 **Salisbury Memorial Park and Chapel of the Holy Family Mausoleum Review**

Moved Cr K Grenfell  
Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(d)(i) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*
  - *it relates to commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party.*
2. *In weighing up the factors related to disclosure,*
  - *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*

*On that basis the public's interest is best served by not disclosing the **Salisbury Memorial Park and Chapel of the Holy Family Mausoleum Review** item and discussion at this point in time.*
3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, General Manager, Business Excellence, A/General Manager, City Infrastructure, General Manager, Community Development, A/General Manager City Development, Manager Governance, Manager Financial Services, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
**0299/2023**

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#### 5.4.2 Autism SA Tenancy Proposal

Moved Cr K Grenfell

Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(b)(i) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*

- *it relates to information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council.*

2. *In weighing up the factors related to disclosure,*

- *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*

*On that basis the public's interest is best served by not disclosing the **Autism SA Tenancy Proposal** item and discussion at this point in time.*

3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, General Manager, Business Excellence, A/General Manager, City Infrastructure, General Manager, Community Development, A/General Manager City Development, Manager Governance, Manager Financial Services, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
**0300/2023**

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### 5.4.3 Indoor Recreation Centres - Strategic Review and Management Contract

Moved Cr K Grenfell

Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(b)(i) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*

- *it relates to information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council.*

2. *In weighing up the factors related to disclosure,*
  - *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*

*On that basis the public's interest is best served by not disclosing the **Indoor Recreation Centres - Strategic Review and Management Contract** item and discussion at this point in time.*

3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, General Manager, Business Excellence, A/General Manager, City Infrastructure, General Manager, Community Development, A/General Manager City Development, Manager Governance, Manager Financial Services, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
**0301/2023**

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#### 6.4.1 **Recommendations of the Confidential Salisbury Living Sub Committee meeting held on Tuesday 11 April 2023**

Moved Cr K Grenfell

Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(b)(i) and (b)(ii) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*

- *it relates to information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and*

- *information the disclosure of which would, on balance, be contrary to the public interest.*

2. *In weighing up the factors related to disclosure,*

- *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*

- *Non disclosure of this report at this time will protect Council's commercial position as public disclosure may provide third parties with a commercial advantage.*

*On that basis the public's interest is best served by not disclosing the **Recommendations of the Confidential Salisbury Living Sub Committee meeting held on Tuesday 11 April 2023** item and discussion at this point in time.*

3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, General Manager, Business Excellence, A/General Manager, City Infrastructure, General Manager, Community Development, A/General Manager City Development, Manager Governance, Manager Financial Services, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED  
0302/2023**

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#### 7.4.1 Quarterly Cybersecurity Report October 2022 - December 2022

Moved Cr K Grenfell  
Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(b)(i) and (e) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*
  - *it relates to information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and*
  - *matters affecting the security of the council, members or employees of the council, or council property; or the safety of any person.*
2. *In weighing up the factors related to disclosure,*
  - *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*
  - *Cybersecurity Information*

*On that basis the public's interest is best served by not disclosing the **Quarterly Cybersecurity Report October 2022 - December 2022** item and discussion at this point in time.*
3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, General Manager, Business Excellence, A/General Manager, City Infrastructure, General Manager, Community Development, A/General Manager City Development, Manager Governance, Manager Financial Services, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
**0303/2023**

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#### 7.4.2 ERP / Project Connect Verbal Update

Moved Cr K Grenfell  
Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(b)(i) and (b)(ii) and (e) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*
  - *it relates to information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and*
  - *information the disclosure of which would, on balance, be contrary to the public interest; and*
  - *matters affecting the security of the council, members or employees of the council, or council property; or the safety of any person.*
2. *The disclosure of this information would, on balance, be contrary to the public interest because the public interest in the Council preserving its commercial sensitivity of information discussed between Administration and Audit & Risk Committee would be compromised by disclosure of the information.*

*On that basis the public's interest is best served by not disclosing the ERP / Project Connect Verbal Update item and discussion at this point in time.*

**CARRIED**  
**0304/2023**



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## C1 Request for Extension of Confidentiality Orders

Moved Cr K Grenfell

Seconded Cr S Ouk

Pursuant to section 83(5) of the *Local Government Act 1999* the Council orders that this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(b)(i) and (b)(ii) and (e) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*

- *it relates to information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and*
- *information the disclosure of which would, on balance, be contrary to the public interest; and*
- *matters affecting the security of the council, members or employees of the council, or council property; or the safety of any person.*

2. *In weighing up the factors related to disclosure,*

- *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*
- *Non disclosure of this item at this time would implicate Council and the Community's interest.*

*On that basis the public's interest is best served by not disclosing the **Request for Extension of Confidentiality Orders** item and discussion at this point in time.*

3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, Chief Executive Officer, General Manager, Business Excellence, A/General Manager, City Infrastructure, General Manager, Community Development, A/General Manager City Development, Manager Governance, Manager Financial Services, Team Leader Communications and Marketing, Team Leader Council Governance be excluded from attendance at the meeting for this Agenda Item.*

**CARRIED**  
**0305/2023**

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The meeting moved out of confidence and closed at 10:57pm.

CHAIRMAN.....

DATE.....

**Final Report prepared by  
Norman Waterhouse Lawyers  
for City of Salisbury**

**In accordance with the Local Government Association of  
South Australia Model Behavioural Management Policy**

**Regarding complaints made against CR GRACE BAWDEN  
under the Behavioural Standards for Council Members**

## 1. BACKGROUND

- 1.1 The Council has received complaints from two different complainants alleging breaches of the Behavioural Standards for Council Members (**the Behavioural Standards**) by Councillor Grace Bawden.
- 1.2 This report relates to Cr Bawden's alleged conduct as follows:
  - 1.2.1 Cr Bawden's sharing on 22 January 2023 of a Facebook post made by Senator Alex Antic relating to smart cities (**the Shared Post**), and Cr Bawden's making of an associated caption (**the Caption**).
- 1.3 The Shared Post and the Caption were the subject of the following complaints:
  - 1.3.1 Complaint made by Complainant A on 23 January 2023 (**the First Complaint**); and
  - 1.3.2 Complaint made by Complainant B on 23 January 2023 (**the Second Complaint**).
- 1.4 The First Complaint and the Second Complaint are referred to collectively in this report as **the Complaints**.
- 1.5 The Complaints are being managed in accordance with the Local Government Association of South Australia Model Behavioural Management Policy (**the Policy**).
- 1.6 Complainants A and B have requested that their identity be kept confidential. The Mayor, being the person responsible for managing the Complaints under the Policy, has determined that the identity of Complainants A and B shall remain confidential.

## 2. PROCESS

- 2.1 The process with respect to the management of the Complaints is set out in the Policy. The Complaints are being managed in accordance with the 'Formal action' section in Clause 4.5 of the Policy.
- 2.2 The person responsible for managing the Complaints under the Policy is the Mayor.

- 2.3 A summary of the process to date is as follows.
- 2.4 The Mayor conducted an initial assessment of the Complaints after receipt and considered that the matters warranted further consideration.
- 2.5 On 1 February 2023, the Mayor advised Cr Bawden by email of the fact that the First Complaint had been made against her. A copy of the First Complaint was provided to Cr Bawden with the identity of the complainant redacted. The Mayor requested Cr Bawden to provide a response by 8 February 2023 to inform her initial assessment of the First Complaint.
- 2.6 Cr Bawden responded on 9 February 2023.
- 2.7 Due to an oversight, the Mayor did not provide Cr Bawden with a copy of the Second Complaint. However, this was supplied to Cr Bawden through the provision of the summary document referred to at paragraph 2.14 herein.
- 2.8 Following receipt of Cr Bawden's response to the First Complaint, the Mayor determined to proceed to formal consideration of that Complaint. The Mayor determined, in accordance with clause 4.5.3 of the Policy, to engage Norman Waterhouse Lawyers, a third party, to formally consider the First Complaint and then expanded these instructions also to cover the Second Complaint.
- 2.9 On 16 February 2023, we wrote to Cr Bawden:
  - 2.9.1 advising that the Mayor has decided to proceed to formal consideration of the Complaints in accordance with the Policy, and that the Mayor has determined to appoint Norman Waterhouse Lawyers to formally consider and investigate the Complaints;
  - 2.9.2 providing her with a copy of the Policy;
  - 2.9.3 providing her with the Mayor's contact details, being the person responsible for managing the Complaints;
  - 2.9.4 advising that in due course, we would provide her with a summary document setting out the specific provisions of the Behavioural Standards alleged to have been breached and the circumstances in which those breaches are alleged to have occurred; and
  - 2.9.5 reminding her of her obligations to maintain confidentiality in

accordance with the Policy.

- 2.10 On 16 February 2023, we also wrote to Complainants A and B:
  - 2.10.1 advising that the Mayor has decided to proceed to formal consideration of their complaints in accordance with the Policy, and that the Mayor has determined to appoint Norman Waterhouse Lawyers to formally consider and investigate their complaints;
  - 2.10.2 providing them with a copy of the Policy;
  - 2.10.3 inviting them to provide us with any further information or documentation in support of their complaints, or to further elaborate on any matters set out in their complaints.
- 2.11 Complainant A responded on 21 February 2023.
- 2.12 Complainant B responded on 19 February 2023.
- 2.13 On 9 March 2023, we wrote to Cr Bawden:
  - 2.13.1 providing her with a summary document in respect of the Complaints;
  - 2.13.2 inviting her to provide us with any further information in relation to the subject matter set out in the summary document by 14 March 2023;
  - 2.13.3 providing her with copies of the Policy and Behavioural Standards.
- 2.14 A copy of the summary document is **enclosed** at **Annexure A**.
- 2.15 We did not receive a response from Cr Bawden to our 9 March 2023 letter.
- 2.16 In accordance with clause 4.5.4 of the Policy, on 5 April 2023 we provided our provisional report to Cr Burner and Complainants A and B who were invited to make submissions in relation to that provisional report.
- 2.17 Cr Bawden provided a response, which is discussed in detail below. Complainants A and B did not provide a response.
- 2.18 This report is prepared in accordance with clause 4.5.4 of the Policy. We have had regard to the following information in preparing this report:

- 2.18.1 the Policy;
- 2.18.2 the Behavioural Standards;
- 2.18.3 the Complaints;
- 2.18.4 all communications between the Mayor and Cr Bawden in relation to the Complaints;
- 2.18.5 all communications between Norman Waterhouse and Cr Bawden in relation to the Complaints;
- 2.18.6 all communications between Norman Waterhouse and the relevant complainants in relation to their complaints;
- 2.18.7 any other information referred to or enclosed with this report.

### **3. THE COMPLAINT**

- 3.1 It is relevant to provide a brief summary of smart cities in the context of the Complaints. We have had regard to the minutes of the Council meeting on 30 January 2023. At that meeting, the following motion on notice was carried and provides an overview of smart city technology:

That Council:

1. Re-affirms its commitment to providing appropriate smart city technology in the delivery of the Council adopted City Plan and Digital Salisbury, in particular noting the cost saving opportunities and practical application merits for the City, such as smart lighting, parking, city navigation, bin collection etc, and that Council does not support the usage of real time facial recognition software technology.
2. Requests the Administration to develop a community communication plan for Council consideration to explain the extent and application of Smart City Technology across the City of Salisbury council area, in recognition that recent material posted on social media and has been letterboxed to residents' homes, may be regarded as misleading or incorrect.

#### **Shared Post and Caption**

- 3.2 The Shared Post is a video published by Senator Alex Antic on his Facebook

page 'Senator Alex Antic'. Senator Alex Antic posted the following caption on his own post:

*'Your city is tracking you.*

*The City of Unley is openly displaying the type of information that it is gathering about park users!*

*Watch as I explore what these so-called "smart" cities will do to your digital future [sic]'*

- 3.3 Senator Alex Antic's post also includes a video of him discussing smart cities.
- 3.4 Senator Alex Antic's post, including his own caption and the video, are not the subject of the Complaints.
- 3.5 The Caption, published by Cr Bawden when she published the Shared Post, states the following:

*'STILL DON'T UNDERSTAND SMART CITIES?  
Here's a Hitchhikers Guide...*

*....  
REPOSTED:  
WHAT DO YOU KNOW ABOUT SMART CITIES?*

*It is clear many Councillors do not know or understand the origins or indeed the politics of SMART Cities, whilst many others have been "trained" (i.e., lobbied or brain washed) to embrace SMART Cities philosophies without question. Most Councillors seem ignorant or indifferent about how SMART City technologies are likely to impact on the personal freedoms & privacy of residents, nor do residents themselves appear to have been consulted about the financial, social and business costs to ratepayers of these technologies being deployed.*

*SMART Cities also embrace such concepts as: Net Zero, Geofencing, Geoengineering, Climate Lockdowns, Fourth Industrial Revolution, Decarbonisation, Cashless Society, Central Bank Digital Currency, Basic Income, Social Credit Score, Wealth Redistribution/ Restitution, Transhumanism & much, much more.*

*WHERE ARE WE GOING?*

*SMART Cities is designed to concentrate power over people into the hands of a tiny, influential (usually corrupt) group of powerful elites, in which you & your data is the product & collateral. Initially that will be people such as your local Mayor, a tiny delegation of Councillors (usually aligned to a major political party) & General Managers, property developers, legal firms & the like which will directly or indirectly receive money that filters down from the WEF/UN and other Globalist entities.*



*In the longer term these people will become the equivalent of Kapos (Jewish prison guards) whose role will be to keep you compliant with the most draconian measures the world will ever know, as it moves in "Lockstep" with the directives of multinational corporations, World Bank, World Economic Forum (WEF), World Health Organisation (WHO) & United Nations (UN).*

*Is it any wonder some Councillors won't relinquish their access to power over your personal & private affairs &, worse still, will gleefully sell you out to [sic] for just a taste of power. The LGA is pushing SMART Cities and using "feel good" language & terminologies to entice you to embrace the promises of convenience, efficiency & safety, but in fact it will bring with it the absolute opposite - unaccountable, unelected, bureaucratic elites who will rule over you with impunity!*

#### MYTHS AND FACTS OF SMART CITIES

*MYTH 1: SMART Cities is a "Conspiracy Theory" [...started by Senator Alex Antic].*

*FACT 1: SMART stands for "Self-Monitoring, Analysis & Reporting Technology". Local Councils, including City of Salisbury, Unley & Adelaide, have provided limited information on plans to roll out SMART City technologies, but sufficient information to demonstrate that Councils are surreptitiously implementing these technologies without informing the public about the risks to their personal safety, privacy & Constitutional rights. In a video of the SMART City billboard in Unley, Senator Antic factually outlines the technology used in the City of Unley.*

<https://www.facebook.com/SenatorAntic/videos/1041146827286400>

- 3.6 The Shared Post and the Caption are included in the summary document at Annexure A to the report.
- 3.7 While it appears that Cr Bawden has made additional comments on the Shared Post as additional 'myths of smart cities', seemingly as a continuation of the Caption, those comments have not formed part of the Complaints and therefore have not been taken into consideration in preparing this report.

#### First Complaint

- 3.8 Complainant A alleges in the First Complaint that:
- 3.8.1 Cr Bawden's reference to Councillors becoming Jewish prison guards (Kapos) is anti-semitic, highly offensive and inappropriate, especially given that many people in the community have family connections that served in or have fled the World War conflicts and concentration

camps;

3.8.2 Members of the Council's community, including its Jewish community, Holocaust survivors, veterans and their families, may also share the Complainant's feelings (or indeed have greater feelings) of offense and hurt.

3.9 Complainant A alleges that Cr Bawden has breached clauses 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.3, 2.5 and 3.1 of the Behavioural Standards.

### Second Complaint

3.10 Complainant B alleges in the Second Complaint that Cr Bawden has breached clauses 1.2, 1.4, 1.5, 3.1 and 3.2 of the Behavioural Standards.

### **Relevant Provisions of Behavioural Standards**

3.11 The Behavioural Standards referred to above which Cr Bawden has allegedly breached in respect of the Complaints are set out below:

#### ***'Council members must:***

##### ***1. General behaviour***

- 1.1 Show commitment and discharge duties conscientiously.*
- 1.2 Act in a way that generates community trust and confidence in the Council.*
- 1.3 Act in a manner that is consistent with the Council's role as a representative, informed and responsible decision maker, in the interests of its community.*
- 1.4 Act in a reasonable, just, respectful and non-discriminatory way.*
- 1.5 When making public comments, including comments to the media, on Council decisions and Council matters, show respect for others and clearly indicate their views are personal and are not those of the Council.*

##### ***2. Responsibilities as a member of Council***

- 2.1 Comply with all applicable Council policies, codes, procedures, guidelines and resolutions.*
- 2.2 Take all reasonable steps to provide accurate information to the community and the Council.*
- 2.3 Take all reasonable steps to ensure that the community and the*

*Council are not knowingly misled.*

...

- 2.5 *Act in a manner consistent with their roles, as defined in section 59 of the Act.*

### **3. Relationship with fellow Council Members**

- 3.1 *Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members.*

- 3.2 *Not bully other Council members.'*

## **4. PROCEDURAL FAIRNESS – RESPONSE TO PROVISIONAL REPORT**

- 4.1 The provisional report included some provisional findings which were adverse to Cr Bawden.
- 4.2 As set out earlier in this report, Cr Bawden and the Complainants were each provided a provisional report and were granted an opportunity to respond to our provisional findings, conclusions and recommendations in accordance with the Policy.
- 4.3 Only Cr Bawden provided a response. Aspects of her response are not relevant to this provisional report. Relevant portions of Cr Bawden's response are set out below:

*'...*

*Please be advised that I categorically REJECT your investigation methods and alleged findings to date.*

*Similarly, I vehemently REJECT your claims and accusations in Provisional and Final reports.*

*I also REJECT your biased and unlawful means of finding me guilty of things in relation to which you have no lawful or proper place to make any judgement; whilst denying me natural justice and trespassing over my lawful and Constitutional rights to free political speech.*

...

*Accordingly, I will not be responding further to any future anonymous and manufactured claims of wrongdoing.*

*Your efforts to date, and those of Council, amount to an improper attempt to corrupt me and my capacity to perform my duties of representing my constituents, without just cause & without the benefit of proper legal representation.'*

- 4.4 Although Cr Bawden has not provided any particulars to substantiate any of the above claims, it is in our view appropriate to deal with Cr Bawden's submission that she has been denied natural justice.
- 4.5 The terms 'natural justice' and 'procedural fairness' are interchangeable. In the present case, procedural fairness requires that Cr Bawden be given a reasonable opportunity to be heard, and that a decision be made which is free from actual or apprehended bias.
- 4.6 Cr Bawden has been given an opportunity to be heard. In accordance with the Policy, Cr Bawden has been afforded two opportunities to respond and provide information for our consideration, first when provided with the summary document and second when provided with the provisional report. Cr Bawden did indeed provide comments in response to the provisional report. In our view, this aspect of the Council obligation of procedural fairness has been discharged.
- 4.7 As for the assertion that Norman Waterhouse is 'biased', we note that it is a fundamental aspect of procedural fairness that a decision should not only be free from actual bias, but also free from any 'reasonable apprehension of bias'. While we reject any assertion of actual bias, it is still appropriate to turn our minds to whether there could be any reasonable apprehension of bias on our part.
- 4.8 The legal test as to whether a reasonable apprehension of bias exists is whether a fair-minded and informed observer might reasonably apprehend that the decision-maker might not be impartial or approach the issue with an open mind.<sup>1</sup> This is an objective test assessed by reference to a hypothetical observer, not a subjective test based upon the views of the person making the

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<sup>1</sup> *Webb v R* (1994) 181 CLR 41; *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337; *McGovern v Ku-Ring-Gai Council* (2008) 72 NSWLR 504 ('*McGovern*').

allegation. The hypothetical fair-minded and informed observer should in this case be ascribed with knowledge of the actual circumstance of the case, and the knowledge which a member of the general public would have about how business is conducted in the institutional setting of a local government council.<sup>2</sup>

4.9 In the present case, the hypothetical fair-minded and informed observer would:

4.9.1 know that Norman Waterhouse has no particular relationship with Cr Bawden;

4.9.2 know that the conclusions which are reached in this report, and the ultimate outcome of the complaints which are the subject of this report (whatever that outcome may be) have no direct or meaningful consequences for Norman Waterhouse or any of its legal practitioners in any personal or pecuniary way;

4.9.3 have reviewed the entire contents of this report, including the reasoning underlying our conclusions.

