



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

22 MAY 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

STAFF

A/Chief Executive Officer, Mr C Mansueto
General Manager City Infrastructure, Mr J Devine
General Manager Community Development, Mrs A Pokoney Cramey
General Manager City Development, Ms M English
Manager Governance, Mr R Deco
Manager Financial Services, Ms K George
A/Manager Community Experience & Relationships, Ms H Atkins
Team Leader Sport, Recreation and Cemeteries, Mr B Hopkins
Team Leader Council Governance, Ms J O'Keefe-Craig

The meeting commenced at 6:34pm.

OPENING PRAYER AND WELCOME

The Mayor welcomed the members, public and staff to the meeting.

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 Kurna Acknowledgement.

The A/Chief Executive Officer read the Opening Prayer.

APOLOGIES

Apologies were received from Cr G Bawden, Cr S Burner and Cr S Reardon.

LEAVE OF ABSENCE

Nil.

PUBLIC QUESTION TIME

The Mayor advised that Sandy Holloway, present in the Gallery, had a question for Public Question Time, however the question was withdrawn by Ms Holloway as the Council Members the question related to were not present at the meeting.

DEPUTATIONS

DEP1 Mr Farrugia - Salisbury Mausoleum

Mr Anthony Farrugia from Salisbury Downs addressed the 22 May 2023 Council Meeting in relation to the Salisbury Mausoleum.

DEP2 Mr Donald Hockley - Social Media Posts

Mr Donald Hockley was not able to attend the meeting.

PRESENTATION OF 20 YEAR SERVICE AWARD - DEPUTY MAYOR, CR CHAD BUCHANAN

The Mayor presented Deputy Mayor, Cr Chad Buchanan with a Certificate of Service, in recognition of reaching 20 years of service as an Elected Member serving the City of Salisbury Community.

VERBAL REPRESENTATIONS ON THE 2023/2024 LONG TERM FINANCIAL PLAN AND ANNUAL BUSINESS PLAN

As per Section 123 of the Local Government Act 1999, a Council must ensure members of the public may ask questions and make submissions in relation to the Draft Annual Business Plan and Budget.

Mr David Waylen from the Salisbury Business Association attended the meeting to provide a verbal representation on the Draft 2023/24 Long Term Financial Plan and Annual Business Plan.

No further verbal presentations were received.

PRESENTATION OF MINUTES

Moved Cr P Jensen
Seconded Cr K Grenfell

The Minutes of the Council Meeting held on 24 April 2023, be taken as read and confirmed.

CARRIED
0319/2023

PETITIONS

No Petitions have been received.

Cr Buchanan sought and obtained leave of the meeting to bring forward the following Items:

- C1 – Complaint – 29 January 2023*
- C2 – Complaint – 20 January 2023*
- C3 – Complaint – 29 January 2023*
- C4- Complaint – 24 February 2023*

The Mayor brought forward the following Items as the next Item of business:

- C1 – Complaint – 29 January 2023*
- C2 – Complaint – 20 January 2023*
- C3 – Complaint – 29 January 2023*
- C4- Complaint – 24 February 2023*

ORDERS TO EXCLUDE THE PUBLIC

C1 Complaint 29 January 2023

Moved Cr C Buchanan
Seconded Cr K Grenfell

Pursuant to section 90(2) and 90(3)(a) of the *Local Government Act 1999* the Council orders that the public be excluded from attendance at the part of the meeting relating to Agenda Item C1 Complaint 29 January 2023, except staff of the City of Salisbury on duty in attendance, A/Chief Executive Officer, Manager Governance, Team Leader Council Governance.

To enable the Council to consider Item C1 Complaint 29 January 2023 in confidence on the basis that the Council considers it necessary and appropriate to act in a meeting closed to the public except staff of the City of Salisbury on duty in attendance, A/Chief Executive Officer, Manager Governance, Team Leader Council Governance in order to receive, discuss or consider in confidence the following information or matter relation to Item C1 Complaint 29 January 2023:

- 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). The disclosure of which would be unreasonable.

being information in relation to personal affairs, which is sensitive.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential.

**CARRIED
0320/2023**

C2 Complaint 20 January 2023

Moved Cr C Buchanan
Seconded Cr K Grenfell

Pursuant to section 90(2) and 90(3)(a) of the *Local Government Act 1999* the Council orders that the public be excluded from attendance at the part of the meeting relating to Agenda Item C2 Complaint 20 January 2023, except staff of the City of Salisbury on duty in attendance, A/Chief Executive Officer, Manager Governance, Team Leader Council Governance.

To enable the Council to consider Item C2 Complaint 20 January 2023 in confidence on the basis that the Council considers it necessary and appropriate to act in a meeting closed to the public except staff of the City of Salisbury on duty in attendance, A/Chief Executive Officer, Manager Governance, Team Leader Council Governance in order to receive, discuss or consider in confidence the following information or matter relation to item C2 Complaint 20 January 2023:

- 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). The disclosure of which would be unreasonable.

being information in relation to personal affairs, which is sensitive.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential.

CARRIED
0321/2023

C3 Complaint 29 January 2023

Moved Cr C Buchanan
Seconded Cr K Grenfell

Pursuant to section 90(2) and 90(3)(a) of the *Local Government Act 1999* the Council orders that the public be excluded from attendance at the part of the meeting relating to Agenda Item C3 Complaint 29 January 2023, except staff of the City of Salisbury on duty in attendance, A/Chief Executive Officer, Manager Governance, Team Leader Council Governance.

To enable the Council to consider Item C3 Complaint 29 January 2023 in confidence on the basis that the Council considers it necessary and appropriate to act in a meeting closed to the public except staff of the City of Salisbury on duty in attendance, A/Chief Executive Officer, Manager Governance, Team Leader Council Governance in order to receive, discuss or consider in confidence the following information or matter relation to item C3 Complaint 29 January 2023:

- 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). The disclosure of which would be unreasonable.

being information in relation to personal affairs, which is sensitive.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential.

CARRIED
0322/2023

C4 Complaint 24 February 2023

Moved Cr C Buchanan
Seconded Cr K Grenfell

Pursuant to section 90(2) and 90(3)(a) of the *Local Government Act 1999* the Council orders that the public be excluded from attendance at the part of the meeting relating to Agenda Item C4 Complaint 24 February 2023, except staff of the City of Salisbury on duty in attendance, A/Chief Executive Officer, Manager Governance, Team Leader Council Governance.

To enable the Council to consider Item C4 Complaint 24 February 2023 in confidence on the basis that the Council considers it necessary and appropriate to act in a meeting closed to the public except staff of the City of Salisbury on duty in attendance, A/Chief Executive Officer, Manager Governance, Team Leader Council Governance in order to receive, discuss or consider in confidence the following information or matter relation to item C4 Complaint 24 February 2023:

- 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). The disclosure of which would be unreasonable.

being information in relation to personal affairs, which is sensitive.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential.

CARRIED
0323/2023

The meeting moved into confidence at 6:47pm.

Item C1 – Complaint 29 January 2023 – Item Released.

Pursuant to section 74 of the Local Government Act 1999, Cr A Graham declared a general conflict of interest in relation to this matter, C1 on the basis that he is involved in this matter. Cr A Graham stated that he will deal with the conflict by withdrawing from the meeting.

Cr A Graham left the meeting at 06:49 pm.

C1 Complaint 29 January 2023

Moved Cr S Ouk

Seconded Cr S McKell

That Council:

1. Notes that a complaint was received on 29 January 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden.
2. Notes that Elected Member behaviour complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2, Council, 22 May 2023, Item C1).
3. Receives the independent report from Norman Waterhouse Lawyers on the complaint received alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden, as included in attachment 1 (Council, 22 May 2023, Item C1).
4. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item C1) 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, 22 May 2023, Item C1) 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, 22 May 2023, Item C1) 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 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, 22 May 2023, Item C1) 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.
8. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item C1) 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.
9. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item C1) concludes that Cr Grace Bawden has breached clause 2.5 of the Behavioural Standards by which requires her to act in a manner consistent with her role, as defined in section 59 of the *Local Government Act 1999*.
10. Approves that, pursuant to Section 91(7) of the *Local Government Act 1999*, the discussion for this item will remain confidential and not available for public inspection until 30 June 2026.
11. Approves that, pursuant to Section 91(9)(c) of the *Local Government Act 1999*, the power to revoke the order under Section 91(7)(a)&(b) prior to any review or as a result of any review is delegated to the Chief Executive Officer.

CARRIED
0324/2023

Cr A Graham returned to the meeting at 06:51 pm.

Item C2 – Complaint 20 January 2023 Item Released.

C2 Complaint 20 January 2023

Moved Cr A Graham

Seconded Cr S Ouk

That Council:

1. Notes that a complaint was received on 20 January 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden.
2. Notes that Elected Member behaviour complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2, Council, 22 May 2023, Item C2).

3. Receives the independent report from Norman Waterhouse Lawyers on the complaint received alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden, as included in attachment 1 (Council, 22 May 2023, Item C2).
4. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item 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, 22 May 2023, Item 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, 22 May 2023, Item 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 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, 22 May 2023, Item 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.
8. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item 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.
9. Approves that, pursuant to Section 91(7) of the *Local Government Act 1999*, the 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 power to revoke the order under Section 91(7)(a)&(b) prior to any review or as a result of any review is delegated to the Chief Executive Officer.

CARRIED
Unanimously
0325/2023

Item C4 – Complaint 20 January 2023 – Item Released.