4.10 Further, this observer would have reviewed the Policy and would therefore understand that Norman Waterhouse is *not* the final decision-maker. Norman Waterhouse's role under the Policy is to prepare this report. However, it is the Council elected body which makes the final decision in this matter. Ultimately, the Council will decide whether and how it will respond to the findings and recommendations in this report. The 'decision-maker' whose decision will be scrutinised by the hypothetical fair-minded and informed observer is the Council, not Norman Waterhouse.<sup>3</sup>

4.11 As for what standard the hypothetical fair-minded and informed observer expects of individual council members, it has been observed that:<sup>4</sup>

the fair-minded observer will expect little more [of a council member] than an absence of personal interest in [a] decision and a willingness to give genuine and

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<sup>2</sup> *McGovern* [78]-[83].

<sup>3</sup> See *Hot Holdings v Creasy* (2002) 210 CLR 438. The fact that Norman Waterhouse is not the actual decision-maker is not determinative of the question of apprehended bias. However, it is a relevant matter which the hypothetical fair-minded and informed observer will be aware of and will have regard to.

<sup>4</sup> *McGovern* [80].

appropriate consideration to [an] application, the matters required by law to be taken into account and any recommendation of council officers.

- 4.12 In light of all of the foregoing, we consider that a fair-minded and informed observer would not reasonably apprehend that Norman Waterhouse's involvement in this investigation means the decision-maker (i.e. the Council elected body) might not bring an impartial and open mind to the determination of this matter. We accordingly do not consider that this investigation process is affected by bias, or by a reasonable apprehension of bias.
- 4.13 In relation to Cr Bawden's assertion that the Complaints are anonymous, this is not correct. The Complainants have identified themselves in their complaints however they have requested that their identities be kept confidential. This is permitted by the Policy.
- 4.14 In respect of Cr Bawden's submission that her '*lawful and Constitutional rights to free political speech*' have been trespassed, we refer to our comments below in paragraphs 5.4 to 5.9 below.

## 5. FINDINGS

- 5.1 Findings have been made, on the balance of probabilities, in respect of the Complaints.

### **Preliminary Observations**

#### **Social media activities are subject to the Behavioural Standards**

- 5.2 The subject matter of the Complaints relate to online social media activity of Cr Bawden. Those activities relate to a Council matter, namely the issue of smart cities, and were carried out in a publicly visible manner. In light of this, we consider it salient to make the following observations.
- 5.3 The Behavioural Standards apply to all Council members, at all relevant times. They also apply to activities on social media just as much as they apply to activities in other forums. Neither the Behavioural Standards themselves, nor section 75E of the *Local Government Act 1999* (SA) (**the LG Act**) (pursuant to which the Behavioural Standards are made), limit the application of the Behavioural Standards only to certain times or restrict the way the Behavioural Standards apply in the context of social media specifically.

**Distinction between holding a political view, and the *manner* of expressing the view**

- 5.4 When considered together with, and in the context of, the Council's support of smart cities and Cr Bawden's stated opposition to smart cities at the December 2022 Council meeting, it is clear that the Shared Post and the Caption are efforts by Cr Bawden to further express her opposition to smart cities.
- 5.5 Cr Bawden is entitled to oppose the Council's smart cities policy. Cr Bawden is also entitled to express that opposition in public forums. Indeed, it is an expected and fundamental part of any democratic governing body that individual members will have and will express political views, including views which conflict with the majority position, to each other and to the electorate at large.
- 5.6 However, the *manner* in which political views can be expressed by a Council member is regulated by the Behavioural Standards, and by the Policy. That is, a Council member can express any political view they like, but must do so within the behavioural parameters set out in the Behavioural Standards. It is the South Australian Parliament which decided that these Behavioural Standards should exist, by virtue of section 75E of the LG Act. It is the South Australian Minister for Local Government who has published the Behavioural Standards. It is also the South Australian Parliament which has decided that the Council should investigate alleged breaches of the Behavioural Standards, by virtue of section 262B of the LG Act. The Council has not presently set any additional behavioural parameters of its own, pursuant to section 75F of the LG Act.
- 5.7 Our role, having been appointed by the Council under the Policy (which is the Council's policy for the purpose of section 262B of the LG Act), is to examine whether or not Cr Bawden has expressed political views in a *manner* which is not compatible with the Behavioural Standards imposed by the South Australian Minister for Local Government.
- 5.8 Nothing in this report is intended to criticise or endorse any particular political view, or to suggest any particular political view can or cannot validly be held by an elected representative. It is the electorate which judges the wisdom or otherwise of the political views held by their representatives, through the

mechanism of elections. It is the Council which judges (because it is required to under the LG Act) whether or not the *manner* in which views are expressed contravenes the Behavioural Standards.

- 5.9 It is our view that Cr Bawden's choice to express her opposition to smart cities in by publishing the Shared Post and making the Caption was a *manner* of expression of a political view which contravened certain provisions of the Behavioural Standards.
- 5.10 This is now dealt with in more detail, by reference to the Complaints.

#### First Complaint

- 5.11 On the balance of probabilities, we have found that by publishing the Shared Post and making the associated Caption, Cr Bawden has asserted, in light of the City of Salisbury's support of smart cities, that:
- 5.11.1 Some members of the Council do not know or understand smart cities, and are ignorant or indifferent about how smart cities technology will impact on the personal freedoms and privacy of residents;
- 5.11.2 Other Council members have been 'brainwashed' in respect of smart cities;
- 5.11.3 The Mayor and a group of Council members and Council employees are receiving or will receive money directly or indirectly from the World Economic Forum/United Nations and other 'globalist' entities in exchange for implementing smart city technologies;
- 5.11.4 Those people will become the equivalent of '*Kapos (Jewish prison guards)*' whose role will be to keep the community compliant with draconian measures imposed by multinational corporations, the World Bank, the World Economic Forum, the World Health Organisation and the United Nations; and
- 5.11.5 Those people will 'sell out' the community to gain power over them;

#### **(the Assertions).**

- 5.12 Cr Bawden has not breached clause 1.1 of the Behavioural Standards which requires her to show commitment and discharge duties conscientiously. We



are not of the view that the Shared Post and the Caption relate to Cr Bawden's commitment and ability to discharge her duties conscientiously.

- 5.13 Cr Bawden has breached clause 1.2 of the Behavioural Standards by failing to act in a way that generates community trust and confidence in the Council. The Caption must be considered in conjunction with the Shared Post.
- 5.14 Both the Shared Post and the Caption were made in a manner visible to the public. The Assertions made in the Caption are strongly negative. The Assertions suggest that the Mayor of the Council and some Council members and Council employees (although Cr Bawden has not identified any Council members or employees specifically) have received or intend to receive bribes from organisations such as the World Economic Forum and the United Nations in exchange for implementing smart city technology. This would be criminal conduct. However, there is no credible supporting factual information provided with the Shared Post or Caption, nor are we aware of any other factual information supporting these serious allegations.
- 5.15 Further, the Caption states that those same people will become the equivalent of '*Kapos (Jewish prison guards)*' in the sense that their roles will be to keep members of the community compliant with draconian measures implemented by multinational corporations. 'Kapos' were prisoners in Nazi concentration camps who were assigned to supervise other prisoners in exchange for privileges. It is generally considered to be an extreme insult when referring specifically to Jewish Kapos. Cr Bawden has referred specifically to Jewish Kapos. We understand that the use of such an insult (and the trivialisation of the Holocaust which is inherent in using such an insult in a matter of local politics) is very likely to offend not just the person at whom the insult is directed, but many members of the Jewish community and the community more generally.
- 5.16 We consider the Assertions to be serious and they were clearly intended to diminish community trust and confidence in the Council. Despite the absence of any apparent factual basis for the Assertions in the Caption, we consider it appropriate to proceed on the basis that some persons will believe the Assertions. This is because it is in our view necessary to assume that there will

be at least some small group of individuals with '*a lack of interest or naivety*'<sup>5</sup> who may view the Shared Post and the Caption and believe the Assertions, despite the absence of any supporting factual information.

- 5.17 Given that the Assertions in the Caption are of criminal and otherwise deplorable behaviour by Council members and employees (and others), and given that some persons will believe these Assertions, the publishing of the Shared Post and the Caption constitutes acting in a way which does not generate community trust and confidence in the Council. Further, many persons who do not believe the Assertions in the Caption will undoubtedly be disappointed to see a Council member making such unsupported allegations against fellow Council members, and Council employees, in a public forum, in a manner involving the use of insensitive, racially-charged terminology. This in our view further supports the conclusions that the publishing of the Shared Post and the Caption constitutes acting in a way which does not generate community trust and confidence in the Council.
- 5.18 Cr Bawden has breached clause 1.3 of the Behavioural Standards by failing to act in a manner that is consistent with the Council's role as a representative, informed and responsible decision maker, in the interests of its community. The matter of whether to support smart cities is within the decision-making purview of the Council. There is no evidence before us that the Mayor or any members or employees of the Council are directly or indirectly obtaining money from 'globalist entitles' in exchange for their support of smart cities, nor was the Shared Post or Caption accompanied by any credible supporting factual information to this effect. We consider that it was irresponsible of Cr Bawden to have shared the Shared Post and published the Caption, without any supporting factual information, regarding a matter within the decision-making purview of the Council. Cr Bawden's behaviour in this regard was therefore not consistent with the Council's role as a representative, informed and responsible decision maker.

- 5.19 Cr Bawden has breached clause 1.4 of the Behavioural Standards by failing to

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<sup>5</sup> See *Garbett v Liu* [2019] FCAFC 241 [148], in which the Full Court of the Federal Court of Australia considered it necessary to proceed on this basis when considering Commonwealth legislative provisions regarding misleading electoral material. Although that case concerns a different statutory context, we consider that it is similarly appropriate in the context of the Behavioural Standards to consider the full breadth of the 'community' in whom Council members must seek to promote trust and confidence in the Council. This includes gullible members of the community.

act in a reasonable, just, respectful and non-discriminatory way. Cr Bawden's conduct in publishing the Caption suggests that some Council members and Council employees:

- 5.19.1 in some instances, are not capable of understanding smart cities;
- 5.19.2 in other instances, have been brainwashed in respect of their support of smart cities;
- 5.19.3 conspire with organisations such as the World Economic Forum and United Nations to receive money directly or indirectly in exchange for their support of smart cities;
- 5.19.4 so long as they continue to support smart cities, will become equivalent to Jewish Kapos (which, as discussed, is a particularly grave and insensitive insult) and control the community at the direction of multinational corporations;
- 5.19.5 will 'sell the community out' for a taste of power.

These suggestions are unreasonable, unjust and disrespectful towards Council members and Council employees.

- 5.20 Cr Bawden has breached clause 1.5 of the Behavioural Standards by failing to, when making public comments on Council decisions and Council matters, show respect for others and clearly indicate their views are personal and are not those of the Council. The Shared Post and the Caption were public comments in relation to 'Council matters' – i.e. smart cities. In publishing the Shared Post and the Caption, Cr Bawden failed to show respect for others by making the Assertions about members and employees of the Council. There was also nothing at the time of publishing the Shared Post and the Caption which indicates that they were views of Cr Bawden and not the Council.
- 5.21 Cr Bawden has not breached clause 2.1 of the Behavioural Standards which requires Cr Bawden to comply with all applicable Council policies, codes, procedures, guidelines and resolutions. The only instrument which Cr Bawden is specifically alleged to have breached is the Behavioural Standards, which is not a Council document.
- 5.22 Cr Bawden has breached clause 2.2 of the Behavioural Standards by failing to

take all reasonable steps to provide accurate information to the community and the Council. We again observe that the Shared Post and Caption were not accompanied by any credible supporting factual information, nor are we aware of any such information. Given the very serious nature of the allegations contained in the Assertions, in our view 'reasonable steps' to provide accurate information in this case would involve setting out at least some form of factual basis for the allegations, rather than just pure conjecture. Cr Bawden, on the balance of probabilities, has in our view not taken all reasonable steps to provide accurate information to the community.

5.23 Cr Bawden has breached clause 2.3 of the Behavioural Standards by failing to take all reasonable steps to ensure that the community and the Council are not knowingly misled. Based on the evidence available to us, there is no basis to assert that the Mayor or any of the Council's members or employees '*do not know or understand the origins or indeed the politics*' of smart cities, that they receive money from 'globalist entities' in exchange for their support of smart cities, or that they are conspiring to concentrate power over the community and 'sell out' the community. We again observe that there is no credible supporting factual information for these assertions. We also repeat our observation that, despite the lack of supporting information, a handful of persons may believe that Council members and employees are indeed engaged in such activities. Accordingly, by publishing the Shared Post and the Caption, Cr Bawden has, on the balance of probabilities, failed to take all reasonable steps to ensure that the community are not knowingly misled.

5.24 Cr Bawden has breached clause 2.5 of the Behavioural Standards which states that a council member must act in a manner consistent with their role, as defined in section 59 of the LG Act. In particular, Cr Bawden's conduct is inconsistent with section 59(1)(a)(ii) of the LG Act which requires Cr Bawden to ensure positive and constructive working relationships within the Council. Cr Bawden's Assertions in the Caption that Council members do not know or understand smart cities, that they are engaged in bribery with 'globalist entities', that they will become equivalent to Jewish 'Kapos' (again, this is a particularly grave and insensitive insult) and 'sell out' members of the community, are not consistent with ensuring positive and constructive working relationships.

5.25 Cr Bawden has not breached clause 3.1 of the Behavioural Standards by failing to establish and maintain relationships of respect, trust, collaboration and

cooperation with all Council Members. The substantiation of any breach of clause 3.1 of the Behavioural Standards would require evidence of actual failure to establish and maintain relationships of respect, trust, collaboration, and cooperation with Council members. Given that the establishment of relationships takes time, and the Shared Post and the Caption occurred very early in Cr Bawden's term as a Councillor, we consider it unlikely that the Shared Post and the Caption could be found to be responsible for any such failure.

### Second Complaint

- 5.26 In respect of the alleged breaches of clauses 1.2, 1.4, 1.5 and 3.1 of the Behavioural Standards set out in the Second Complaint, we refer to our findings set out above in relation to the First Complaint.
- 5.27 In respect of Cr Bawden's alleged breach of clause 3.2 of the Behavioural Standards, we are not satisfied, on the balance of probabilities, that Cr Bawden in publishing the Shared Post and Caption, has bullied other Council members.
- 5.28 Complainant B has not specified in the Second Complaint who Cr Bawden has allegedly bullied in respect of the Shared Post and the Caption.
- 5.29 In any event, the Behavioural Standards provide as follows:

*'An elected member will be considered to **bully** other Council members or Council employees if:*

*the Council member either, as an individual Council member or as a member of a group:*

*a) repeatedly behaves unreasonably towards another Council member, or employee; and*

*b) the behaviour could reasonably be considered to be distressing, victimising, threatening or humiliating.'*

- 5.30 The Shared Post and the Caption do not in our view meet the definition of bullying as set out in the Behavioural Standards.

## **6. CONCLUSION**

- 6.1 Based on the findings made in relation to the Complaints, Cr Bawden has, in our view, on the balance of probabilities, breached clauses 1.2, 1.3, 1.4, 1.5, 2.2, 2.3 and 2.5 of the Behavioural Standards by publishing the Shared Post and the Caption.

## **7. RECOMMENDATION**

- 7.1 It is our recommendation in accordance with clause 4.5.5 of the Policy that the Council:
- 7.1.1 require Cr Bawden to issue a public apology in respect of her conduct in a manner determined by the Council and in a timeframe determined by the Council;
  - 7.1.2 pass a censure motion in respect of Cr Bawden's conduct which is the subject of findings of breaches of the Behavioural Standards as set out in this report; and
  - 7.1.3 require Cr Bawden to complete a cultural diversity and inclusion training course, with the specific course to be determined by the Mayor on recommendations from the Equal Opportunity Commission or similar body, within 3 months of the Council making a decision in relation to this matter, subject to the availability of the chosen training provider.

Norman Waterhouse Lawyers  
18 April 2023

## ANNEXURE

AYG/AYG/14409/511323/2317801

## Annexure A

CITY OF SALISBURY – ALLEGED BREACHES OF THE BEHAVIOURAL STANDARDS FOR  
COUNCIL MEMBERS BY CR GRACE BAWDEN

SUMMARY DOCUMENT DATED 9 MARCH 2023

## SECOND PART OF INVESTIGATION

The circumstances in which the breach is alleged to have occurred is the following post and caption published by you on Facebook on 22 January 2023 in which you shared a post of Senator Alex Antic originally published on 7 December 2022:



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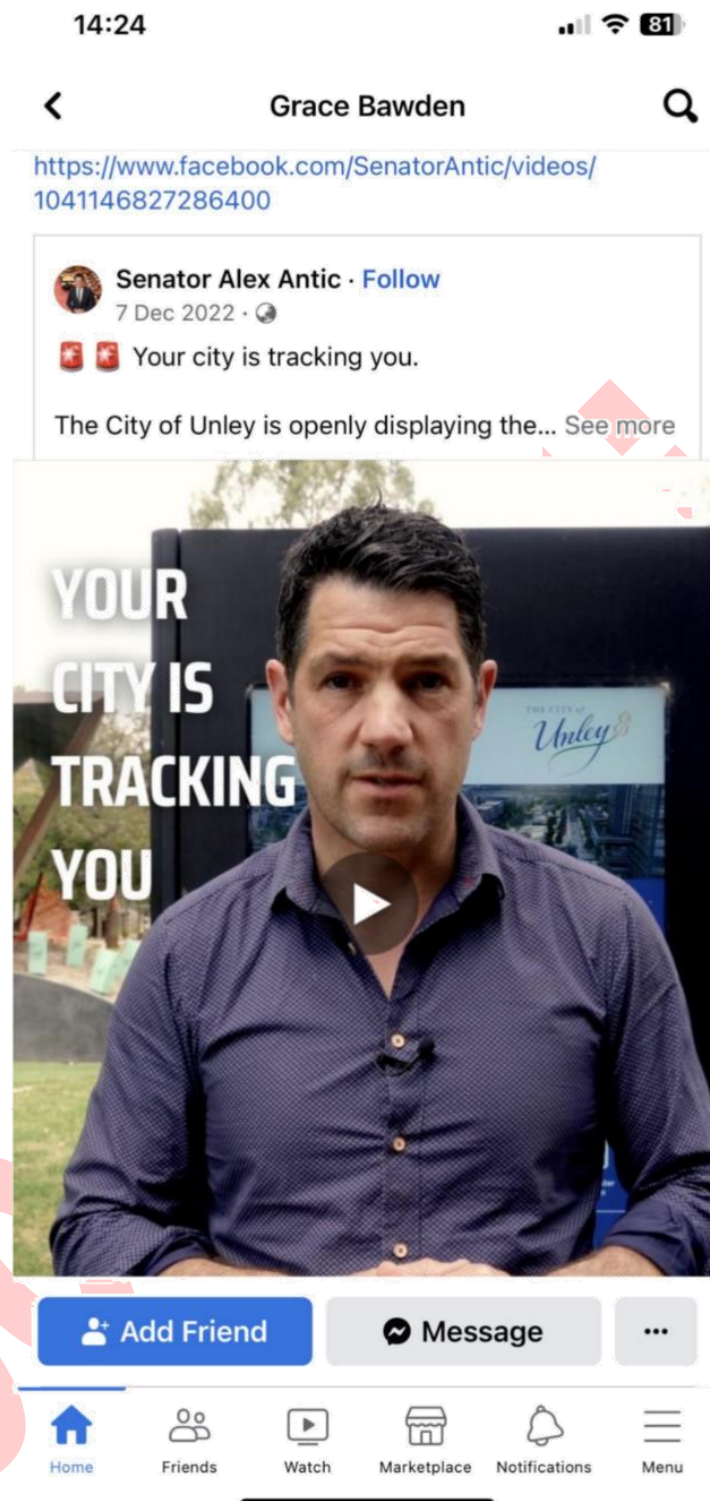




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The specific provisions of the Behavioural Standards for Council Members alleged to have been breached are clauses 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.3, 2.5, 3.1 and 3.2.

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# Model Behavioural Management Policy

August 2022

Item C2 - Attachment 2 - Model Behavioural Management Policy



**Local Government Association**  
of South Australia

LG Equip


*This model policy was developed in preparation for the commencement of the Behavioural Management Framework as part of the implementation of the Statutes Amendment (Local Government Review) Act 2021 and associated changes to the Local Government Act 1999 and endorsed by the LGA Board on 23 August 2022.*

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

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LGA of SA
ECM 781625
Model Behavioural Management Policy: Approved 23 August 2022



	Local Government Association of South Australia	<b>LG Equip</b>
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## Foreword

This model policy document has been developed to assist councils with the implementation of reforms associated with behavioural management for council members, arising from the *Statutes Amendment (Local Government Review) Act 2021*.

All councils must adopt a Behavioural Management Policy relating to the management of behaviour of council members, including the process for receipt and management of a complaint received regarding the conduct of a council member.

Section 262B of the *Local Government Act 1999* (the Local Government Act) sets out a range of matters that must be included within the policy and requires that council review the operation of the Behavioural Management Policy within 12 months after the conclusion of each periodic election.

## Legal Framework

There are four components to the Elected Member Behavioural Management Framework (BMF).

- Part 1 The legislative framework within which all council members must operate.
- Part 2 The Behavioural Standards for Council Members, determined by the Minister for Local Government (developed in consultation with the local government sector), which apply to all council members in South Australia.
- Part 3 The mandatory *Behavioural Management Policy* relating to the management of behaviour of council members and adopted pursuant to section 262B of the Local Government Act.
- Part 4 Optional *Behavioural Support Policy* (or policies), designed to support appropriate behaviour by council members and adopted pursuant to section 75F of the Local Government Act.

In addition, the Behavioural Standards Panel, an independent statutory authority comprising three members with powers to impose sanctions on council members who breach legislative and policy requirements has been established<sup>1</sup> to assess and deal with matters referred to it.

## LGA Mutual Liability Scheme and LGA Workers Compensation Scheme

In managing matters within the scope of the Behavioural Management Framework, councils must also adhere to the Local Government Association Mutual Liability Scheme (LGAMLS) and/or the Local Government Association Workers Compensation Scheme (LGAWCS) Rules. Where an incident, circumstance or matter occurs which may give rise to a claim, councils must provide notice to the LGAMLS and/or LGAWCS in accordance with the LGAMLS & LGAWCS Scheme Rules. The provision of early notice allows for adequate risk management and prevention strategies to be put in place so as to absolutely minimise risk.

<sup>1</sup> Chapter 13, Part A1—Member Behaviour, Division 2—Behavioural Standards Panel, *Local Government Act 1999*

## Commencement of Behavioural Management Framework

The provisions relevant to the Behavioural Management Framework are intended to commence immediately following the 2022 council periodic elections. At this time, the Behavioural Standards for Council Members will replace the former Code of Conduct for Council Members. At the same time, the investigative and disciplinary powers of the Behavioural Standards Panel will commence.

To support councils' compliance with the Behavioural Management Framework requirements, transitional provisions will be enacted which will deem the LGA's Model Policy as *the* Behavioural Management Policy for each council. At any time afterwards, councils can review their Behavioural Management Policy and determine any changes it may wish to make to the document.

The LGA Model Behavioural Management Policy was developed in consultation with Local Government Risk Services, the Office of Local Government and the LGA's *Legal Connect* partners, Norman Waterhouse Lawyers. The Model Policy sets the framework which is consistent with the legislative requirements. However, there are a range of matters within the Policy that councils may wish to customise to meet requirements specific to each council when consideration is given to changes to the Policy.

The LGA Model Behavioural Management Policy reflects the changes to the role of the principal member of council, set out in section 58 of the *Local Government Act 1999*. Consistent with the increased leadership obligations, the Policy assigns responsibility for the management of complaints to the Mayor (except in circumstances where the complaint relates to the conduct of the Mayor). Councils may determine and appoint an alternative person to be responsible for managing any complaints received in accordance with this Policy.

Councils are required to consider the adoption of a Behavioural Support Policy (or policies)<sup>2</sup> and the LGA has developed a model Behavioural Support Policy to assist with that consideration. Behavioural Support Policies are intended to support appropriate behaviours by members of the council and will assist with meeting obligations relating to leadership and positive and constructive working relationships as set out in sections 58 and 59 of the *Local Government Act*.

<sup>2</sup> Section 75F(7) of the *Local Government Act 1999* requires councils, within six months after the conclusion of each periodic election to review the operation of existing Behavioural Support Policies, or consider whether it should adopt a Behavioural Support Policy.

## Behavioural Management Policy

Responsibility	Chief Executive Officer
Effective date	From the day on which section 147(6) of the Statutes Amendment (Local Government Review) Act 2021 comes into operation
Next review date	Refer to regulation 16 of the <i>Local Government (Transitional Provisions) (Conduct) Amendment Regulations 2022</i>
Applicable Legislation	Local Government Act 1999 s262B <i>Local Government (Transitional Provisions) (Conduct) Amendment Regulations 2022</i>

### 1. Purpose

This Policy has been prepared and adopted pursuant to section 262B of the *Local Government Act 1999* (the Local Government Act).

This Behavioural Management Policy forms part of the Behavioural Management Framework for council members and sets out the approach to the management of complaints about the behaviour of council members. It sets out the process to be adopted where there has been an alleged breach of the Behavioural Standards for Council Members, this Behavioural Management Policy and/or any Behavioural Support Policy adopted by the Council (***the behavioural requirements***).

### 2. Glossary

***Behavioural Management Framework*** – comprises four components:

- The legislative framework within which all council members must operate;
- The Behavioural Standards for Council Members, determined by the Minister for Local Government, which apply to all council members in South Australia;
- The mandatory Behavioural Management Policy (this document) relating to the management of behaviour of council members and adopted pursuant to section 262B of the Local Government Act;
- Optional Behavioural Support Policy (or policies) designed to support appropriate behaviour by council members and adopted pursuant to section 75F of the Local Government Act.

***behavioural requirements*** – in this document refers collectively and individually to the Behavioural Standards for Council Members, the Behavioural Management Policy and any Behavioural Support Policies adopted by the Council.

***Behavioural Standards for Council Members*** – established by the Minister for Local Government, and published as a notice in the SA Government Gazette, specifying standards of behaviour to be observed by members of councils; and providing for any other matter relating to behaviour of members of councils.



**frivolous** – includes without limitation, a matter of little weight or importance, or lacking in seriousness.

**misbehaviour** – is defined in section 262E of the *Local Government Act 1999* as:

- (a) A failure by a member of a council to comply with a requirement of the council under section 262C(1); or
- (b) A failure by a member of a council to comply with a provision of, or a requirement under, the council's behavioural management policy; or
- (c) A failure by a member of a council to comply with an agreement reached following mediation, conciliation, arbitration or other dispute or conflict resolution conducted in relation to a complaint under Division 1

**person responsible for managing the complaint** means, subject to any resolution of the Council to the contrary –

1. the Mayor;
2. if the complaint relates to or involves the Mayor, the Deputy Mayor;
3. if the complaint relates to or involves the Mayor and Deputy Mayor, another council member appointed by Council.

**repeated misbehaviour** – is defined in section 262E of the *Local Government Act 1999* as a second or subsequent failure by a member of a council to comply with Chapter 5 Part 4 Division 2 (Ch 5-Members of council, Pt 4-Member integrity and behaviour, Div 2-Member behaviour)

**serious misbehaviour** – is defined in section 262E of the *Local Government Act 1999* as a failure by a member of a council to comply with section 75G (Health and safety duties)

**trivial** – includes without limitation, a matter of little worth or importance; that is trifling; or insignificant.

**vexatious** – includes a matter raised without reasonable grounds or for the predominate purpose of causing annoyance, delay or detriment, or achieve another wrongful purpose

### 3. Principles

Nothing in this Policy is intended to prevent council members from seeking to resolve disputes and complaints in a proactive, positive and courteous manner before they are escalated.

The following principles will apply:

- Where a council member considers there has been behaviour that is inconsistent with the **behavioural requirements** is, a council member may, in appropriate circumstances, seek to respectfully and constructively raise this issue with the member concerned, without the need to lodge a complaint under this Policy;
- If a matter proceeds to a complaint, all council members will continue to comply with the procedures set out in this Policy and support the person responsible for managing the complaint;
- a consistent approach to the assessment, investigation and resolution of complaints will be adopted to facilitate timely and efficient resolution and minimisation of costs;



- Where required, Council may engage the assistance of skilled advisors and support persons in the assessment, investigation and resolution of complaints and avoid adopting an unreasonably legalistic approach.
- ongoing training and relevant resources will be provided to all council members to ensure they have the skills and knowledge necessary to perform their role in accordance with the **behavioural requirements** and the *Local Government Act 1999*.
- training and relevant support will be provided to persons with specific obligations under this Policy to facilitate the management, reporting and resolution of complaints alleging a breach of the **behavioural requirements**.

Council will manage complaints under this Policy with as little formality and technicality and with as much expedition as the requirements of the matter and the Local Government Act allow and with proper consideration of the matter. Council is not bound by rules of evidence but will inform itself in the manner considered most appropriate given the nature of the complaint.

#### 4. The Complaint Management Process

This Policy sets out the procedures for dealing with an allegation of a breach of the **behavioural requirements** applying to council members. These procedures do not apply to complaints about council employees or the council as a whole.

A complaint made in accordance with this Policy must be lodged within 6 months of the behaviour that is inconsistent with the **behavioural requirements** occurring. A decision may be made to accept a complaint lodged more than 6 months after the behaviour that is inconsistent with the **behavioural requirements** occurring on a case-by-case basis, at the discretion of the person responsible for managing the complaint.

Community members can lodge a complaint with the Council in accordance with this Policy but cannot lodge a complaint directly with the Behavioural Standards Panel.

##### 4.1. Dispute versus Complaint

It is important to distinguish between a dispute and a complaint. A dispute is generally a difference of opinion or disagreement between two parties. It may involve a heated discussion or some other unsatisfactory exchange between parties but may not amount to conduct inconsistent with the **behavioural requirements**. Ideally disputes will be handled directly by the parties involved and will not escalate to a complaint requiring action (even informal action) under this Policy. The Mayor (or another person) may play a role in facilitating a resolution to a dispute.

This Policy is intended to deal with matters where conduct is alleged to have been inconsistent with the **behavioural requirements**, rather than where members of council have differences of opinion, even when robustly put.

##### 4.2. Confidentiality

Complaints made in accordance with this Policy will be managed on a confidential basis until such a time as they are required to be reported to Council in a public meeting in accordance with this Policy or are otherwise lawfully made public or disclosed.

Access to information relating to complaints and information about complaints will be limited to parties to the complaint and individuals with a responsibility within the complaint handling process or as otherwise provided for within this Policy<sup>3</sup>.

A person who has access to information about a complaint (including the complainant and the person complained about) must not directly, or indirectly disclose to any person (including to a council member) that information except:

- For the purpose of dealing with the complaint
- Where required by law
- For the purpose of obtaining legal advice or legal representation, or medical or psychological assistance from a medical practitioner, psychologist or counsellor
- Where the disclosure is made to an external party, investigating the complaint, or mediator/conciliator engaged in accordance with this Policy
- Where the information has been made public in accordance with this Policy or this Policy otherwise authorises or requires the disclosure of the information.

This is not to be confused with formal consideration at a Council Meeting of any matter arising from application of this Policy. Items presented to Council must be assessed on a case-by-case basis in accordance with the requirements of section 90 of the *Local Government Act 1999*.

A complainant may request their identity be kept confidential from the person complained about. This does not constitute an anonymous complaint. The person responsible for managing the complaint will consider such requests on a case-by-case basis, having regard to any applicable legal requirements.

#### 4.3. Stages of Action

This Policy has three distinct stages to the approach that will be taken to address complaints about the behaviour of Council Members:

- Part 1: Informal Action: Where the matter can be resolved directly between the parties.
- Part 2: Formal Action: Where the matter cannot be resolved using informal action and a formal process of consideration is required.
- Part 3: Referrals to the Behavioural Standards Panel: the circumstance under which the Mayor, the Council or other authorised person(s) will make a referral.

#### 4.4. Part 1: Informal action

Council encourages informal resolution of concerns regarding behaviour alleged to be contrary to the **behavioural requirements**. A person may therefore consider raising the matter directly with the council member concerned.

Alternatively, a person may raise their concern with the Mayor on an informal basis. If the concerns relate to or involve the Mayor the person may raise the matter with the Deputy Mayor (if appointed) or

<sup>3</sup> There are circumstances in the *Work Health and Safety Act 2012* where information must be disclosed, for example where the health and safety of an employee is at risk.





other council member appointed by the Council as the person responsible for managing complaints under this Policy.

If the Mayor or person responsible for managing the complaint considers that access to resources to support impacted parties and facilitate early resolution of the matter should be provided, the Mayor or person responsible for managing the complaint will request the CEO to facilitate access to relevant resources. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.

#### 4.4.1. Record keeping

Where the Mayor or person responsible for managing the complaint addresses the matter through informal action, a record should be made setting out:

- Details of the complainant
- Details of the person complained about
- A summary of the matter
- A summary of actions taken in response
- Details of agreed actions (if any)

If informal action does not successfully resolve the matter, the record may be made available to an investigation process as provided for under this Policy or to the Behavioural Standards Panel.

#### 4.5. Part 2: Formal action

This Part sets out the process for formal action in response to a complaint regarding the behaviour of council members and addresses the manner in which a complaint will be:

- Received
- Assessed
- Investigated
- Resolved
- Recorded

A complaint made under the Behavioural Management Policy must:

- be received in writing. Subject to an alternative resolution of the Council, a complaint should be marked with "Confidential Council Member Complaint" and forwarded to the relevant email or physical address as published on the Council's website.
- Provide the name of the council member who has allegedly breached the **behavioural requirements**, the name and contact details of the complainant, the name and contact details of the person submitting the complaint (if different to the complainant) and the name and contact details of any witnesses or other persons able to provide information about the complaint.
- Be specific (including identifying the **behavioural requirements** the complainant alleges have been breached)

- Provide as much supporting evidence as possible to assist an investigation, including the grounds and circumstances of the complaint (e.g. where, when, impact of the behaviour, actions taken to try to resolve the issue, relevant records or documents)
- Identify the outcome being sought
- Be lodged within six (6) months of the alleged conduct occurring on the basis that it is important to address alleged breaches of **behavioural requirements** in a timely manner (with discretion provided to the person responsible for managing the complaint to allow a longer time limit to apply in particular cases. This will be assessed on a case-by-case basis).

#### 4.5.1. Receipt of a Complaint

This step is an administrative process undertaken by the CEO or delegate:

- receipt
- initial acknowledgement
- record keeping; and
- allocation of the matter to the person responsible for managing the complaint.

The CEO or delegate does not undertake an assessment of the merits of the complaint.

Receipt of the complaint will be acknowledged within 2 business days or as soon as reasonably practicable and a copy of this Policy will be provided to the person making the complaint.

The complaint should be directed to the person responsible for managing the complaint in accordance with this Policy.

A complainant may withdraw their complaint at any stage.

#### 4.5.2. Initial complaint assessment

An initial assessment is not an investigation or adjudication of a complaint and no findings as to the merits of the complaint will be made at this stage.

##### Step 1

The person responsible for managing the complaint will undertake an assessment of it to determine whether the content of the complaint relates to the **behavioural requirements** and whether the conduct occurred in the context of the council member carrying out their official functions and duties.

In undertaking the assessment, the person responsible for managing the complaint will have regard to the following matters:

- the person that is making the complaint (or on whose behalf the complaint has been made) has a sufficient interest in the matter
- the complaint is trivial, frivolous or vexatious or not made in good faith

<sup>4</sup> The person responsible for managing the complaint will also have regard to whether the council has obligations to report the matter to either the Local Government Association Mutual Liability Scheme (LGAMLS) or the Local Government Association Workers Compensation Scheme (LGAWCS), pursuant to the Rules of those Schemes and council's agreement with those bodies.



- the complaint has been lodged with another authority
- the subject matter of the complaint has been or is already being investigated by the Council or another body
- it is unnecessary or unjustifiable for the Council to deal with the complaint
- the council has dealt with the complaint adequately.

## Step 2

If the person responsible for managing the complaint considers the matter warrants further consideration, the person complained about should be advised that a complaint has been received and is undergoing an initial assessment in accordance with this Policy. They should be provided a summary of the matter, at a sufficient level of detail, to understand the nature of the allegations and enable them to provide a preliminary response. This may be achieved by a discussion between the person responsible for managing the complaint and the person complained about, taking into account the principles of this Policy. The person complained about may have a support person present during any discussions.

The person complained about should be given a reasonable opportunity, but no more than ten business days, to provide a response to support the initial assessment. The person responsible for managing the complaint may provide a longer period of time for provision of a response at their discretion. The person responsible for managing the complaint should have regard to any response provided in determining the action resulting from the initial assessment.

## Action from initial assessment

The person responsible for managing the complaint will determine what action will result from the initial assessment. A matter may proceed to formal consideration under this Policy, unless there are grounds to take one of the following actions pursuant to section 262B(2)(b):

- refusing to deal with the complaint<sup>5</sup>
- determining to take no further action
- referring to an alternative resolution mechanism or to propose training for relevant parties (e.g. facilitated discussion, provision of training, mediation, arbitration, conflict resolution, etc.)
- referring the matter to another body or agency (e.g., the Ombudsman SA or the Behavioural Standards Panel)

The outcome of the initial assessment will be advised to the complainant and person complained about in writing as far as is permitted by law.

## ***Refusing to deal with the complaint/Determining to take no further action***

Where the person responsible for managing the complaint makes a decision not to proceed with formal consideration of the matter the following steps should be taken:

<sup>5</sup> Section 270(4a)(a)(i) of the *Local Government Act 1999* precludes a review of a decision to refuse to deal with the complaint

- the complainant must be provided written reasons explaining the decision<sup>6</sup>
- the person complained about should be provided with a brief summary of the complaint and the reasons for not proceeding.
- A record of these steps and the decision not to proceed should be made.

Whilst a matter may not proceed, the person responsible for managing the complaint may discuss the issues informally with the parties and identify strategies to build skills, facilitate positive relationship development and reduce the likelihood of repeat occurrences.

***Decision to refer to alternative resolution mechanism:***

The person responsible for managing the complaint may form the view that the optimal way to deal with the complaint is to implement an alternative resolution mechanism such as facilitated discussion, mediation, arbitration, conflict resolution or training.