C4 Complaint 24 February 2023

Moved Cr B Brug
Seconded Cr L Brug

That Council:

1. Notes that a complaint was received on 24 February 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Severina Burner.
2. Notes that Elected Member behaviour complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2, Council, 22 May 2023, Item C4).
3. Receives the independent report from Norman Waterhouse Lawyers on the complaint received alleging breaches of the Behavioural Standards for Council Members by Cr Severina Burner, as included in attachment 1 (Council, 22 May 2023, Item C4).
4. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item C4) 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.
5. Approves that, pursuant to Section 91(7) of the *Local Government Act 1999*, the discussion for this item will remain confidential and not available for public inspection until 30 June 2026.
6. Approves that, pursuant to Section 91(9)(c) of the *Local Government Act 1999*, the power to revoke the order under Section 91(7)(a)&(b) prior to any review or as a result of any review is delegated to the Chief Executive Officer.

CARRIED
Unanimously
0327/2023

The meeting moved out of confidence at 6:54pm.

MOTIONS WITHOUT NOTICE

MWON1 Motion without Notice: C1 Cr Grace Bawden

Moved Mayor G Aldridge
Seconded Cr K Grenfell

Pursuant to section 74 of the Local Government Act 1999, Cr A Graham declared a general conflict of interest in relation to this matter on the basis that he was involved in this matter. Cr A Graham stated that he will deal with the conflict by withdrawing from the meeting. Cr A Graham left the meeting at 06:57 pm.

*Cr B Brug left the meeting at 06:59 pm.
Cr B Brug returned to the meeting at 07:00 pm.*

That Council:

1. Notes the report presented to Council at its meeting on 22 May 2023 including the findings made by Norman Waterhouse Lawyers in relation to the 29 January 2023 complaint received, concluding that Cr Grace Bawden has, on the balance of probabilities, breached clauses 1.2, 1.3, 1.5, 2.2, 2.3 and 2.5 of the Behavioural Standards (Item C1, Attachment 1, Council, 22 May 2023).
2. Censures Cr Grace Bawden's conduct the subject of findings of breaches of the Behavioural Standards as set out in the NWL report (Item C1 Attachment 1, Council, 22 May 2023).
3. Requires Cr Grace Bawden to reflect on her behaviour and issue an unqualified public apology in respect of her conduct, with such apology to be presented at the June 2023 Council meeting, in writing or in person, and to be included in the Council Minutes.
4. Requires Cr Grace Bawden to reflect on her behaviour and publish an unqualified public apology in respect of her conduct on her social media page on which Cr Grace Bawden published the material the subject of the complaints made by 26 June 2023.

CARRIED
Unanimously
0328/2023

Cr A Graham returned to the meeting at 07:04 pm.

MWON2 Motion without Notice: C2 Cr Grace Bawden

Moved Mayor G Aldridge

Seconded Cr S Ouk

That Council:

1. Notes the report presented to Council at its meeting on 22 May 2023 including the findings made by Norman Waterhouse Lawyers in relation to the 20 January 2023 complaint received, concluding that Cr Grace Bawden has, on the balance of probabilities, breached clauses 1.2, 1.3, 1.5, 2.2 and 2.3 of the Behavioural Standards (Item C2, Attachment 1, Council, 22 May 2023).
2. Censures Cr Grace Bawden's conduct the subject of findings of breaches of the Behavioural Standards as set out in the Norman Waterhouse Lawyers report (Item C2, Attachment 1, Council, 22 May 2023).
3. Requires Cr Grace Bawden to reflect on her behaviour and issue an unqualified public apology in respect of her conduct, with such apology to be presented at the June 2023 Council meeting, in writing or in person, and to be included in the Council Minutes.
4. Requires Cr Grace Bawden to reflect on her behaviour and publish an unqualified public apology in respect of her conduct on her social media page on which Cr Grace Bawden published the material the subject of the complaints made by 26 June 2023.

CARRIED
Unanimously
0329/2023

MWON3 Motion without Notice: C4 Cr Severina Burner

Moved Mayor G Aldridge
Seconded Cr J Chewparsad

That Council:

1. Notes the report presented to Council at its meeting on 22 May 2023 including the findings made by Norman Waterhouse Lawyers in relation to the 24 February 2023 complaint received, concluding that Cr Severina Burner has, on the balance of probabilities, breached clause 1.4 of the Behavioural Standards (Item C4, Attachment 1, Council, 22 May 2023).
2. Censures Cr Severina Burner's conduct the subject of findings of breach of the Behavioural Standards as set out in the Norman Waterhouse Lawyers report (Item C4, Attachment 1, Council, 22 May 2023).
3. Requires Cr Severina Burner to reflect on her behaviour and issue an unqualified public apology in respect of her conduct, with such apology to be presented at the June 2023 Council meeting, in writing or in person, and to be included in the Council Minutes.
4. Requires Cr Severina Burner to reflect on her behaviour and publish an unqualified public apology in respect of her conduct on her social media page on which Cr Severina Burner published the material the subject of the complaint made by 26 June 2023.
5. Requires Cr Severina Burner to reflect on her behaviour and issue an unqualified apology to Mr David Waylen, in writing or in person, and specifically in respect of her conduct towards him.