The person responsible for managing the complaint should discuss the use of a proposed alternative resolution mechanism with the complainant and the person complained about to determine whether there is support for this approach.

If so, the person responsible for managing the complaint should request the CEO take steps to facilitate access to appropriate internal or external support (not being for the purposes of obtaining legal advice) for parties to the complaint. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.

The complainant and the person complained about should be provided written confirmation of the alternative resolution mechanism to be used for the purposes of resolving the complaint.

***Decision to refer to another body or agency***

Where the person responsible for managing the complaint makes a decision to refer the matter to another body or agency the person will follow any direction from that body or agency regarding what information is to be provided to the complainant and the elected member complained about regarding the referral.

***Decision to proceed to formal consideration:***

Where the person responsible for managing the complaint makes a decision to proceed to formal consideration the following steps should be taken:

- the person complained about should be provided with a copy of this Policy, contact details of the person responsible for managing the complaint and a summary document setting out:
  - the specific provision(s) of the **behavioural requirements** alleged to have been breached; and
  - the circumstances where this breach is alleged to have occurred.

In circumstances where the complainant has not requested their identity be kept confidential, a copy of the complaint may be provided in full.

<sup>6</sup> Section 262D, Local Government Act 1999

- the complainant should be advised of the decision to proceed and the contact details of the person responsible for managing the complaint.

#### 4.5.3. Formal consideration

Where a decision to formally consider the complaint has been made the person responsible for managing the complaint will determine how to proceed:

- The person responsible for managing the complaint may determine that they are the appropriate person to formally consider the complaint; or
- The person responsible for managing the complaint may determine to engage a third party to formally consider the complaint, for example:
  - an investigator who will report to the person responsible for managing the complaint; or
  - an external service provider with skills relevant to the matter who will report to the person responsible for managing the complaint.

If the person responsible for managing the complaint determines a third party should be engaged, they will request the CEO to facilitate engagement of an appropriate service provider. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.

The person responsible for managing the complaint will advise both the complainant and the person complained about that they are able to have a support person accompany them during discussions relating to the complaint.

It is the expectation of Council that both the complainant and the person complained about will cooperate with any such process to consider the complaint and, if requested, participate in meetings in a timely manner.

*Failure by the elected member complained about to comply with this requirement may be taken into account when considering the actions to be taken under section 262B(2)(e) of the Local Government Act and may constitute grounds for referral to the Behavioural Standards Panel for misbehaviour.*

Further consideration by the person responsible for managing the complaint (or the third party engaged), may (at the discretion of that person) involve:

- explore the complaint with the complainant and the person who is the subject of the complaint
- speaking with other persons who have been nominated by the parties to have observed the behaviour
- speaking directly with witnesses to the conduct complained about
- requesting the provision of information or documents relevant to the investigation, which may include access to audio or video recordings of meetings.

During the formal consideration of a matter appropriate records should be kept by the person responsible for managing the complaint.



#### 4.5.4. Report

The person responsible for managing the complaint (or the third party engaged) should ensure a report is prepared summarising the matter and setting out their findings, conclusions and recommendations. The report should set out:

- Allegations made in the complaint
- Summary of evidence to which the investigation had regard
- Findings
- Conclusions
- Recommendations

A report will generally include a recommended action for the parties to consider and/or participate in such as, but not limited to the imposition of sanctions as per the Local Government Act:

- discussions with parties to the complaint to seek agreement
- formal mediation if not already undertaken
- Conciliation
- Arbitration
- Education and further training

A copy of the draft report should be provided to the parties to the complaint who should be given a reasonable opportunity, but no more than ten business days, to make submissions in relation to the draft report. The person responsible for managing the complaint (or the third party engaged) may provide a longer period of time for lodgement of submissions to the draft report at their discretion. The person responsible for managing the complaint (or the third party engaged) should have regard to any submissions made in preparing a final report.

#### Outcome – No breach found

Where the finding is that no breach of the **behavioural requirements** has occurred a final report should be prepared by the person responsible for managing the complaint (or third party engaged) and provided to the complainant and the person complained about.

The complaint will remain confidential in accordance with the requirements of this Policy, except at the request of the person complained about. If such a request is made, a copy of the final report will be tabled<sup>7</sup> at the next practicable Council meeting. If no such request is received, no further action will be taken.

<sup>7</sup> Note that the complainants identity may need to be redacted.

### Outcome – agreed actions (breach found)

Where the finding is that a breach of the **behavioural requirements** has occurred and the complainant and the person complained about<sup>8</sup> agree to a path for resolution, that agreement will be documented including matters such as:

- actions to be undertaken
- responsibility for completing actions
- timeframes for completion of actions
- what will occur if there is a repeat of the behaviours complained about
- monitoring arrangements for completion of actions
- what will occur if the actions aren't completed
- confirmation that the matter is considered resolved

The agreement reached will be made in writing, including a commitment by parties to the complaint to abide by the agreement (which may be by electronic means). A copy of the agreement will be retained by each party and a copy held in Council records.

The complaint will remain confidential in accordance with the requirements of this Policy except at the request of the person complained about. If such a request is made, a copy of the final report will be tabled<sup>9</sup> at the next practicable Council meeting.. The matter must be reported in the Council's Annual Report which must contain the information required by the regulations.<sup>10</sup>

### Outcome – no agreed action (breach found)

Where the finding is that a breach of the **behavioural requirements** has occurred and the parties to the complaint have failed to reach agreement as to the resolution of the matter a final report should be presented to Council for determination. The person responsible for managing the complaint should request the CEO to include the final report in the Council Agenda as soon as practicable.

### 4.5.5. Actions of Council

Where the parties are not able to agree on an approach to resolve the matter, the matter will be provided to Council for determine the actions to be taken which may include:

- taking no further action
- passing a censure motion in respect of the member;
- requiring the member to issue a public apology (in a manner determined by the Council)
- requiring the member to undertake a specified course of training or instruction;

<sup>8</sup> Where the conduct complained about is not raised by the person directly affected by the conduct it will usually be appropriate to discuss the proposed resolution with that person prior to finalising agreement. This is intended to apply in a circumstance where the 'victim' is not the complainant to provide them a reasonable opportunity to have input into the resolution.

<sup>9</sup> Note that the complainants identity may need to be redacted.

<sup>10</sup> Schedule 4(1)(d), *Local Government Act 1999*

- removal or suspension from one or more offices held in the member's capacity as a member of the Council or by virtue of being a member of the Council – but not the office of Member of the Council;

If Council determines to take action, a report on the matter must be considered at a meeting open to the public<sup>11</sup>.

Where Council determines to take no further action, the complainant will be advised of this along with reasons, which may include:

- the ground that, having regard to all the circumstances of the case, it is unnecessary or unjustifiable for the council to deal with or continue to deal with the complaint;
- the ground that the subject matter of the complaint has been or is already being investigated, whether by the council or another person or body; or
- the ground that the council has dealt with the complaint adequately.

In making a determination under section 262C(1) Council should be reasonably prescriptive about the manner and time periods in which the action must be completed. Section 262E defines a failure to comply with a requirement of the council under 262C(1) as 'misbehaviour' which may result in a referral to the Behavioural Standards Panel.

The matter must be reported in the Council's Annual Report which must contain the information required by the regulations.<sup>12</sup>

#### 4.6. Behavioural Standards Panel

The Behavioural Standards Panel is an independent statutory authority consisting of three members and has powers to impose sanctions on council members who breach the **behavioural requirements**.

In accordance with section 262Q of the *Local Government Act 1999* a complaint alleging misbehaviour, repeated misbehaviour or serious misbehaviour may be made to the Panel by certain persons as set out below. The Panel's jurisdiction arises in the circumstances set out below:

<b>Legislative definition</b>	<b>Plain language explanation</b>
<p><b><i>misbehaviour</i></b> means—</p> <ol style="list-style-type: none"> <li>a failure by a member of a council to comply with a requirement of the council under section 262C(1); or</li> <li>a failure by a member of a council to comply with a provision of, or a requirement under, the council's behavioural management policy; or</li> <li>a failure by a member of a council to</li> </ol>	<p>Misbehaviour means:</p> <ol style="list-style-type: none"> <li>a council member fails to take the action required by council; or</li> <li>a council member fails to comply with this policy; or</li> </ol>

<sup>11</sup> Section 262C(2), *Local Government Act 1999*

<sup>12</sup> Schedule 4(1)(d), *Local Government Act 1999*

comply with an agreement reached following mediation, conciliation, arbitration or other dispute or conflict resolution conducted in relation to a complaint under Division 1;	(c) a council member fails to comply with an agreement reached pursuant to this policy
<b>repeated misbehaviour</b> means a second or subsequent failure by a member of a council to comply with Chapter 5 Part 4 Division 2;	A second or subsequent breach of the <b>behavioural requirements</b>
<b>serious misbehaviour</b> means a failure by a member of a council to comply with section 75G.	A breach of health and safety duties (including sexual harassment) as set out in section 75G of the <i>Local Government Act 1999</i>

A complaint alleging misbehaviour, repeated misbehaviour or serious misbehaviour by a member of council may be referred to the Panel by<sup>13</sup>:

- A resolution of the council;
- the Mayor; or
- at least 3 members of the council
- Responsible person under 75G – direction not to attend meeting.

#### Behavioural Standards Panel Contact Officer

Council must appoint a person as the contact officer for matters referred to the Behavioural Standards Panel. The contact officer is responsible for the provision of information to and receipt of notice from the Behavioural Standards Panel.

## 5. Responsibilities

The Mayor, Deputy Mayor (if appointed) or other council member appointed by the council as the person responsible for managing complaints is responsible under this Policy to:

- Perform the tasks bestowed upon the person responsible for dealing with a complaint pursuant to this Policy
- In consultation with the CEO, facilitate access to resources to support impacted parties and resolve the concerns raised in a timely manner prior to the matter becoming serious, or escalating to a formal complaint.
- In consultation with the CEO, engage external resources to assist with investigation and resolution of matters.

The CEO (or delegate) is responsible under this Policy to:

<sup>13</sup> Section 262Q, *Local Government Act 1999*



- manage the administrative receipt, acknowledgement, record keeping and allocation of a complaint lodged in accordance with this Policy
- facilitate access to external resources to support the resolution of complaints lodged in accordance with this Policy.

The Behavioural Standards Panel Contact Officer (appointed by the council) is responsible under this Policy to:

- comply with any lawful request of the Panel for information related to a matter under consideration.
- Receive and respond to notices relating to matters under consideration by the Panel.

Where the Behavioural Standards Panel Contact Officer is not the CEO, the Contact Officer should keep the CEO informed of the status of matters under consideration by the Panel.

## 6. Related Legislation

*Independent Commission Against Corruption Act 2012*

*Local Government Act 1999*

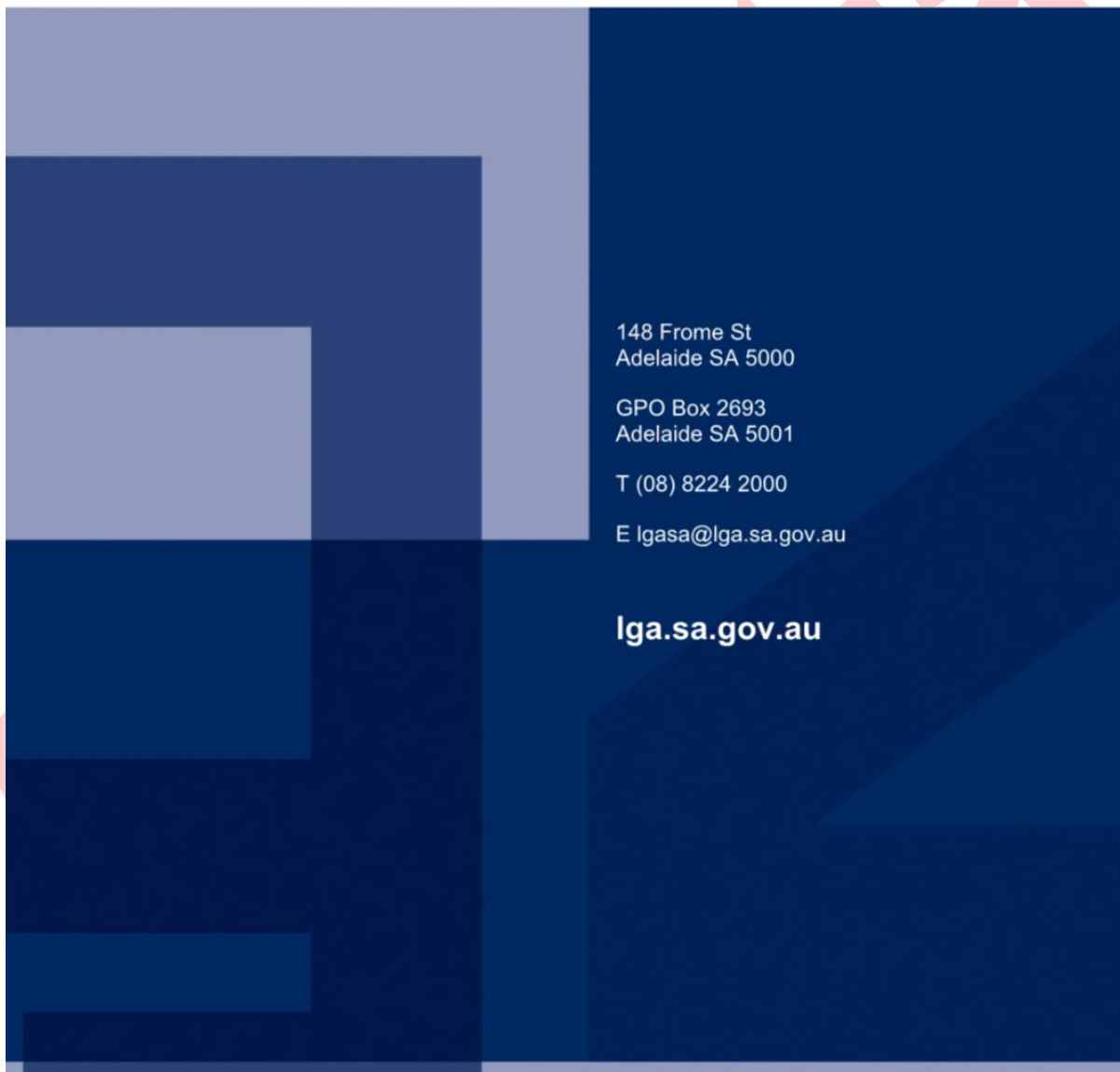
*Ombudsman Act 1972*

*Public Interest Disclosure Act 2018*



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**Final Report prepared by  
Norman Waterhouse Lawyers  
for City of Salisbury**

**In accordance with the Local Government Association of  
South Australia Model Behavioural Management Policy**

**Regarding complaints made against CR SEVERINA  
BURNER under the Behavioural Standards for Council  
Members**

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## 1. BACKGROUND

- 1.1 The Council has received complaints from two different complainants alleging breaches of the Behavioural Standards for Council Members (**the Behavioural Standards**) by Councillor Severina Burner.
- 1.2 This report relates to Cr Burner's alleged conduct as follows:
  - 1.2.1 an incident which allegedly occurred during a discussion between Cr Burner and Councillor Moni Mazzeo in the public gallery of the Council chamber prior to the Special Council Meeting on 23 January 2023 (**the Council Meeting**) during which Cr Burner allegedly publicly shamed Cr Mazzeo (**the 23 January 2023 Incident**);
  - 1.2.2 a statement made by Cr Burner during the Council's Policy and Planning Committee Meeting on 23 January 2023 (**the Committee Meeting**) (which commenced at the conclusion of the Council Meeting) in which she indicated that she was not aware of the 'NOSCAG flyer' (No Smart Cities Action Group) that was being hand delivered to residents (**the NOSCAG Flyer Statement**). It is alleged that Cr Burner's statement was dishonest and that she was aware of the NOSCAG flyer being distributed to residents. Further, it is alleged that Cr Burner subsequently left the Committee Meeting;
  - 1.2.3 the 'skipping' of other meetings of a Council committee or committees;
  - 1.2.4 Cr Burner's 'laugh reaction' to a post published by Cr Grace Bawden on Facebook on 25 January 2023 (**the Laugh Reaction**) and Cr Burner's three comments on that same post (**the Comments**).
- 1.3 Each of the matters set out in paragraphs 1.2.1, 1.2.2 and 1.2.4 were the subject of a complaint made by Complainant A on 29 January 2023 (**the First Complaint**).
- 1.4 The leaving of the Committee Meeting mentioned in paragraph 1.2.2, and the matter set out in paragraph 1.2.3, were the subject of a complaint made by Complainant B on 28 January 2023 (**the Second Complaint**).
- 1.5 The First and Second Complaints are referred to collectively in this report as **the Complaints**. The Complaints are being managed in accordance with the

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Local Government Association of South Australia Model Behavioural Management Policy (**the Policy**).

- 1.6 Complainants A and B have requested that their identity be kept confidential. The Mayor, being the person responsible for managing the complaints under the Policy, has determined that the identity of the complainants shall remain confidential.

## 2. PROCESS

- 2.1 The process with respect to the management of the Complaints is set out in the Policy. The Complaints are being managed in accordance with the 'Formal action' section in Clause 4.5 of the Policy.
- 2.2 The person responsible for managing the Complaints under the Policy is the Mayor.
- 2.3 A summary of the process to date is as follows.
- 2.4 The Mayor conducted an initial assessment of the Complaints after receipt and considered that the matters warranted further consideration.
- 2.5 On 1 February 2023, the Mayor advised Cr Burner by email of the fact that the Second Complaint had been made against her. A copy of the Second Complaint was provided to Cr Burner with the identity of Complainant B redacted. The Mayor requested Cr Burner to provide a response by 8 February 2023 to inform her initial assessment of the Second Complaint.
- 2.6 On 2 February 2023, the Mayor advised Cr Burner by email of the fact that the First Complaint had been made against her. A copy of the First Complaint was provided to Cr Burner with the identity of Complainant A redacted. The Mayor requested Cr Burner to provide a response by 8 February 2023 to inform her initial assessment of the First Complaint.
- 2.7 Cr Burner responded to the Mayor's emails on 8 February 2023.
- 2.8 Following receipt of Cr Burner's response to the Complaints, the Mayor determined to proceed to formal consideration of the Complaints. The Mayor determined, in accordance with clause 4.5.3 of the Policy, to engage Norman Waterhouse Lawyers, a third party, to formally consider the Complaints.

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2.9 On 16 February 2023, we wrote to Cr Burner:

- 2.9.1 advising that the Mayor has decided to proceed to formal consideration of the Complaints in accordance with the Policy, and that the Mayor has determined to appoint Norman Waterhouse Lawyers to formally consider and investigate the Complaints;
- 2.9.2 providing her with a copy of the Policy;
- 2.9.3 providing her with the Mayor's contact details, being the person responsible for managing the Complaints;
- 2.9.4 advising that in due course, we would provide her with a summary document setting out the specific provisions of the Behavioural Standards alleged to have been breached and the circumstances in which those breaches are alleged to have occurred; and
- 2.9.5 reminding her of her obligations to maintain confidentiality in accordance with the Policy.

2.10 On 16 February 2023, we also wrote to Complainants A and B:

- 2.10.1 advising that the Mayor has decided to proceed to formal consideration of their complaints in accordance with the Policy, and that the Mayor has determined to appoint Norman Waterhouse Lawyers to formally consider and investigate their complaints;
- 2.10.2 providing them with a copy of the Policy;
- 2.10.3 inviting them to provide us with any further information or documentation in support of their complaints, or to further elaborate on any matters set out in their complaints, and in one case, requesting that they provide us with specific provisions of the Behavioural Standards which they allege has been breached in respect of the conduct which is the subject of their complaint.

2.11 On 10 March 2023, we wrote to Cr Burner:

- 2.11.1 providing her with a summary document in respect of the Complaints;

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- 2.11.2 inviting her to provide us with any further information in relation to the subject matters set out in the summary document by 15 March 2023;
- 2.11.3 providing her with copies of the Policy and Behavioural Standards.
- 2.12 A copy of the summary document is **enclosed** at **Annexure A**.
- 2.13 We did not receive a response from Cr Burner to our 10 March 2023 letter.
- 2.14 On 28 March 2023, we wrote to Cr Burner requesting that she respond to specific questions concerning the 23 January 2023 Incident and the NOSCAG Flyer Statement. A response was received on 5 April 2023 which is **enclosed** at **Annexure B**.
- 2.15 On 28 March 2023, we wrote to Cr Mazzeo requesting that she respond to specific questions concerning the 23 January 2023 Incident. A response was received on 4 April 2023 which is **enclosed** at **Annexure C**.
- 2.16 In accordance with clause 4.5.4 of the Policy, on 6 April 2023 we provided our provisional report to Cr Burner and the Complainants who were invited to make submissions in relation to that provisional report.
- 2.17 No submissions or responses were received by Cr Burner, Complainant A or Complainant B.
- 2.18 This report is prepared in accordance with clause 4.5.4 of the Policy. We have had regard to the following information in preparing this report:
- 2.18.1 the Policy;
- 2.18.2 the Behavioural Standards;
- 2.18.3 the Complaints;
- 2.18.4 all communications between the Mayor and Cr Burner in relation to the Complaints;
- 2.18.5 all communications between Norman Waterhouse and Cr Burner in relation to the Complaints;
- 2.18.6 all communications between Norman Waterhouse and the relevant complainants in relation to their complaints;

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2.18.7 all communications between Norman Waterhouse and Cr Mazzeo;

2.18.8 any other information referred to or enclosed with this report.

### 3. THE COMPLAINTS

#### The 23 January 2023 Incident

3.1 In the First Complaint it is alleged that the following occurred in respect of the 23 January 2023 Incident:

- 3.1.1 Cr Burner and Cr Mazzeo were in the public gallery of the Council chamber before the commencement of the Council Meeting;
- 3.1.2 Cr Mazzeo was speaking to Cr Burner briefly and quietly;
- 3.1.3 Cr Burner immediately stood up and yelled across the room that Cr Mazzeo was bullying and harassing her;
- 3.1.4 Cr Burner requested that someone admonish and stop Cr Mazzeo from continuing to talk to her;
- 3.1.5 Cr Burner rushed to the Mayor's table and repeated her request for staff (referring to the Council's Manager Governance) to stop Cr Mazzeo from talking to her.

#### The NOSCAG Flyer Statement and Leaving the Committee Meeting

3.2 In the First Complaint it is alleged that the following occurred:

- 3.2.1 At the Committee Meeting a motion regarding smart cities was put forward;
- 3.2.2 Council members took their turns to express their opinion on the matter;
- 3.2.3 There were no targeted attacks or harassing comments directed at Cr Burner;
- 3.2.4 When it was time for Cr Burner to talk to the relevant motion, she made the following statements:

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- 3.2.4.1 that she was not aware of the NOSCAG flyer that was being hand delivered to residents; and
- 3.2.4.2 that other Council members could not understand her point of view and thus there was no point in expressing it in that meeting and she would talk about it at the next meeting.
- 3.2.5 Cr Burner then sat down and did not talk to the motion in any substantive way.
- 3.2.6 Other Council members continued to talk to the motion.
- 3.2.7 Cr Grace Bawden then became upset during this period and a fifteen minute recess was permitted.
- 3.2.8 After the recess, Cr Bawden was due to speak, but instead her and Cr Burner left the meeting.
- 3.2.9 Cr Burner did not vote on the motion.
- 3.3 The Second Complaint simply states that:
- 'Because ... Burner skipped committee meetings last week and also walked out of a meeting how many times can [she] do this before action is taken? My personal opinion is [she needs] to be removed from council ASAP.'*
- 3.4 We have not received any further elaboration from Complainant B. We understand that the reference in the Second Complaint to Cr Burner having *'walked out of a meeting'* is a reference to the same episode which is referred to in the First Complaint.
- 'Skipping' of Council Committee Meetings
- 3.5 We have no further information about the abovementioned 'skipping' of other Council committee meetings referred to in the Second Complaint.

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The Laugh Reaction and the Comments

- 3.6 In the First Complaint it is alleged that on 25 January 2023, Cr Bawden published a post on her personal Facebook page, being a navy-coloured square with the following text superimposed over the top:

*'Mobbing behaviour by Councillors is never okay. Yours are selling out the interests of local residents to foreign interests just so they can get a hot pizza delivered in 5 minutes by drone.'*

**(the Post)**.

- 3.7 The Laugh Reaction by Cr Burner was a reaction to the Post.
- 3.8 The Comments published by Cr Burner (via her personal Facebook profile) on the Post state the following:
- 3.8.1 *'So true. We have to laugh a little after what they put us through'* **(the First Comment)**.
- 3.8.2 A Ms Carol Scott then replied to the First Comment by stating *'Severina Burner you only have yourselves to blame.'*
- 3.8.3 Other persons replied to Ms Scott's comment, including a Ms Matilda Bawden who stated *'Carol Scott go back to your handlers and if you don't like someone else's posts, stop trolling their profiles! [laugh emoji]'*.
- 3.8.4 Ms Scott then replied to Ms Matilda Bawden's comment by stating *'Matilda Bawden That's precious coming from a handler. Speaking of handlers, how's Mark Aldridge going?'* to which Ms Matilda Bawden stated *'Carol Scott why don't you ask him? Mark Aldridge this dear troll wants to know how you're doing. Apparently you are "handling" me? I didn't even feel it. Please try harder. [laugh emoji]'*.
- 3.8.5 Cr Burner then stated *'Carol Scott yes agreed.. we should be so ashamed of not cowering to evil trash. How dare I. But that's my personal view'* **(the Second Comment)**.

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3.8.6 Further, Cr Burner then replied to Ms Matilda Bawden's comments with a 'GIF' of a man laughing and clapping his hands (**the Third Comment**).

3.9 The Post, the Laugh Reaction and the Comments, as well as the other comments on the Post referred to above, are set out in the summary document at Annexure A to this report.

The First Complaint

3.10 The First Complaint relates to the 23 January 2023 Incident, the NOSCAG Flyer Statement, Leaving the Committee Meeting, and the Laugh Reaction and the Comments.

3.11 We note that Complainant A has identified in their complaint provisions of the 'Part 2 Behavioural Code from the Code of Conduct for Council Members' which they allege Cr Burner has breached. In particular, those provisions are:

- '2.1 Show commitment and discharge duties conscientiously.*
- 2.2 Act in a way that generates community trust and confidence in the Council.*
- 2.3 Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.*
- 2.5 Ensure that personal comments to the media or other public comments, on Council decisions and other matter, clearly indicate that it is a private view, and not that of the Council.*
- 2.8 Endeavour to provide accurate information to the Council and to the public at all times.*
- 2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.*
- 2.10 Not bully or harass other Council members.'*

3.12 The Code of Conduct for Council Members was replaced by the Behavioural Standards on 17 November 2022.

3.13 There are now equivalent provisions in the Behavioural Standards to the above provisions of the Code of Conduct for Council Members. Accordingly, when we set out below that Complainant A has alleged that Cr Burner has breached provisions of the Behavioural Standards, we cite the clause references of the

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Behavioural Standards which are the equivalent of those identified by Complainant A in the Code of Conduct for Council Members.

- 3.14 In respect of the 23 January 2023 Incident, Complainant A alleges in the First Complaint that:
- 3.14.1 Nobody came to Cr Burner's assistance as the whole room was in shock by her outburst;
  - 3.14.2 Cr Mazzeo appeared bewildered by Cr Burner's behaviour, as was the Complainant;
  - 3.14.3 Cr Burner's conduct and public shaming of Cr Mazzeo was disgraceful.
- 3.15 Complainant A alleges that Cr Burner has breached clauses 3.1 and 3.2 of the Behavioural Standards in respect of the 23 January 2023 Incident.
- 3.16 In respect of the NOSCAG Flyer Statement and Leaving the Committee Meeting, Complainant A alleges in the First Complaint that:
- 3.16.1 Cr Burner was dishonest when she stated that she was not aware of the NOSCAG flyer that was being hand delivered to residents because:
    - 3.16.1.1 Cr Grace Bawden and Ms Matilda Bawden shared the flyer on Facebook; and
    - 3.16.1.2 Cr Burner is active on both Cr Bawden's and Ms Matilda Bawden's Facebook posts by regularly liking and commenting on their posts.
  - 3.16.2 By walking out of the Committee Meeting, Cr Burner broke her oath of office because the only reason she left was because she did not like the opinions of her fellow Council members.
  - 3.16.3 In doing so, Cr Burner showed no respect for the residents who elected her to represent those opinions in the Council's chamber.
- 3.17 Complainant A alleges that Cr Burner has breached clauses 1.1 and 2.2 of the Behavioural Standards in respect of the NOSCAG Flyer Statement and Leaving

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the Committee Meeting. In particular, it is alleged that clause 1.1 was breached when Cr Burner left the Committee Meeting, and that clause 2.2 was breached when Cr Burner stated that other Council members could not understand her point of view, there was therefore no point in expressing it and she would talk about it at the next meeting, after which she left the meeting.

- 3.18 In respect of the Laugh Reaction and the Comments, Complainant A alleges in the First Complaint that Cr Burner has breached clauses 1.2, 1.4, 1.5 and 3.1 of the Behavioural Standards.

#### The Second Complaint

- 3.19 We reiterate that the Second Complaint simply states that:

*'Because ... Burner skipped committee meetings last week and also walked out of a meeting how many times can [she] do this before action is taken? My personal opinion is [she needs] to be removed from council ASAP.'*

- 3.20 Complainant B alleges that Cr Burner has breached the Behavioural Standards, however, has not submitted what specific clauses of the Behavioural Standards Cr Burner has allegedly breached.

#### **Relevant Provisions of Behavioural Standards**

- 3.21 The Behavioural Standards referred to above which Cr Burner has allegedly breached are set out below:

##### ***'1. General behaviour***

*1.1 Show commitment and discharge duties conscientiously.*

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

*...*

*1.4 Act in a reasonable, just, respectful and non-discriminatory way.*

*1.5 When making public comments, including comments to the media, on Council decisions and Council matters, show respect for others and clearly indicate their views are personal and are not those of the Council.*

##### ***2. Responsibilities as a member of Council***

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...

- 2.2 *Take all reasonable steps to provide accurate information to the community and the Council.*

...

### **3. Relationship with fellow Council Members**

- 3.1 *Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members.*
- 3.2 *Not bully other Council members.'*

## **4. FINDINGS**

- 4.1 Findings have been made, on the balance of probabilities, in respect of the Complaints.

### **Social Media Activities are Subject to the Behavioural Standards**

- 4.2 The subject matter of a part of the First Complaint (the Laugh Reaction and the Comments) relates to online social media activities of Cr Burner. Those activities related to a Council matter, namely the issue of smart cities, and were carried out in a publicly visible manner. In light of this, we consider it salient to make the following observations.
- 4.3 The Behavioural Standards apply to all Council members, at all relevant times. They also apply to activities on social media just as much as they apply to activities in other forums. Neither the Behavioural Standards themselves, nor section 75E of the *Local Government Act 1999* (SA) (**the LG Act**) (pursuant to which the Behavioural Standards are made), limit the application of the Behavioural Standards only to certain times or restrict the way the Behavioural Standards apply in the context of social media specifically.

### **23 January 2023 Incident**

- 4.4 We have considered an audio recording of the 23 January 2023 Incident, insofar as it captures Cr Burner making statements towards the public gallery more generally. The recording does not capture the private conversation between Cr Mazzeo and Cr Burner described above. It is evident that the following occurred:

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- 4.4.1 Cr Burner stated loudly in the public gallery words to the effect that *'Okay excuse me sorry I'm being bullied over there can somebody do something about it?'*
- 4.4.2 When stated by another unidentified person that *'I don't think Moni is bullying you by any means'*, Cr Burner stated words to the effect of *'Excuse me I've asked her to stop talking to me. Either somebody wants to get rid of one of us or just be quiet. I'm here to do my job and I'm allowed to do my job. I would like her to not speak to me.'*
- 4.4.3 The Mayor asked Cr Burner who was speaking to her, to which she said Cr Mazzeo.
- 4.4.4 The Mayor asked Cr Burner *'She's not allowed to speak to you?'* to which Cr Burner said words to the effect of *'No, not anything related to this.'*
- 4.4.5 Cr Burner stated that Cr Mazzeo is bullying and harassing her, and that she would like it to stop.
- 4.4.6 The Mayor asked Cr Mazzeo if she had anything to say to which she stated words to the effect of *'Well I can't see how I am harassing. I had a private conversation ... I would like to do it privately so I will make certain I don't do it again.'*
- 4.4.7 Cr Burner then stated words to the effect of *'I've asked her if she would like to discuss anything she can do elsewhere. She can do it my email and she can do it by written.'*
- 4.4.8 After further short discussion between Cr Burner and the Mayor the Mayor asked Cr Burner to sit down given the inappropriateness of the conversation.
- 4.5 We have also considered written accounts of the 23 January 2023 Incident provided by Crs Burner and Mazzeo which are enclosed at Annexures B and C to this report, respectively. On the balance of probabilities, we accept the evidence of Cr Mazzeo over Cr Burner because it appears more likely than not that Cr Mazzeo was genuinely enquiring about a Facebook post made by Cr Burner where she likened smart cities to concentration camps. We do not consider it likely that Cr Mazzeo spoke down to Cr Burner as if she was a Nazi.

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Rather, it seems more likely that Cr Burner did not wish to engage in the conversation with Cr Mazzeo or answer her questions about why she published the Facebook post likening smart cities to concentration camps, which then prompted her to make the statements described above. We also note that Cr Mazzeo has advised that she typed up her recollection of these events during the meeting on 23 January 2023, and thus her recollection has the quality of being contemporaneously recorded.

- 4.6 On the balance of probabilities, we find that Cr Burner has breached clause 3.1 of the Behavioural Standards which requires her to establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members. Having regard to the written responses from Cr Burner and Cr Mazzeo, it does not appear there was a poor relationship between Cr Mazzeo and Cr Burner until the 23 January 2023 Incident. It appears that the 23 January 2023 Incident can be pinpointed as the event which has now created a poor relationship between those councillors. We consider that this is substantially the fault of Cr Burner. In particular, we consider that the 23 January 2023 Incident was caused by Cr Burner's failure to engage in a respectful conversation with Cr Mazzeo upon Cr Mazzeo making a genuine enquiry about her conduct. We consider that these circumstances give rise to a breach of clause 3.1 of the Behavioural Standards on the part of Cr Burner.

- 4.7 We are not of the view that Cr Burner's conduct constitutes a breach of clause 3.2 of the Behavioural Standards. The Behavioural Standards provide as follows:

*'An elected member will be considered to **bully** other Council members or Council employees if:*

*the Council member either, as an individual Council member or as a member of a group:*

*a) repeatedly behaves unreasonably towards another Council member, or employee; and*

*b) the behaviour could reasonably be considered to be distressing, victimising, threatening or humiliating.'*

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- 4.8 While we are of the view that Cr Burner did behave unreasonably towards Cr Mazzeo, and her behaviour could reasonably be considered to be distressing or humiliating, the 23 January 2023 Incident is, on the evidence before us, an isolated incident rather than a repeated incident. Therefore, it does not meet the definition of bullying as set out in the Behavioural Standards.

#### **NOSCAG Flyer Statement and Leaving the Committee Meeting**

##### **First Complaint**

- 4.9 In respect of the allegation in the First Complaint that Cr Burner was dishonest when she stated at the Committee Meeting that was not aware of the NOSCAG flyer that was being hand delivered to residents, there is insufficient evidence to make any findings in relation to this matter.
- 4.10 We make the following findings in respect of the allegation that Cr Burner stated when it was her time to talk to the relevant motion that other Council members could not understand her point of view and thus there was no point in expressing it in that meeting and she would talk about it at the next meeting, and later left the Committee Meeting without talking to or voting on the motion.
- 4.11 The minutes of the Committee Meeting state the following in respect of the motion in question:

##### **PPC-MON2 Motion on Notice: Smart City Technology**

Moved Cr P Jensen

Seconded Cr K Grenfell

##### That Council:

1. Re-affirms its commitment to providing appropriate smart city technology in the delivery of the Council adopted City Plan and Digital Salisbury, in particular noting the cost saving opportunities and practical application merits for the City, such as smart lighting, parking, city navigation, bin collection etc, and that Council does not support the usage of real time facial recognition software technology.
2. Requests the Administration to develop a community communication plan for Council consideration to explain the extent and application of Smart City Technology across the City of Salisbury council area, in recognition that recent material posted on social media may be regarded as misleading or incorrect.

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With leave of the meeting and consent of the seconder, Cr P Jensen VARIED the MOTION as follows:

That Council:

1. Re-affirms its commitment to providing appropriate smart city technology in the delivery of the Council adopted City Plan and Digital Salisbury, in particular noting the cost saving opportunities and practical application merits for the City, such as smart lighting, parking, city navigation, bin collection etc, and that Council does not support the usage of real time facial recognition software technology.
2. Requests the Administration to develop a community communication plan for Council consideration to explain the extent and application of Smart City Technology across the City of Salisbury council area, in recognition that recent material posted on social media and letterboxed to residents' homes, may be regarded as misleading or incorrect.

Following comments made by Cr Burner on the lack of information and understanding, the Chairman invoked Regulation 18 of the Local Government (Procedures at Meeting) Regulations 2013 to allow such information to be tabled.

Adjournment of Meeting at 7.47pm

*The meeting was adjourned for 15 minutes to allow for additional information to be tabled.*

*The meeting resumed at 8.00 pm.*

*Cr S Burner left the meeting at 8.00 pm and did not return.*

*Cr G Bawden left the meeting at 8.00 pm and did not return.*

The material provided to the Elected Members will be included as Attachment 2 to the Minutes of this meeting and included in the link below.