CARRIED
Unanimously
0330/2023

Cr B Brug left the meeting at 07:08 pm.
Cr L Brug left the meeting at 07:08 pm.

The following question was asked by Cr Buchanan:

Question:

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

Answer:

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

Pursuant to section 74 of the Local Government Act 1999, Cr P Jensen declared a general conflict of interest in relation to this matter on the basis that he was involved in this matter. Cr P Jensen stated that he will deal with the conflict remaining in the meeting and not participating in the vote or the discussion.

MWON4 Motion without Notice: Apology Cr Grace Bawden

Moved Cr C Buchanan
Seconded Cr A Graham

That Council:

1. Notes that at its 24 April 2023 meeting, Council received an independent report following different complaints, concluding Cr Grace Bawden 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:
 - *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.*
 - *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.*
 - *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.

3. Expresses its disappointment that compliance with the requirement for unqualified apologies as per part 2 above has not been achieved by the due date 22 May 2023.
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*.
5. That the question and answer asked by Deputy Mayor, Cr Chad Buchanan on compliance with the April resolution by Cr Grace Bawden be included in the minutes.
6. That Council notes that Cr Grace Bawden has been formally notified of the required training and that the Mayor and the Manager Governance formally reminds Cr Grace Bawden of the requirements and requests again for a formal apology.

CARRIED
Unanimously
0331/2023

Cr P Jensen did not participate in the Vote.

MWON5 Motion without Notice: Apology Cr Severina Burner

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 have been involved in this matter. Cr Mazzeo stated that she will deal with the conflict by remaining in the meeting and not participating in the discussion or the vote.

The following question was asked by Cr Buchanan:

Question:

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

Answer:

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

Moved Cr C Buchanan
Seconded Cr A Graham

That Council:

1. Notes that at its 24 April 2023 meeting, Council received an independent report following different complaints, concluding Cr

Severina Burner breached clauses 1.2, 1.4, 1.5 and 3.1 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:
 - *Censures Cr Severina Burner's conduct the subject of findings of breaches of the Behaviour Standards as per the NWL report*
 - *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.*
 - *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.*
 - *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.*
 - *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.*
3. Expresses its disappointment that compliance with the requirement for unqualified apologies as per part 2 above has not been achieved by the due date 22 May 2023.
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 on compliance with the April resolution by Cr Severina Burner be included in the minutes.
6. Notes that Cr Severina Burner has been formally notified of the required training and that the Mayor and the Manager Governance formally remind Cr Severina Burner of the training requirements, that the training is undertaken within the remaining timeframe and

again, requests for a formal apology.

CARRIED
Unanimously
0332/2023

Cr M Mazzeo did not participate in the Vote.

Cr L Brug returned to the meeting at 07:23 pm.

Cr B Brug returned to the meeting at 07:23 pm.

MWON6 Motion without Notice: Absence of Cr Severina Burner

Moved Cr A Graham

Seconded Cr M Mazzeo

That Council:

1. Notes the absence of Cr Severina Burner and Cr Grace Bawden for the third consecutive ordinary Council meeting, taking the total months of absence to three months;
2. Notes that Elected Members are to participate in the deliberations and activities of the Council pursuant to s59(1)(v) of the Local Government Act 1999;
3. Notes that Elected Members are aware of section 54(1)(d) of the *Local Government Act 1999*, and in the specific circumstances, Cr Grace Bawden and Cr Severina Burner were explicitly reminded of this statutory provision;
4. Requests the Mayor and Chief Executive Officer to write to Cr Grace Bawden and Cr Severina Burner, seeking a written explanation of their ongoing absence from Council meetings, by 12pm, 29 May 2023, and advising them that their response will form part of a public report to Council for further consideration.

CARRIED
Unanimously
0333/2023

MWON7 Motion without Notice – Further Report

Moved Cr A Graham

Seconded Cr M Mazzeo

1. Requests that Administration provide a report to Council as part of the report considering the response around absenteeism (Council Meeting 22 May 2022, MWON6) to also include the total number of CEO Briefing sessions, Sub Committee, Committee Meetings and Council meetings that Cr Severina Burner and Cr Grace Bawden attended and the duration of time that they partially attended.

Cr B Brug, with consent of the mover and seconder, sought and was granted leave of the meeting to vary the motion to include a point 2. Leave was granted and the motion was varied.

MOTION AS VARIED

1. Requests that administration provide a report to Council as part of the report considering the response around absenteeism (Council Meeting 22 May 2022, MON 5) to also include the total number of CEO Briefing sessions, Sub Committee, Committee Meetings and Council meetings that Cr Severina Burner and Cr Grace Bawden attended and the duration of time that they partially attended.
2. The report to also include the amount of allowance that both Cr Severina Burner and Cr Grace Bawden have received to date.

CARRIED
0334/2023

BREAK

In accordance with the Code of Practice for Meeting Procedures, the Mayor provided a break to all present. The meeting was suspended at 7:40 pm.

The meeting reconvened at 7:54pm.

COMMITTEE REPORTS

1 Policy and Planning Committee

No Policy and Planning Committee meeting was held in May 2023.

2 Finance and Corporate Services Committee Meeting

Moved Cr S Ouk

Seconded Cr D Hood

That Council:

Adopts the recommendations of the Finance and Corporate Services Committee meeting held on 15 May 2023, listed below, with the exception of items:

2.1.5 Salisbury Business Association Separate Rate

2.1.7 NAWMA Draft 2023/2024 Budget

which were withdrawn to be considered separately.

**CARRIED
0335/2023**

Administration

2.0.1 Future Reports for the Finance and Corporate Services Committee

Moved Cr S Ouk

Seconded Cr D Hood

That Council:

1. Notes the report.

**CARRIED
0335/2023**

For Decision

2.1.1 Globe Derby Community Club 2023/24 Separate Rate

Moved Cr S Ouk

Seconded Cr D Hood

That Council:

1. Approves in principle, the proposed separate rate of \$150 per share in common land, 63 shares in total, in the relevant area for the Globe Derby Community Club for 2023/24, noting that a formal recommendation for declaration of the separate rate will be brought forward to the June 2023 Council meeting.

2.1.2 Draft Fees and Charges 2023/24

Moved Cr S Ouk
Seconded Cr D Hood

That Council:

1. Adopts the Fees and Charges as set out in Attachment 1 of this report (Item No. 2.1.2, Budget and Finance Committee, 15 May 2023), and that it be updated to reflect delegations provided in other parts of this resolution.
2. Notes that where fees and charges are set by regulation, gazettal notice or other government agency those fees will be applied by Council, with staff authorised to update the 2023/24 Fees and Charges Booklet accordingly.
3. Delegates authority to the Manager Environmental Health and Community Compliance and Team Leader Community Compliance to refund 76% of the dog registration fee paid in the event of the registered dog passing away within 4 weeks of the payment due date and 50% in the event of the dog passing away within three months of the payment due date.
4. Delegates authority to the Manager Community Participation and Partnerships to vary Library fees for the purpose of introducing new programs and/or allowing for increases in supply costs.
5. Delegates authority to the Manager Community Health and Wellbeing to vary Salisbury Home and Community Services room hire fees for not for profit organisations where they are working in partnership with Council or have a demonstrated limited capacity to pay.
6. Delegates authority to the Manager Community Participation and Partnerships to:
 - assess events, activities and functions to determine whether the booking is low or high risk, and to vary hire fees and bond, as well as request additional services on this basis;
 - vary fees for regular bookings in accordance with a Memorandum of understanding with Council; and
 - vary fees to introduce new programs and allow for increase in supply costs,

at Community Centres and Hubs (specifically Burton Community Hub, Twelve25 Youth Centre, The Mawson Centre and Para Hills Community Hub).

7. Delegates authority to the Manager Sports, Recreation and Community Planning to assess events and functions to be held at the Bridgestone Athletics Centre to determine whether the booking is low or high risk and vary hire fees on this basis and vary the bond for hiring the Bridgestone Athletics Centre depending on type of activity, the rate of subsidy and additional services as requested by the hirer.
8. Delegates authority to the General Manager Community Development to vary fees by up to \$300 (+ or -) for Salisbury Memorial Park on the approved Salisbury Memorial Park fee schedule for special circumstances at discretion and to recover additional costs associated with providing a non-standard product or service.
9. Delegates authority to the Manager Property and Buildings to vary casual hire of park facilities fees and bonds for Council activities, Community events, for not for profit organisations providing benefit to the community, and for the purpose of recovering additional costs associated with event bookings.
10. Delegates authority to the Manager Governance to waive fees for a single copy of any publicly available document.
11. Delegates authority to the Manager City Shaping to vary Room Hire fees to make it as attractive as possible for third party providers to deliver from the Polaris facility.
12. Delegates authority to the General Manager Community Development to exercise discretion as to applying the Room Booking Policy at the Salisbury Community Hub in relation to:
 - The prioritisation parameters during application of the new framework to ensure it remains an effective model to activate the Hub and Civic Place/Inparrinthe Kurnangka
 - The application of the three categories (Community, Private and Business/Government) as to how they apply to requests for bookings received.
13. Delegates authority to the Chief Executive Officer to negotiate fees consistent with those adopted in the Fees and Charges Booklet to facilitate access to services/facilities in circumstances not specified within the Fees and Charges Booklet (for example, extended booking of a Council facility) and to waive or vary the requirement for payment of a fee, charge or bond where Council is providing 'in kind' support to an event or activity or there is a community

benefit to be achieved.