Link

*The submission in support of the smart city technology from Mr D Waylen, Executive Officer of the Salisbury Business Association, was read by the Chairman, Cr Buchanan, and with Mr Waylen's permission is attached as Attachment 1 to these minutes.*

CARRIED

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UNANIMOUSLY

- 4.12 We have considered the recording of the Committee Meeting as it relates to the above motion.
- 4.13 We find that during the Committee Meeting when the above motion was being considered, Cr Burner stated words to the effect of the following:
- 4.13.1 *'You [this appears to be a comment to other Council members generally] have already decided you like smart cities';*
- 4.13.2 *'I don't like smart cities, that's my personal view';*
- 4.13.3 *'You don't understand why I don't like smart cities, that's because you don't understand what it's linked to';*
- 4.13.4 *'At the next meeting on Monday I am going to share some information that I have sought from our community, if you like it or don't like it that's ok, you can choose to listen to it or not listen to it';*
- 4.13.5 *'If you want to understand why I don't like smart cities and why I think it's dangerous and why I think all of you are not looking after our community then you can listen to it and try to understand it';*
- 4.13.6 *'I have been listening to my neighbours, I have not shut anyone out and whatever it is you are upset about, I don't know what you are emotional about, it's got nothing to do with me...'*
- 4.14 It is evident from the recording and minutes of the Committee Meeting that:
- 4.14.1 as alleged by Complainant A, the Committee Meeting was adjourned for 15 minutes; however, this was to allow additional information to be tabled in response to comments made by Cr Burner pursuant to Regulation 18 of the *Local Government (Procedures at Meeting) Regulations 2013 (SA)*, not because Cr Bawden was upset as suggested by Complainant A;
- 4.14.2 as alleged by Complainant A, the Committee Meeting resumed and Cr Burner and Cr Bawden left the meeting and did not return, thus Cr Burner did not vote on the motion;

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- 4.14.3 the Chair explained upon resumption of the Committee Meeting that he had been advised by the Manager Governance that Crs Burner and Bawden have decided to leave the Committee Meeting and are not participating in any further debate on the motion before the Committee.
- 4.15 Based on the information available to us, we find that it is more probable than not that the reason Cr Burner left the Committee Meeting and did not return was due to Cr Burner's view that her fellow Council members did not understand her point of view with respect to smart city technology.
- 4.16 However, we do not consider that in doing so Cr Burner has breached clause 1.1 of the Behavioural Standards.
- 4.17 This is because Cr Burner could have left the meeting because she was upset, or for some other reason. While it may be perceived as immature or irresponsible that Cr Burner left the meeting, there is simply not enough evidence to find that Cr Burner failed to show commitment and discharge her duties conscientiously.
- 4.18 In respect of Cr Burner stating words to the effect that other Council members could not understand her point of view and thus there was no point expressing it in the Committee Meeting, and she would discuss it at the next meeting, we do not find that Cr Burner failed to take all reasonable steps to provide accurate information to the community and the Council as required by clause 2.2 of the Behavioural Standards. Rather, we find that Cr Burner was expressing her own opinion.

#### **Second Complaint**

- 4.19 The Second Complaint does not specify which provision(s) of the Behavioural Standards are alleged to have been breached by Cr Burner when Cr Burner left the Committee Meeting. Under the Policy, the onus is upon the complainant to specify which provisions of the Behavioural Standards are alleged to have been breached. It would in our view not be appropriate to consider any provisions of the Behavioural Standards beyond those specified in the First Complaint, and dealt with above.

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**'Skipping' of Council Committee Meetings**

- 4.20 We have insufficient particulars from Complainant B to make any findings about the 'skipping' of other meetings of any Council committee.
- 4.21 In any event, mere absence from a committee meeting (without anything more) does not breach the Behavioural Standards. If the Council forms the view that a member of a committee may not be able to properly discharge their role on that committee for any reason, recourse available to the Council includes removal of that person from the committee. Committee members serve at the pleasure of the Council, under section 41(5) of the LG Act.

**The Laugh Reaction and the Comments**

- 4.22 The Laugh Reaction and the Comments must be considered collectively. It is clear that the Post is a reference to Council's support of smart city technology.
- 4.23 We find that the Post suggests that anti-smart city councillors (i.e. Cr Bawden and Cr Burner) have been 'mobbed' by their fellow Council members (which we take to mean ganged up on and harassed) due to their opposition to smart city technology. Further, the support of smart city technology by those other Council members constitutes 'selling out' the interests of local residents to foreign corporations such that they can *'get a hot pizza delivered in 5 minutes by drone'*.
- 4.24 We find the Laugh Reaction (especially when considered in the context of the comments discussed below) is a show of support by Cr Burner towards the Post and that she considers the pizza example to be a comical representation of the supposed rewards for which other Council members are willing to 'sell out' the interests of local residents to foreign corporations by supporting smart city technology.
- 4.25 We find that the First Comment is another show of support by Cr Burner towards the Post and further, a suggestion by Cr Burner that her fellow Council members have put her and Cr Burner through an ordeal of sorts given their opposition towards smart city technology.
- 4.26 We find that by publishing the Second Comment, Cr Burner is either referring to her fellow Council members as 'evil trash', or to some supposed larger conspiracy regarding smart cities as being 'evil trash'. The intimation is that

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fellow Council members either are 'evil', or at the very least support something which is 'evil'. No credible supporting information accompanied the Post, nor are we aware of such information, which supports the suggestion that fellow Council members are 'evil', or that smart cities are 'evil' and/or part of some broader conspiracy involving global organisations.

- 4.27 The Third Comment appears to be Cr Burner showing support for Ms Matilda Bawden's comments on the Post.
- 4.28 In light of the above findings, we are of the view that, on the balance of probabilities, by making the Laugh Reaction and by publishing the First and Second Comments, Cr Burner has breached clause 1.2 of the Behavioural Standards by failing to act in a way that generates community trust and confidence in the Council. While Cr Burner is entitled to her own opinion in respect of smart city technology, the Laugh Reaction and the First and Second Comments clearly suggest that Council members other than Cr Burner and Cr Bawden are not acting in the best interests of residents and ratepayers in respect of their support of smart city technology, and further suggests that those Council members support something 'evil' and have put Cr Burner and Cr Bawden through some sort of ordeal given their opposition to the technology.
- 4.29 Accordingly, given that the Laugh Reaction and the First and Second Comments were made in a manner visible to the public at large, they have the potential to diminish the community's trust and confidence in the Council for the reasons set out above.
- 4.30 We are not of the view that Cr Burner has breached clause 1.2 of the Behavioural Standards by publishing the Third Comment.
- 4.31 On the balance of probabilities, by making the Laugh Reaction and by publishing the First and Second Comments, Cr Burner has breached clause 1.4 of the Behavioural Standards by failing to act in a reasonable, just, respectful and non-discriminatory way. We consider that Cr Burner has failed to act reasonably and respectfully by:
- 4.31.1 Supporting a statement that other Council members have engaged in mobbing behaviour towards herself and Cr Bawden simply because they oppose smart city technology;

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- 4.31.2 Suggesting without any credible supporting information that other Council members have sold out the interests of local residents to global interests by supporting smart city technology;
- 4.31.3 Indicating that fellow Council members either are 'evil', or at the very least support something which is 'evil'.
- 4.32 We are not of the view that Cr Burner has breached clause 1.4 of the Behavioural Standards by publishing the Third Comment.
- 4.33 On the balance of probabilities, we find that Cr Burner's making of the Laugh Reaction and the First and Second Comments breached clause 1.5 of the Behavioural Standards which requires her *'when making public comments, including comments to the media, on Council decisions and Council matters, [to] show respect for others and clearly indicate their views are personal and are not those of the Council.'* We do not consider the Third Comment to be part of any breach of clause 1.5 of the Behavioural Standards.
- 4.34 The Laugh Reaction and the First and Second Comments were made publicly, and relate to a Council matter, i.e. smart cities. All three of those actions, whether taken separately or collectively, did not show respect for others. This is for the reasons set out above at paragraph 4.31. In the Second Comment, Cr Burner did state *'But that's my personal view.'* Even if this proviso can be expanded to cover the Laugh Reaction and the First Comment, a breach of clause 1.5 of the Behavioural Standards is in any event made out by virtue of these communications not showing respect for others.
- 4.35 We are not of the view that Cr Burner has breached clause 1.5 of the Behavioural Standards by making the Third Comment. Although the Third Comment is a public comment, in our view it does not in these particular circumstances concern a Council matter; rather, it is a show of support of comments made by Ms Matilda Bawden.
- 4.36 Cr Burner has not breached clause 3.1 of the Behavioural Standards which requires her to establish and maintain relationships of respect, trust, collaboration and cooperation with all Council Members. This is because the Laugh Reaction and the Comments themselves are not directed towards any Council member or members in particular but rather towards a group of unidentified Council members, which we presume is a reference to all Council

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members excluding Cr Burner herself and Cr Bawden, given the context of the Post. While such behaviour may certainly be unhelpful for establishing and maintaining relationships of respect, trust, collaboration and cooperation, in this case we do not think this particular behaviour can, in and of itself, be blamed for any failure to establish or maintain such relationships.

## 5. CONCLUSION

- 5.1 Based on the findings made in relation to the Complaints, Cr Burner has in our view, on the balance of probabilities, breached clauses 1.2, 1.4, 1.5 and 3.1 of the Behavioural Standards.

## 6. RECOMMENDATION

- 6.1 It is our recommendation in accordance with clause 4.5.5 of the Policy that the Council:
- 6.1.1 require Cr Burner to issue a public apology in respect of her conduct generally, in a manner determined by the Council and in a timeframe determined by the Council;
  - 6.1.2 require Cr Burner to issue a public apology to Cr Mazzeo specifically in respect of her conduct towards her, in a manner determined by the Council and in a timeframe determined by the Council; and
  - 6.1.3 pass a censure motion in respect of Cr Burner's conduct which is the subject of findings of breaches of the Behavioural Standards as set out in this report.

Norman Waterhouse Lawyers  
18 April 2023

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## ANNEXURES

AYG/AYG/14409/511323/2317800

## Annexure A

## CITY OF SALISBURY – ALLEGED BREACHES OF THE BEHAVIOURAL STANDARDS FOR COUNCIL MEMBERS BY CR SEVERINA BURNER

SUMMARY DOCUMENT DATED 10 MARCH 2023

## SECOND PART OF INVESTIGATION

First Alleged Breach

It is alleged by the complainant that:

*'On Monday 23rd January, I was sitting in the public gallery waiting for the council meeting to commence. I was seated in the front row of the gallery near the middle and watched Cr Mazzeo talk to Cr Burner briefly and quietly (I could not hear what was said). Cr Burner immediately stood up and yelled across the room that Cr Mazzeo was bullying and harassing her. Cr Burner requested that someone admonish and stop Cr Mazzeo from continuing to talk to her. Cr Burner rushed to the Chairpersons table and repeated her request for staff to stop Cr Mazzeo from talking to her. No one came to her assistance as the whole room was in shock at this outburst. From the look on Cr Mazzeo's face I would say she was bewildered by this behaviour, as was I. I was offended by this behaviour and the public shaming of Cr Mazzeo was disgraceful.'*

The specific provisions of the Behavioural Standards for Council Members (**the Behavioural Standards**) alleged to have been breached are clauses 2.9 and 2.10.

Second Alleged Breach

In continuation from the First Alleged Breach, it is alleged by the complainant that:

*'During the meeting a motion regarding Smart City was tabled. Councillors took their turns to express their opinion on the matter. As Councillors spoke on the motion I saw no targeted attacks or harassing comments directed at Cr Burner. When it came time for Cr Burner to talk to the motion, she made two points.*

- 1. She was not aware of the NOSCAG flyer that was being hand delivered to residents. I find this hard to believe as both Cr Grace Bawden and Matilda Bawden shared the flyer on Facebook. Cr Burner is active on both of their posts by regularly liking and commenting. I did not believe her when she said that was not aware of the flyer.*
- 2. She declared that the other Councillors could not understand her point of view and thus there was no point in expressing it in this meeting and she would talk about it at the next meeting. Then decided to sit down and not talk to the motion.*

*Other Councillors continued to talk on the motion. Cr Bawden became upset during this period and a 15-minute recess was allowed. After the 15-minute recess, Cr Bawden was due to speak, but instead both her and Cr Burner left the meeting. Neither talked to the motion to express their opinions, nor did they vote on the motion.*

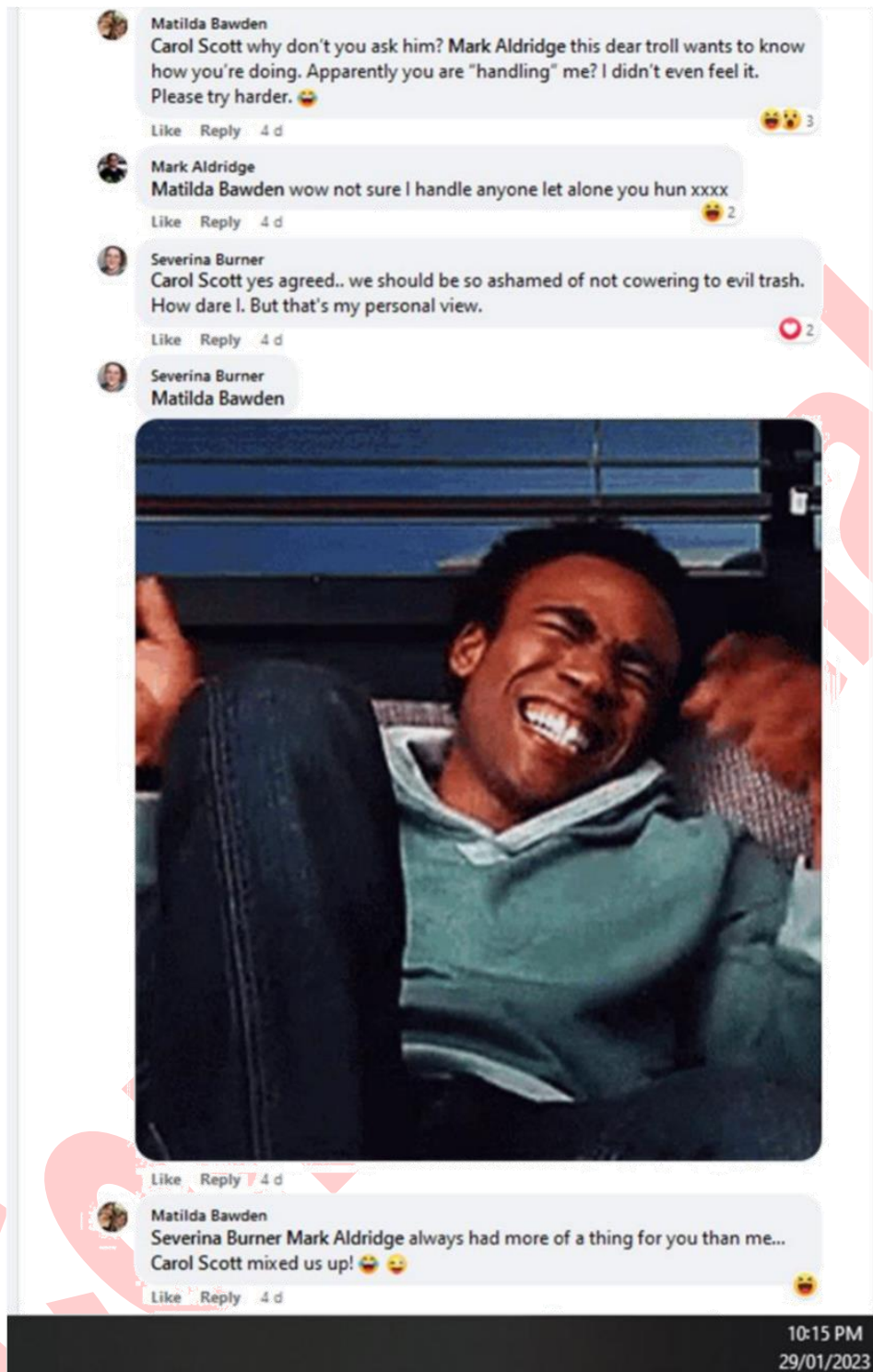
*This behaviour in my view is a break of their Oath of Office. The only reason they left was because they didn't like the opinions of their fellow Councillors. They showed no respect for the residents who elected them to represent those opinions in the Council chambers.'*

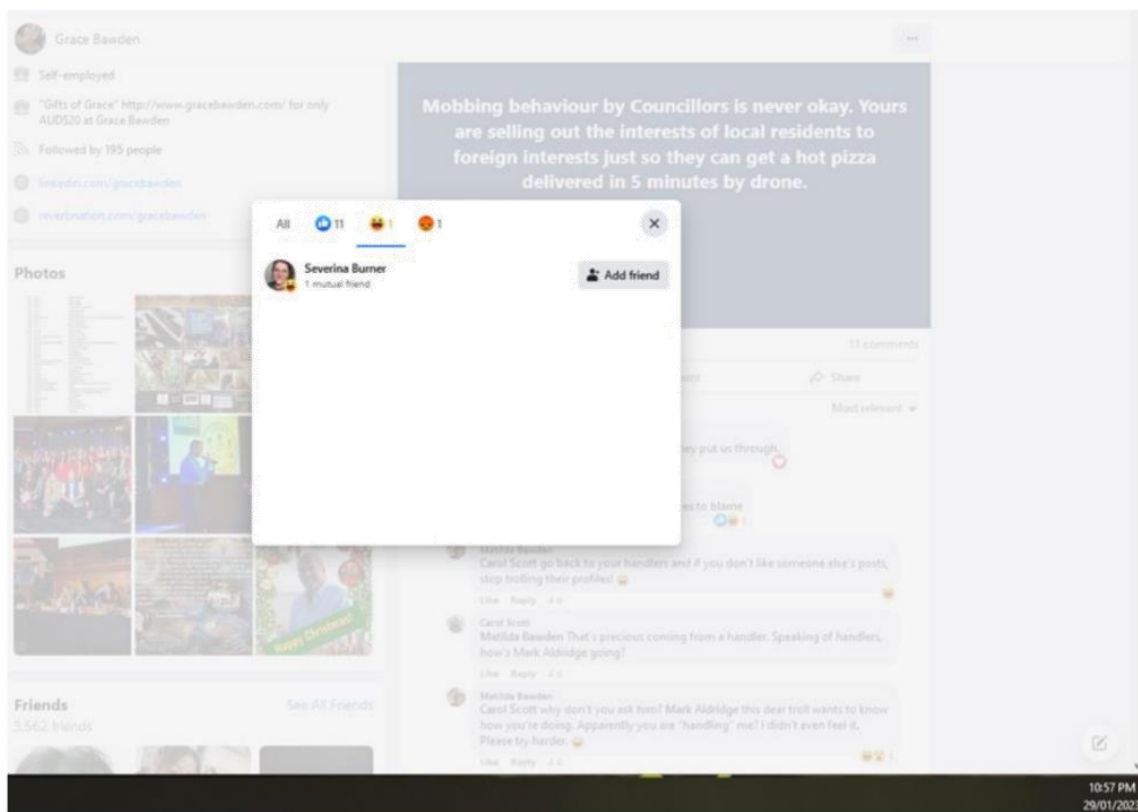
The specific provisions of the Behavioural Standards alleged to have been breached are clauses 2.1 and 2.8.

### Third Alleged Breach

The circumstances in which the third breach is alleged to have occurred is your 'laugh reaction' to the following Facebook post made by Grace Bawden on 25 January 2023 and your three comments on that post.







The specific provisions of the Behavioural Standards alleged to have been breached are clauses 2.2, 2.3, 2.5 and 2.9.



## Annexure B

**From:** Severina Akeroyd <swallowsnestsanctuary@gmail.com>  
**Sent:** Wednesday, April 5, 2023 12:58 AM  
**To:** Chris Alexandrides <CAlexandrides@normans.com.au>  
**Subject:** Alleged Breaches of Behavioural Standards - Confidential

Regarding your correspondence dated the 28<sup>th</sup> of March 2023.

I note you requested answers to a variety of questions and expected a response within 2 days, by the time I read your letter, I only had a few hours. This was also requested at a time the CEO and various members of the management team were made aware of me not coping and needing time away from Council matters.

I am certain you might understand that I am receiving so many letters from both your firm and the council, given that the tactic deployed by the Council has been to inundate and overwhelm me with correspondences, so it is only fair to accept my reply being later than you have demanded.

In regard to the first alleged breach, Cr Mazzeo, prior to the start of the meeting and coincidentally during our first conversation since my election, Cr Mazzeo made comments that were abusive and hurtful, accusing me of the promotion of Nazi concentration camps, something I have never done. She continued to speak down to me, as though I'm a Nazi, and refused to allow me to correct her misguided accusations, and then refused to respect my repeated requests to stop talking to me in that derogatory manner. She was relentless, and given the meeting had not started, I just got up to walk away and get myself in a safer place. This action led me in one direction and towards the front of the room.