14. Authorises the Administration to round fees to the nearest 5 cents, where applicable, for ease of processing.

**CARRIED
0335/2023**

2.1.3 Council Finance Report - April 2023

Moved Cr S Ouk

Seconded Cr D Hood

That Council:

1. Notes the report.

**CARRIED
0335/2023**

2.1.4 Green Adelaide Board Regional Landscape Levy (Separate Rate)

Moved Cr S Ouk

Seconded Cr D Hood

That Council:

1. Notes the report and that the resolution for the Regional Landscape separate rate will be prepared for the June 2023 meeting of Council.

**CARRIED
0335/2023**

2.1.6 Third Quarter Budget Review 2022/23

Moved Cr S Ouk

Seconded Cr D Hood

That Council:

1. Notes the 2022/23 Third Quarter Budget Review report (Attachment 1, Item no 2.1.6, Finance and Corporate Services Committee, 15 May 2023).
2. Approves the budget variances identified in this report and contained in the Budget Variation Summary (Attachment 1, Item No. 2.1.6 Finance and Corporate Services Committee 15 May 2023), and approves that net capital and operating \$1,065,165 be credited to the Sundry Project Fund. This will bring the balance to \$1,065,165 prior to the allocation of approved net bids.
3. Approves the allocation of funding for the following **non-discretionary** net bids:

OPERATING

Community Grants Program	\$40,000
Food Organics Green Organics Free Bin Rollout	\$535,200
Plant Equipment for Removal of Seaweed from St Kilda Boat Channel	\$40,000

CAPITAL

CONFIDENTIAL ITEM	\$150,000
Dueter Road, Paralowie, New Post & Rail Fencing	\$60,000
Lake Wall Remediation Mawson Lakes	\$240,000
Office for Recreation Sport & Racing	\$300,000
Grant Application for Burton Park	

TOTAL	\$1,365,200
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NB: If parts 1, 2 & 3 of this recommendation are moved as recommended this will bring the balance of the Sundry Projects Fund to a balance of (\$300,035).

-
4. Approves the allocation of funding for the following **discretionary** net bids:

OPERATING

Mosquito Control	\$50,000
Provision for WHS Initiatives	\$42,800
Salisbury Aware Budget Variation	\$26,000
Salisbury Water – Electricity Operational Expenditure	\$125,000
Tree Removal Budget	\$100,000
Verge Maintenance	\$219,000

CAPITAL

CONFIDENTIAL ITEM	\$120,000
TOTAL	\$682,800

NB: If parts 1, 2, 3 & 4 of this recommendation are moved as recommended this will bring the balance of the Sundry Projects Fund to a balance of (\$982,835).

5. Approves the following budget timing adjustments which will result in a decrease in loan borrowings in the 2022/23 financial year and an increase in loan borrowings in the 2023/24 financial year:

Retimed Budget Funding associated with the Plant & Fleet Replacement Program	\$2,400,000
Retimed Budget Funding associated with St Albans Reserve Playspace	\$500,000
Retimed Budget Funding associated with Streetscape Program	\$500,000
Retimed Budget Funding associated with Dept Infrastructure & Transport Grant Funding	\$2,040,000
Retimed Budget Funding associated with Office for Recreation, Sport & Racing Grant Funding	\$2,500,000
Retimed Budget Funding associated with Paddocks Master Plan Implementation	\$500,000
Retimed Budget Funding associated with Salisbury Aquatic Centre	\$13,870,000
Retimed Budget Funding associated with Lindblom Park Sportsfield Lighting	\$600,000
TOTAL	\$22,910,000

NB: If parts 1, 2, 3, 4 & 5 of this resolution are moved as recommended this will bring the balance of the Sundry Projects Fund to a balance of \$21,927,165.

6. Approves the following transfers:

Animal Pound Additional Funds Transfer	\$140,000
John Street Artwork Design Budget Transfer	\$20,000
Transfer savings from Strategic and International Partnerships to the Pooraka Men's Shed	\$20,000
Salisbury Water – Contractual Services	\$100,000
Transfer City Infrastructure Admin Consulting to Audits/Structure Assessments Project	\$20,000
Transfer City Infrastructure Delivery Contractual Services to City Development Contributions	\$35,000
Transfer from Salaries and Wages Provision to CEO Consulting budget	\$130,000
Transfer from Salaries and Wages Provision to City Development Consulting budget	\$150,000
Transfer from Salaries and Wages Provision to People and Culture Legal expenditure	\$47,000
Transfer from Salaries and Wages Provision to Procurement Legal Expenditure	\$82,000

NB: If parts 1, 2, 3, 4, 5 & 6 of this resolution are moved as recommended this will bring the balance of the Sundry Projects Fund to a balance of \$21,927,165.

7. Approves the variation of Loan Borrowings to reflect the bids and transfers approved by Council detailed in parts 1 to 6 of this recommendation.

(NB: If parts 1 to 6 of this resolution are moved as recommended, loan borrowings in 2022/23 will decrease by \$21,927,165.)