Making matters worse, my family were victims of Nazis, and her tirade was very upsetting to me. I thought my first few requests to stop this behaviour, considering it was before a meeting, seemed very appropriate. I am also new to council processes, which is why I approached the table where the mayor and CEO were sitting. I asked them (more than once) to direct her to ask her to stop her aggression towards me, which I thought I did politely. I may have

later raised my voice in desperation because nobody helped me. I didn't know who to address my request to so I was talking to the whole team in the hope someone would intervene, Unfortunately, Mayor Aldridge was not helpful as she was already hostile towards me, and instead insisted that I return to my chair (one gap apart from Cr Mazzeo). This brought me more anxiety because instead of helping me, the mayor accused me of not allowing people to speak to me. I explained I just wanted Cr Mazzeo (my abuser/antagonizer) to stop until the meeting started, Again, the mayor demanded I return to my pre-allocated seat and I clearly felt threatened that I would be escorted out by security.

The second alleged breach seems very worrying, as local rate payers were discussing the matter and asking my opinion and for my support, I cannot remember where I first heard about the NOSCAG group or their flyer, however, it is not my business to stop the community from carrying out lawful activities.

The topic has become very pertinent to residents, and others as a global issue, I am still not very well versed on the topic, but any interaction I have, would be to better understand, to ensure I can represent my residents and question the council on any such topics that affect residents personally or financially.

I remain offended that even if I comment to someone on a social media post, I can be accused as if I support the post. The interaction between myself and residents, I thought, was an important part of the democratic process.

This investigation makes a mockery of it.

Cr Severina Burner

Ph: 0433 393 298

## Annexure C

**From:** Moni Mazzeo <MMazzeo@salisbury.sa.gov.au>  
**Sent:** Tuesday, April 4, 2023 5:48 PM  
**To:** Chris Alexandrides <CAlexandrides@normans.com.au>  
**Cc:** Felice D'Agostino <FDAgostino@normans.com.au>; Sophia Pishas <SPishas@normans.com.au>; Gillian Aldridge <GAldridge@salisbury.sa.gov.au>  
**Subject:** Re: Questions Regarding your Interaction with Cr Burner on 23 January 2023 - CONFIDENTIAL  
**Sensitivity:** Confidential

Hello

I am so sorry, I missed the email until the Friday reminder. Please see my reply below.

On 23 January 2023 prior to the commencement of the Special Council meeting, did Cr Severina Burner:

1.1 say to the public gallery words to the effect that you were bullying and harassing her? **Yes she did and more than once.**

1.2 request of the public gallery that someone admonish and stop you from talking to her? **Yes**

1.3 walk to the Mayor's table and repeat her request that someone stop you from talking to her? **She walked to the front of the chamber and yes very loudly and pointedly requested this.**



2. Did you engage in any conduct or state anything to Cr Burner on 23 January 2023 prior to the commencement of the meeting that prompted, or might have prompted, Cr Burner's words and actions on that evening? If so, what did you do or say to Cr Burner?

I would like to be clear that while the following conversation did occur, nothing in this conversation can justify the public attack on my character by Cr Burner. I am a MHFA trainer and I take this role seriously, along with leading a large team of Property Managers in a unique, supportive and collaborative business model. Our business model is built on trust and relies heavily on training to ensure our teams behaviour in all situations and in every interaction is appropriate. We pride ourselves on our conduct within group settings, and my role is to train every aspect from voice control and patterns, to positive phrasing, and, as such, our staff retention rate is unequalled in our industry. To be publicly accused of bullying is unacceptable. There was one person bullied in that chamber on the evening of the 23rd of January, and that was not Cr Burner, but rather me.

Around 6.10pm, prior to the council meeting I sat down in my place two seats from Cr Burner. I smiled and said, "Hello Severina."

She replied, "That was a very loaded hello."

I said, "not at all but if you are wanting to chat, I would like to mention that I was unimpressed with the post about smart cities being likened to concentration camps and have had comments made to me about it." *(It's important to note that my tone was intentionally calm and gentle, I am not a novice to controlling my emotions and interacting with people from all walks of life.)*

She said, "it's none of your business."

I replied, "This post was highlighted to me by a resident and apart from being inaccurate, it is, at best, insensitive."

She immediately became aggressive. She told me to, "shut up."

I said, "I've come to you privately and respectfully to discuss this, we should be able to talk about it."

She replied, "shut up now," gritted her teeth and growled, "shut your mouth!" *(I have been in business a very long time and in a highly competitive arena, and never have I been spoken to or had an attempt made to publicly humiliate me in the way that transpired on 23 Jan. Cr Burner was clearly in a very agitated state, her face contorted, and when she told me to shut my mouth it was obvious that she was trying to intimidate me.)*

I was completely taken aback but once again quietly said, "There is no need for you to speak to me that way, I have respectfully addressed this privately."

She growled, very aggressively, "stop talking to me."

I replied, "are you for real, is this your way of communicating with me."

She then stood up and walked to the front of the chamber, addressed the chamber and gallery saying very loudly that "she's bullying and harassing me."

She was asked 'who is' by the Mayor or a GM.

She said, "she is, Cr Mazzeo," pointed at me and continued on saying that this was bullying and harassment.

I did not speak until the Mayor replied to Cr Burner saying something similar to, "I find this surprising because I have known Cr Mazzeo for some time and what you are expressing is not generally Cr Mazzeos communication style" and the Mayor then asked me if I had anything to say.

I was so dumbfounded that I replied, "well it can hardly be bullying or harassment now can it."

Cr Burner remained very agitated but was told by the Mayor to return to her seat.

3. Have there been any prior interactions between you and Cr Burner or other conduct on your part that might have prompted, or contributed to Cr Burner's words and actions on 23 January 2023 prior to the commencement of the Council meeting? If so, please provide details of those prior interactions or other conduct.

No interaction other than general pleasantries on arrival and departure.

We understand that you have prepared and provided to the Council a written record of your 28 March 2023 Page 2 of 2 CZA/SXP/14409-511323/ recollection of the incident prior to the commencement of the Special Council meeting on 23 January 2023 concerning Cr Burner. Please let the Chief Executive Office know if you are agreeable to that written record being provided to us. If you have any other comments arising from the above questions which you think we should be aware of in conducting this investigation, please also include them in your written response to us. Please note that you have obligations to maintain confidentiality, as set out in clause 4.2 of the Policy. You are not permitted to discuss this correspondence with any other person, including on social media, with the exception of those matters set out in clause 4.2 of the Policy.

I typed up my recollection of the events during the meeting on the night so I am confident they are accurate.

Kindest Regards Moni Mazzeo

# Model Behavioural Management Policy

August 2022

Item C3 - Attachment 2 - Model Behavioural Management Policy



**Local Government Association**  
of South Australia


LG Equip

*This model policy was developed in preparation for the commencement of the Behavioural Management Framework as part of the implementation of the Statutes Amendment (Local Government Review) Act 2021 and associated changes to the Local Government Act 1999 and endorsed by the LGA Board on 23 August 2022.*

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

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LGA of SA
ECM 781625
Model Behavioural Management Policy: Approved 23 August 2022

	Local Government Association of South Australia	<b>LG Equip</b>
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Confidential



## Foreword

This model policy document has been developed to assist councils with the implementation of reforms associated with behavioural management for council members, arising from the *Statutes Amendment (Local Government Review) Act 2021*.

All councils must adopt a Behavioural Management Policy relating to the management of behaviour of council members, including the process for receipt and management of a complaint received regarding the conduct of a council member.

Section 262B of the *Local Government Act 1999* (the Local Government Act) sets out a range of matters that must be included within the policy and requires that council review the operation of the Behavioural Management Policy within 12 months after the conclusion of each periodic election.

## Legal Framework

There are four components to the Elected Member Behavioural Management Framework (BMF).

- Part 1 The legislative framework within which all council members must operate.
- Part 2 The Behavioural Standards for Council Members, determined by the Minister for Local Government (developed in consultation with the local government sector), which apply to all council members in South Australia.
- Part 3 The mandatory *Behavioural Management Policy* relating to the management of behaviour of council members and adopted pursuant to section 262B of the Local Government Act.
- Part 4 Optional *Behavioural Support Policy* (or policies), designed to support appropriate behaviour by council members and adopted pursuant to section 75F of the Local Government Act.

In addition, the Behavioural Standards Panel, an independent statutory authority comprising three members with powers to impose sanctions on council members who breach legislative and policy requirements has been established<sup>1</sup> to assess and deal with matters referred to it.

## LGA Mutual Liability Scheme and LGA Workers Compensation Scheme

In managing matters within the scope of the Behavioural Management Framework, councils must also adhere to the Local Government Association Mutual Liability Scheme (LGAMLS) and/or the Local Government Association Workers Compensation Scheme (LGAWCS) Rules. Where an incident, circumstance or matter occurs which may give rise to a claim, councils must provide notice to the LGAMLS and/or LGAWCS in accordance with the LGAMLS & LGAWCS Scheme Rules. The provision of early notice allows for adequate risk management and prevention strategies to be put in place so as to absolutely minimise risk.

<sup>1</sup> Chapter 13, Part A1—Member Behaviour, Division 2—Behavioural Standards Panel, *Local Government Act 1999*

## Commencement of Behavioural Management Framework

The provisions relevant to the Behavioural Management Framework are intended to commence immediately following the 2022 council periodic elections. At this time, the Behavioural Standards for Council Members will replace the former Code of Conduct for Council Members. At the same time, the investigative and disciplinary powers of the Behavioural Standards Panel will commence.

To support councils' compliance with the Behavioural Management Framework requirements, transitional provisions will be enacted which will deem the LGA's Model Policy as *the* Behavioural Management Policy for each council. At any time afterwards, councils can review their Behavioural Management Policy and determine any changes it may wish to make to the document.

The LGA Model Behavioural Management Policy was developed in consultation with Local Government Risk Services, the Office of Local Government and the LGA's *Legal Connect* partners, Norman Waterhouse Lawyers. The Model Policy sets the framework which is consistent with the legislative requirements. However, there are a range of matters within the Policy that councils may wish to customise to meet requirements specific to each council when consideration is given to changes to the Policy.

The LGA Model Behavioural Management Policy reflects the changes to the role of the principal member of council, set out in section 58 of the *Local Government Act 1999*. Consistent with the increased leadership obligations, the Policy assigns responsibility for the management of complaints to the Mayor (except in circumstances where the complaint relates to the conduct of the Mayor). Councils may determine and appoint an alternative person to be responsible for managing any complaints received in accordance with this Policy.

Councils are required to consider the adoption of a Behavioural Support Policy (or policies)<sup>2</sup> and the LGA has developed a model Behavioural Support Policy to assist with that consideration. Behavioural Support Policies are intended to support appropriate behaviours by members of the council and will assist with meeting obligations relating to leadership and positive and constructive working relationships as set out in sections 58 and 59 of the *Local Government Act*.

<sup>2</sup> Section 75F(7) of the *Local Government Act 1999* requires councils, within six months after the conclusion of each periodic election to review the operation of existing Behavioural Support Policies, or consider whether it should adopt a Behavioural Support Policy.



## Behavioural Management Policy

Responsibility	Chief Executive Officer
Effective date	From the day on which section 147(6) of the Statutes Amendment (Local Government Review) Act 2021 comes into operation
Next review date	Refer to regulation 16 of the <i>Local Government (Transitional Provisions) (Conduct) Amendment Regulations 2022</i>
Applicable Legislation	Local Government Act 1999 s262B <i>Local Government (Transitional Provisions) (Conduct) Amendment Regulations 2022</i>

### 1. Purpose

This Policy has been prepared and adopted pursuant to section 262B of the *Local Government Act 1999* (the Local Government Act).

This Behavioural Management Policy forms part of the Behavioural Management Framework for council members and sets out the approach to the management of complaints about the behaviour of council members. It sets out the process to be adopted where there has been an alleged breach of the Behavioural Standards for Council Members, this Behavioural Management Policy and/or any Behavioural Support Policy adopted by the Council (***the behavioural requirements***).

### 2. Glossary

***Behavioural Management Framework*** – comprises four components:

- The legislative framework within which all council members must operate;
- The Behavioural Standards for Council Members, determined by the Minister for Local Government, which apply to all council members in South Australia;
- The mandatory Behavioural Management Policy (this document) relating to the management of behaviour of council members and adopted pursuant to section 262B of the Local Government Act;
- Optional Behavioural Support Policy (or policies) designed to support appropriate behaviour by council members and adopted pursuant to section 75F of the Local Government Act.

***behavioural requirements*** – in this document refers collectively and individually to the Behavioural Standards for Council Members, the Behavioural Management Policy and any Behavioural Support Policies adopted by the Council.

***Behavioural Standards for Council Members*** – established by the Minister for Local Government, and published as a notice in the SA Government Gazette, specifying standards of behaviour to be observed by members of councils; and providing for any other matter relating to behaviour of members of councils.

**frivolous** – includes without limitation, a matter of little weight or importance, or lacking in seriousness.

**misbehaviour** – is defined in section 262E of the *Local Government Act 1999* as:

- (a) A failure by a member of a council to comply with a requirement of the council under section 262C(1); or
- (b) A failure by a member of a council to comply with a provision of, or a requirement under, the council's behavioural management policy; or
- (c) A failure by a member of a council to comply with an agreement reached following mediation, conciliation, arbitration or other dispute or conflict resolution conducted in relation to a complaint under Division 1

**person responsible for managing the complaint** means, subject to any resolution of the Council to the contrary –

1. the Mayor;
2. if the complaint relates to or involves the Mayor, the Deputy Mayor;
3. if the complaint relates to or involves the Mayor and Deputy Mayor, another council member appointed by Council.

**repeated misbehaviour** – is defined in section 262E of the *Local Government Act 1999* as a second or subsequent failure by a member of a council to comply with Chapter 5 Part 4 Division 2 (Ch 5-Members of council, Pt 4-Member integrity and behaviour, Div 2-Member behaviour)

**serious misbehaviour** – is defined in section 262E of the *Local Government Act 1999* as a failure by a member of a council to comply with section 75G (Health and safety duties)

**trivial** – includes without limitation, a matter of little worth or importance; that is trifling; or insignificant.

**vexatious** – includes a matter raised without reasonable grounds or for the predominate purpose of causing annoyance, delay or detriment, or achieve another wrongful purpose

### 3. Principles

Nothing in this Policy is intended to prevent council members from seeking to resolve disputes and complaints in a proactive, positive and courteous manner before they are escalated.

The following principles will apply:

- Where a council member considers there has been behaviour that is inconsistent with the **behavioural requirements** is, a council member may, in appropriate circumstances, seek to respectfully and constructively raise this issue with the member concerned, without the need to lodge a complaint under this Policy;
- If a matter proceeds to a complaint, all council members will continue to comply with the procedures set out in this Policy and support the person responsible for managing the complaint;
- a consistent approach to the assessment, investigation and resolution of complaints will be adopted to facilitate timely and efficient resolution and minimisation of costs;



- Where required, Council may engage the assistance of skilled advisors and support persons in the assessment, investigation and resolution of complaints and avoid adopting an unreasonably legalistic approach.
- ongoing training and relevant resources will be provided to all council members to ensure they have the skills and knowledge necessary to perform their role in accordance with the **behavioural requirements** and the *Local Government Act 1999*.
- training and relevant support will be provided to persons with specific obligations under this Policy to facilitate the management, reporting and resolution of complaints alleging a breach of the **behavioural requirements**.

Council will manage complaints under this Policy with as little formality and technicality and with as much expedition as the requirements of the matter and the Local Government Act allow and with proper consideration of the matter. Council is not bound by rules of evidence but will inform itself in the manner considered most appropriate given the nature of the complaint.

#### 4. The Complaint Management Process

This Policy sets out the procedures for dealing with an allegation of a breach of the **behavioural requirements** applying to council members. These procedures do not apply to complaints about council employees or the council as a whole.

A complaint made in accordance with this Policy must be lodged within 6 months of the behaviour that is inconsistent with the **behavioural requirements** occurring. A decision may be made to accept a complaint lodged more than 6 months after the behaviour that is inconsistent with the **behavioural requirements** occurring on a case-by-case basis, at the discretion of the person responsible for managing the complaint.

Community members can lodge a complaint with the Council in accordance with this Policy but cannot lodge a complaint directly with the Behavioural Standards Panel.

##### 4.1. Dispute versus Complaint

It is important to distinguish between a dispute and a complaint. A dispute is generally a difference of opinion or disagreement between two parties. It may involve a heated discussion or some other unsatisfactory exchange between parties but may not amount to conduct inconsistent with the **behavioural requirements**. Ideally disputes will be handled directly by the parties involved and will not escalate to a complaint requiring action (even informal action) under this Policy. The Mayor (or another person) may play a role in facilitating a resolution to a dispute.

This Policy is intended to deal with matters where conduct is alleged to have been inconsistent with the **behavioural requirements**, rather than where members of council have differences of opinion, even when robustly put.

##### 4.2. Confidentiality

Complaints made in accordance with this Policy will be managed on a confidential basis until such a time as they are required to be reported to Council in a public meeting in accordance with this Policy or are otherwise lawfully made public or disclosed.



Access to information relating to complaints and information about complaints will be limited to parties to the complaint and individuals with a responsibility within the complaint handling process or as otherwise provided for within this Policy<sup>3</sup>.

A person who has access to information about a complaint (including the complainant and the person complained about) must not directly, or indirectly disclose to any person (including to a council member) that information except:

- For the purpose of dealing with the complaint
- Where required by law
- For the purpose of obtaining legal advice or legal representation, or medical or psychological assistance from a medical practitioner, psychologist or counsellor
- Where the disclosure is made to an external party, investigating the complaint, or mediator/conciliator engaged in accordance with this Policy
- Where the information has been made public in accordance with this Policy or this Policy otherwise authorises or requires the disclosure of the information.

This is not to be confused with formal consideration at a Council Meeting of any matter arising from application of this Policy. Items presented to Council must be assessed on a case-by-case basis in accordance with the requirements of section 90 of the *Local Government Act 1999*.

A complainant may request their identity be kept confidential from the person complained about. This does not constitute an anonymous complaint. The person responsible for managing the complaint will consider such requests on a case-by-case basis, having regard to any applicable legal requirements.

#### 4.3. Stages of Action

This Policy has three distinct stages to the approach that will be taken to address complaints about the behaviour of Council Members:

- Part 1: Informal Action: Where the matter can be resolved directly between the parties.
- Part 2: Formal Action: Where the matter cannot be resolved using informal action and a formal process of consideration is required.
- Part 3: Referrals to the Behavioural Standards Panel: the circumstance under which the Mayor, the Council or other authorised person(s) will make a referral.

#### 4.4. Part 1: Informal action

Council encourages informal resolution of concerns regarding behaviour alleged to be contrary to the **behavioural requirements**. A person may therefore consider raising the matter directly with the council member concerned.

Alternatively, a person may raise their concern with the Mayor on an informal basis. If the concerns relate to or involve the Mayor the person may raise the matter with the Deputy Mayor (if appointed) or

<sup>3</sup> There are circumstances in the *Work Health and Safety Act 2012* where information must be disclosed, for example where the health and safety of an employee is at risk.



other council member appointed by the Council as the person responsible for managing complaints under this Policy.

If the Mayor or person responsible for managing the complaint considers that access to resources to support impacted parties and facilitate early resolution of the matter should be provided, the Mayor or person responsible for managing the complaint will request the CEO to facilitate access to relevant resources. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.

#### 4.4.1. Record keeping

Where the Mayor or person responsible for managing the complaint addresses the matter through informal action, a record should be made setting out:

- Details of the complainant
- Details of the person complained about
- A summary of the matter
- A summary of actions taken in response
- Details of agreed actions (if any)

If informal action does not successfully resolve the matter, the record may be made available to an investigation process as provided for under this Policy or to the Behavioural Standards Panel.

#### 4.5. Part 2: Formal action

This Part sets out the process for formal action in response to a complaint regarding the behaviour of council members and addresses the manner in which a complaint will be:

- Received
- Assessed
- Investigated
- Resolved
- Recorded

A complaint made under the Behavioural Management Policy must:

- be received in writing. Subject to an alternative resolution of the Council, a complaint should be marked with "Confidential Council Member Complaint" and forwarded to the relevant email or physical address as published on the Council's website.
- Provide the name of the council member who has allegedly breached the **behavioural requirements**, the name and contact details of the complainant, the name and contact details of the person submitting the complaint (if different to the complainant) and the name and contact details of any witnesses or other persons able to provide information about the complaint.
- Be specific (including identifying the **behavioural requirements** the complainant alleges have been breached)



- Provide as much supporting evidence as possible to assist an investigation, including the grounds and circumstances of the complaint (e.g. where, when, impact of the behaviour, actions taken to try to resolve the issue, relevant records or documents)
- Identify the outcome being sought
- Be lodged within six (6) months of the alleged conduct occurring on the basis that it is important to address alleged breaches of **behavioural requirements** in a timely manner (with discretion provided to the person responsible for managing the complaint to allow a longer time limit to apply in particular cases. This will be assessed on a case-by-case basis).

#### 4.5.1. Receipt of a Complaint

This step is an administrative process undertaken by the CEO or delegate:

- receipt
- initial acknowledgement
- record keeping; and
- allocation of the matter to the person responsible for managing the complaint.

The CEO or delegate does not undertake an assessment of the merits of the complaint.

Receipt of the complaint will be acknowledged within 2 business days or as soon as reasonably practicable and a copy of this Policy will be provided to the person making the complaint.

The complaint should be directed to the person responsible for managing the complaint in accordance with this Policy.

A complainant may withdraw their complaint at any stage.

#### 4.5.2. Initial complaint assessment

An initial assessment is not an investigation or adjudication of a complaint and no findings as to the merits of the complaint will be made at this stage.

##### Step 1

The person responsible for managing the complaint will undertake an assessment of it to determine whether the content of the complaint relates to the **behavioural requirements** and whether the conduct occurred in the context of the council member carrying out their official functions and duties.

In undertaking the assessment, the person responsible for managing the complaint will have regard to the following matters:

- the person that is making the complaint (or on whose behalf the complaint has been made) has a sufficient interest in the matter
- the complaint is trivial, frivolous or vexatious or not made in good faith

4 The person responsible for managing the complaint will also have regard to whether the council has obligations to report the matter to either the Local Government Association Mutual Liability Scheme (LGAMLS) or the Local Government Association Workers Compensation Scheme (LGAWCS), pursuant to the Rules of those Schemes and council's agreement with those bodies.



- the complaint has been lodged with another authority
- the subject matter of the complaint has been or is already being investigated by the Council or another body
- it is unnecessary or unjustifiable for the Council to deal with the complaint
- the council has dealt with the complaint adequately.

## Step 2

If the person responsible for managing the complaint considers the matter warrants further consideration, the person complained about should be advised that a complaint has been received and is undergoing an initial assessment in accordance with this Policy. They should be provided a summary of the matter, at a sufficient level of detail, to understand the nature of the allegations and enable them to provide a preliminary response. This may be achieved by a discussion between the person responsible for managing the complaint and the person complained about, taking into account the principles of this Policy. The person complained about may have a support person present during any discussions.

The person complained about should be given a reasonable opportunity, but no more than ten business days, to provide a response to support the initial assessment. The person responsible for managing the complaint may provide a longer period of time for provision of a response at their discretion. The person responsible for managing the complaint should have regard to any response provided in determining the action resulting from the initial assessment.

## Action from initial assessment

The person responsible for managing the complaint will determine what action will result from the initial assessment. A matter may proceed to formal consideration under this Policy, unless there are grounds to take one of the following actions pursuant to section 262B(2)(b):

- refusing to deal with the complaint<sup>5</sup>
- determining to take no further action
- referring to an alternative resolution mechanism or to propose training for relevant parties (e.g. facilitated discussion, provision of training, mediation, arbitration, conflict resolution, etc.)
- referring the matter to another body or agency (e.g., the Ombudsman SA or the Behavioural Standards Panel)

The outcome of the initial assessment will be advised to the complainant and person complained about in writing as far as is permitted by law.

## ***Refusing to deal with the complaint/Determining to take no further action***

Where the person responsible for managing the complaint makes a decision not to proceed with formal consideration of the matter the following steps should be taken:

<sup>5</sup> Section 270(4a)(a)(i) of the *Local Government Act 1999* precludes a review of a decision to refuse to deal with the complaint

- the complainant must be provided written reasons explaining the decision<sup>6</sup>
- the person complained about should be provided with a brief summary of the complaint and the reasons for not proceeding.
- A record of these steps and the decision not to proceed should be made.

Whilst a matter may not proceed, the person responsible for managing the complaint may discuss the issues informally with the parties and identify strategies to build skills, facilitate positive relationship development and reduce the likelihood of repeat occurrences.

***Decision to refer to alternative resolution mechanism:***

The person responsible for managing the complaint may form the view that the optimal way to deal with the complaint is to implement an alternative resolution mechanism such as facilitated discussion, mediation, arbitration, conflict resolution or training.

The person responsible for managing the complaint should discuss the use of a proposed alternative resolution mechanism with the complainant and the person complained about to determine whether there is support for this approach.

If so, the person responsible for managing the complaint should request the CEO take steps to facilitate access to appropriate internal or external support (not being for the purposes of obtaining legal advice) for parties to the complaint. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.

The complainant and the person complained about should be provided written confirmation of the alternative resolution mechanism to be used for the purposes of resolving the complaint.

***Decision to refer to another body or agency***

Where the person responsible for managing the complaint makes a decision to refer the matter to another body or agency the person will follow any direction from that body or agency regarding what information is to be provided to the complainant and the elected member complained about regarding the referral.

***Decision to proceed to formal consideration:***

Where the person responsible for managing the complaint makes a decision to proceed to formal consideration the following steps should be taken:

- the person complained about should be provided with a copy of this Policy, contact details of the person responsible for managing the complaint and a summary document setting out:
  - the specific provision(s) of the **behavioural requirements** alleged to have been breached; and
  - the circumstances where this breach is alleged to have occurred.

In circumstances where the complainant has not requested their identity be kept confidential, a copy of the complaint may be provided in full.

<sup>6</sup> Section 262D, Local Government Act 1999



- the complainant should be advised of the decision to proceed and the contact details of the person responsible for managing the complaint.

#### 4.5.3. Formal consideration

Where a decision to formally consider the complaint has been made the person responsible for managing the complaint will determine how to proceed:

- The person responsible for managing the complaint may determine that they are the appropriate person to formally consider the complaint; or
- The person responsible for managing the complaint may determine to engage a third party to formally consider the complaint, for example:
  - an investigator who will report to the person responsible for managing the complaint; or
  - an external service provider with skills relevant to the matter who will report to the person responsible for managing the complaint.

If the person responsible for managing the complaint determines a third party should be engaged, they will request the CEO to facilitate engagement of an appropriate service provider. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.

The person responsible for managing the complaint will advise both the complainant and the person complained about that they are able to have a support person accompany them during discussions relating to the complaint.

It is the expectation of Council that both the complainant and the person complained about will cooperate with any such process to consider the complaint and, if requested, participate in meetings in a timely manner.

*Failure by the elected member complained about to comply with this requirement may be taken into account when considering the actions to be taken under section 262B(2)(e) of the Local Government Act and may constitute grounds for referral to the Behavioural Standards Panel for misbehaviour.*

Further consideration by the person responsible for managing the complaint (or the third party engaged), may (at the discretion of that person) involve:

- explore the complaint with the complainant and the person who is the subject of the complaint
- speaking with other persons who have been nominated by the parties to have observed the behaviour
- speaking directly with witnesses to the conduct complained about
- requesting the provision of information or documents relevant to the investigation, which may include access to audio or video recordings of meetings.

During the formal consideration of a matter appropriate records should be kept by the person responsible for managing the complaint.

#### 4.5.4. Report

The person responsible for managing the complaint (or the third party engaged) should ensure a report is prepared summarising the matter and setting out their findings, conclusions and recommendations. The report should set out:

- Allegations made in the complaint
- Summary of evidence to which the investigation had regard
- Findings
- Conclusions
- Recommendations

A report will generally include a recommended action for the parties to consider and/or participate in such as, but not limited to the imposition of sanctions as per the Local Government Act:

- discussions with parties to the complaint to seek agreement
- formal mediation if not already undertaken
- Conciliation
- Arbitration
- Education and further training

A copy of the draft report should be provided to the parties to the complaint who should be given a reasonable opportunity, but no more than ten business days, to make submissions in relation to the draft report. The person responsible for managing the complaint (or the third party engaged) may provide a longer period of time for lodgement of submissions to the draft report at their discretion. The person responsible for managing the complaint (or the third party engaged) should have regard to any submissions made in preparing a final report.

#### Outcome – No breach found

Where the finding is that no breach of the **behavioural requirements** has occurred a final report should be prepared by the person responsible for managing the complaint (or third party engaged) and provided to the complainant and the person complained about.

The complaint will remain confidential in accordance with the requirements of this Policy, except at the request of the person complained about. If such a request is made, a copy of the final report will be tabled<sup>7</sup> at the next practicable Council meeting. If no such request is received, no further action will be taken.

<sup>7</sup> Note that the complainants identity may need to be redacted.

### Outcome – agreed actions (breach found)

Where the finding is that a breach of the **behavioural requirements** has occurred and the complainant and the person complained about<sup>8</sup> agree to a path for resolution, that agreement will be documented including matters such as:

- actions to be undertaken
- responsibility for completing actions
- timeframes for completion of actions
- what will occur if there is a repeat of the behaviours complained about
- monitoring arrangements for completion of actions
- what will occur if the actions aren't completed
- confirmation that the matter is considered resolved

The agreement reached will be made in writing, including a commitment by parties to the complaint to abide by the agreement (which may be by electronic means). A copy of the agreement will be retained by each party and a copy held in Council records.

The complaint will remain confidential in accordance with the requirements of this Policy except at the request of the person complained about. If such a request is made, a copy of the final report will be tabled<sup>9</sup> at the next practicable Council meeting.. The matter must be reported in the Council's Annual Report which must contain the information required by the regulations.<sup>10</sup>

### Outcome – no agreed action (breach found)

Where the finding is that a breach of the **behavioural requirements** has occurred and the parties to the complaint have failed to reach agreement as to the resolution of the matter a final report should be presented to Council for determination. The person responsible for managing the complaint should request the CEO to include the final report in the Council Agenda as soon as practicable.

### 4.5.5. Actions of Council

Where the parties are not able to agree on an approach to resolve the matter, the matter will be provided to Council for determine the actions to be taken which may include:

- taking no further action
- passing a censure motion in respect of the member;
- requiring the member to issue a public apology (in a manner determined by the Council)
- requiring the member to undertake a specified course of training or instruction;

<sup>8</sup> Where the conduct complained about is not raised by the person directly affected by the conduct it will usually be appropriate to discuss the proposed resolution with that person prior to finalising agreement. This is intended to apply in a circumstance where the 'victim' is not the complainant to provide them a reasonable opportunity to have input into the resolution.

<sup>9</sup> Note that the complainants identity may need to be redacted.

<sup>10</sup> Schedule 4(1)(d), *Local Government Act 1999*

- removal or suspension from one or more offices held in the member's capacity as a member of the Council or by virtue of being a member of the Council – but not the office of Member of the Council;

If Council determines to take action, a report on the matter must be considered at a meeting open to the public<sup>11</sup>.

Where Council determines to take no further action, the complainant will be advised of this along with reasons, which may include:

- the ground that, having regard to all the circumstances of the case, it is unnecessary or unjustifiable for the council to deal with or continue to deal with the complaint;
- the ground that the subject matter of the complaint has been or is already being investigated, whether by the council or another person or body; or
- the ground that the council has dealt with the complaint adequately.

In making a determination under section 262C(1) Council should be reasonably prescriptive about the manner and time periods in which the action must be completed. Section 262E defines a failure to comply with a requirement of the council under 262C(1) as 'misbehaviour' which may result in a referral to the Behavioural Standards Panel.

The matter must be reported in the Council's Annual Report which must contain the information required by the regulations.<sup>12</sup>

#### 4.6. Behavioural Standards Panel

The Behavioural Standards Panel is an independent statutory authority consisting of three members and has powers to impose sanctions on council members who breach the **behavioural requirements**.

In accordance with section 262Q of the *Local Government Act 1999* a complaint alleging misbehaviour, repeated misbehaviour or serious misbehaviour may be made to the Panel by certain persons as set out below. The Panel's jurisdiction arises in the circumstances set out below:

<b>Legislative definition</b>	<b>Plain language explanation</b>
<p><b>misbehaviour</b> means—</p> <ol style="list-style-type: none"> <li>a failure by a member of a council to comply with a requirement of the council under section 262C(1); or</li> <li>a failure by a member of a council to comply with a provision of, or a requirement under, the council's behavioural management policy; or</li> <li>a failure by a member of a council to</li> </ol>	<p>Misbehaviour means:</p> <ol style="list-style-type: none"> <li>a council member fails to take the action required by council; or</li> <li>a council member fails to comply with this policy; or</li> </ol>

<sup>11</sup> Section 262C(2), *Local Government Act 1999*

<sup>12</sup> Schedule 4(1)(d), *Local Government Act 1999*



comply with an agreement reached following mediation, conciliation, arbitration or other dispute or conflict resolution conducted in relation to a complaint under Division 1;	(c) a council member fails to comply with an agreement reached pursuant to this policy
<b>repeated misbehaviour</b> means a second or subsequent failure by a member of a council to comply with Chapter 5 Part 4 Division 2;	A second or subsequent breach of the <b>behavioural requirements</b>
<b>serious misbehaviour</b> means a failure by a member of a council to comply with section 75G.	A breach of health and safety duties (including sexual harassment) as set out in section 75G of the <i>Local Government Act 1999</i>

A complaint alleging misbehaviour, repeated misbehaviour or serious misbehaviour by a member of council may be referred to the Panel by<sup>13</sup>:

- A resolution of the council;
- the Mayor; or
- at least 3 members of the council
- Responsible person under 75G – direction not to attend meeting.

#### **Behavioural Standards Panel Contact Officer**

Council must appoint a person as the contact officer for matters referred to the Behavioural Standards Panel. The contact officer is responsible for the provision of information to and receipt of notice from the Behavioural Standards Panel.

## **5. Responsibilities**

The Mayor, Deputy Mayor (if appointed) or other council member appointed by the council as the person responsible for managing complaints is responsible under this Policy to:

- Perform the tasks bestowed upon the person responsible for dealing with a complaint pursuant to this Policy
- In consultation with the CEO, facilitate access to resources to support impacted parties and resolve the concerns raised in a timely manner prior to the matter becoming serious, or escalating to a formal complaint.
- In consultation with the CEO, engage external resources to assist with investigation and resolution of matters.

The CEO (or delegate) is responsible under this Policy to:

<sup>13</sup> Section 262Q, *Local Government Act 1999*



- manage the administrative receipt, acknowledgement, record keeping and allocation of a complaint lodged in accordance with this Policy
- facilitate access to external resources to support the resolution of complaints lodged in accordance with this Policy.

The Behavioural Standards Panel Contact Officer (appointed by the council) is responsible under this Policy to:

- comply with any lawful request of the Panel for information related to a matter under consideration.
- Receive and respond to notices relating to matters under consideration by the Panel.

Where the Behavioural Standards Panel Contact Officer is not the CEO, the Contact Officer should keep the CEO informed of the status of matters under consideration by the Panel.

## 6. Related Legislation

*Independent Commission Against Corruption Act 2012*

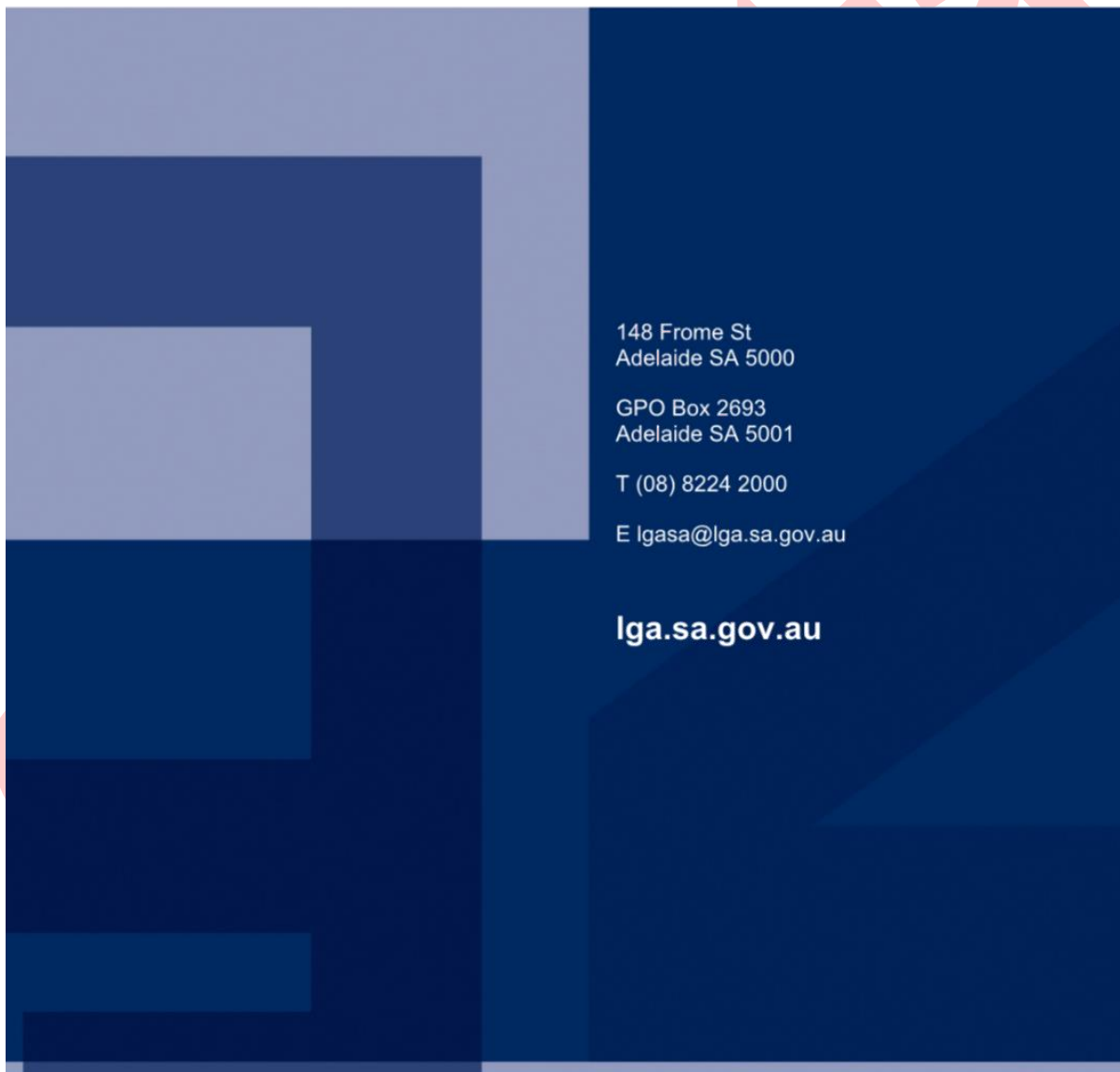
*Local Government Act 1999*

*Ombudsman Act 1972*

*Public Interest Disclosure Act 2018*

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