**CARRIED
0335/2023**

The meeting then proceeded to consider items 2.1.5 and 2.1.6, which were withdrawn to be considered separately.

Pursuant to section 75(1)(c) of the Local Government Act 1999, Cr Hood declared a material conflict of interest on the basis of being a member of the Salisbury Business Association Board. Cr Hood stated that he will deal with the conflict by withdrawing from the Meeting.

Cr D Hood left the meeting at 07:56 pm.

Pursuant to section 75(1)(c) of the Local Government Act 1999, Cr Mazzeo declared a material conflict of interest on the basis of being a member of the Salisbury Business Association Board. Cr Mazzeo stated that she will deal with the conflict by withdrawing from the Meeting.

Cr M Mazzeo left the meeting at 07:56 pm.

2.1.5 Salisbury Business Association Separate Rate

Moved Cr C Buchanan

Seconded Cr S McKell

That Council:

1. Notes and approves the Salisbury Business Association proposed budget and the request for a separate rate totalling \$169,453 (excluding GST) and notes that the formal declaration of the Salisbury Business Association separate rate will be prepared for the June 2023 meeting of Council.
2. Requests that the General Manager Business Excellence consults with the Salisbury Business Association and advises of the inclusion of the additional amount of \$50,000 to upgrade the Sexton Laneway as part of the overall project in accordance with part 5 of the previous resolution from the Council meeting 19 December 2022 No. 0045/2022.
3. Approves that the Salisbury Business Association be supported to keep its member database up to date through the provision of assessment record details of those subject to the separate rate at the time of generating the first quarter rates notice at no charge to the Association, and periodically throughout the year as may be requested by the Association.

**CARRIED
0336/2023**

Cr D Hood returned to the meeting at 08:13 pm.

Cr M Mazzeo returned to the meeting at 08:13 pm.

Pursuant to section 75(1)(c) of the Local Government Act 1999, Cr Buchanan declared a material conflict of interest on the basis of being a member of the NAWMA Board. Cr Buchanan stated that he will deal with the conflict by leaving the meeting.

Cr C Buchanan left the meeting at 08:14 pm.

Pursuant to section 75(1)(c) of the Local Government Act 1999, Cr Grenfell declared a material conflict of interest on the basis of being a proxy member of the NAWMA Board. Cr Grenfell stated that she will deal with the conflict by leaving the meeting.

Cr K Grenfell left the meeting at 08:14 pm.

2.1.7 NAWMA Draft 2023/2024 Budget

Moved Cr B Brug

Seconded Cr P Jensen

That Council:

1. Notes the information regarding the draft 2023/2024 NAWMA Budget.
2. Endorses the draft NAWMA 2023/24 Budget.

**CARRIED
0337/2023**

Cr C Buchanan returned to the meeting at 08:15 pm.
Cr K Grenfell returned to the meeting at 08:15 pm.

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 15 May 2023, listed below, with the exception of item:

3.1.2 Council Assessment Panel Terms of Reference and Sitting Fees

3.1.3 Salisbury Oval and Surrounds

3.2.1 LGA Ordinary General Meeting

which was withdrawn to be considered separately.

CARRIED
0338/2023

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
0338/2023

For Decision

3.1.1 Review of Fraud, Corruption, Misconduct and Maladministration Prevention Policy

Moved Cr P Jensen
Seconded Cr K Grenfell

That Council:

1. Adopts the revised Fraud, Corruption, Misconduct and Maladministration Policy as set out in Attachment 1 to this report (Item 3.1.1, Review of Fraud, Corruption, Misconduct and Maladministration Prevention Policy, Governance and Compliance Committee, 15 May 2023).

CARRIED
0338/2023

G&C-MWON1 Pitman Park

Moved Cr P Jensen
Seconded Cr K Grenfell

That Council:

1. Requests the Administration to present a report to the Governance and Compliance Committee by August 2023 to seek Pitman Park declared as an alcohol free area under Council By-Laws, to reduce antisocial behaviours associated with the consumption of alcohol.

**CARRIED
0338/2023**

The meeting then proceeded to consider items 3.1.2, 3.1.3 and 3.2.1, 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 08:17 pm.

Pursuant to section 75 of the Local Government Act 1999, Cr L Brug declared a Material 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 08:17 pm.

3.1.2 Council Assessment Panel Terms of Reference and Sitting Fees

Moved Cr C Buchanan
Seconded Cr D Hood

That Council:

1. Notes the information contained in this report (Item 3.1.2, Council Assessment Panel Terms of Reference and Sitting Fees, Governance and Compliance Committee, 15 May 2023) and amends the Terms of Reference as follows:
 - 2.17 Term of Appointment – Independent members will be appointed for a Term as determined by Council unless the Legislation requires otherwise.
 - 2.18 Council Members will be appointed for a Term as determined by Council unless the Legislation requires otherwise.

-
2. Adopts the sitting fees for the next term of the Council Assessment Panel at:
- | | |
|-----------------------|-------|
| a. Presiding Member | \$550 |
| b. Independent Member | \$450 |
| c. Elected Member | \$370 |

CARRIED
Unanimously
0339/2023

Cr L Brug returned to the meeting at 08:44 pm.

Cr B Brug returned to the meeting at 08:44 pm.

Pursuant to section 75 of the Local Government Act 1999, Cr Graham declared a Material conflict of interest on the basis of his employment. Cr Graham stated that he will deal with the conflict by leaving the meeting.

Cr A Graham left the meeting at 08:47 pm.

Cr P Jensen left the meeting at 08:47 pm.

Cr P Jensen returned to the meeting at 08:52 pm.

3.1.3 Salisbury Oval and Surrounds

Moved Cr C Buchanan

Seconded Cr D Hood

That Council:

1. Approves that the local government land as shown in the attached plan (Attachment 1 Salisbury Oval, Neales Green, War Memorial Park, and Salisbury Bowling Club Item 3.1.3, Salisbury Oval and Surrounds, Governance and Compliance Committee, 15 May 2023) is closed to public access and use for any activity, between 10pm and 6am inclusive other than for permitted or authorised activities or commuting and travelling across open land and will be an alcohol-free area under the provisions of City of Salisbury *By-Law 4 of 2022*, *Local Government Land By-Law 2022*, from 1 June 2023, as follows:
 - a. Pursuant to clause 4.15 of City of Salisbury *By-Law 4 of 2022*, *Local Government Land By-Law 2022*, the local government land known as:
 - Salisbury Oval and Grandstand;
 - Neales Green;
 - War Memorial Park; and
 - Salisbury Bowling Club.as shown in the attached plan (Attachment 1 Salisbury

Oval, Neales Green, War Memorial Park, and Salisbury Bowling Club, Item 3.1.3, Salisbury Oval and Surrounds - Public Safety, Governance and Compliance Committee, 15 May 2023) is closed to public access and use for any activity, between 10pm and 6am inclusive other than for permitted or authorised activities or commuting and travelling across open land. (penalties may apply). The period of restricted access shall begin on 1 June 2023 and remain in force until further notice.

- b. Pursuant to clause 4.32 of City of Salisbury *By-Law 4 of 2022*, *Local Government Land By-Law 2022*, a person must not without the permission of the Council, consume, carry or be in possession or in charge of any liquor on local government land comprising parks or reserves to which the Council has determined this paragraph applies, namely the local government land known as:

- Salisbury Oval and inclusive of the Grandstand area;
- Neales Green;
- War Memorial Park; and
- Salisbury Bowling Club

as shown in the attached plan (Attachment 1 Salisbury Oval, Neales Green, War Memorial Park, and Salisbury Bowling Club, Item 3.1.3, Salisbury Oval and Surrounds, Governance and Compliance Committee, 15 May 2023) and excluding any buildings and or areas on this land covered by Liquor License issued to the lessees or any liquor licenses issued for events, and or permitted or authorised activities, and this restriction shall begin on 1 June 2023 and remain in force until further notice.

2. Pursuant to Section 238 of the *Local Government Act 1999*, a sign or signs shall be erected in a prominent position(s) in the immediate vicinity of the local government land known as:

- Salisbury Oval and inclusive of the Grandstand area;
- Neales Green;
- War Memorial Park; and
- Salisbury Bowling Club.

and shown in the attached plan Attachment 1 Salisbury Oval, Neales Green, War Memorial Park, and Salisbury Bowling Club, to notify all attendees and members of the community that the land is closed to public access and use for any activity, between 10pm and 6am inclusive other than for

permitted or authorised activities or commuting and travelling across open land and will be an alcohol-free area under the provisions of City of Salisbury *By-Law 4 of 2022*, *Local Government Land By-Law 2022*, and these conditions shall begin on 1 June 2023 and remain in force until further notice (*penalties apply*).

3. Requests the Chief Executive Officer or delegate to write to the Officer in charge of SAPOL Northern District and the Police Commissioner advising of the City of Salisbury *By-Law 4 of 2022* changes.
4. Requests the Chief Executive Officer or delegate to write to residents within the vicinity of Salisbury Oval advising residents of the changes to the City of Salisbury *By-Law 4 of 2022* to assist when making reports to SAPOL outside of Council business hours.

CARRIED
0340/2023

Cr A Graham returned to the meeting at 08:53 pm.

Pursuant to section 74 of the Local Government Act 1999, Mayor Aldridge declared a general conflict of interest in relation to this matter on the basis that she is a member of the GAROC Board. Mayor Aldridge stated that she will deal with the conflict staying in the meeting as the Mayor does not vote on the matter.

For Information

3.2.1 LGA Ordinary General Meeting

Moved Cr C Buchanan
Seconded Cr P Jensen

That Council:

1. Notes the information relating to the 14 April 2023 Local Government Association Ordinary General Meeting as included in this report (Governance and Compliance Committee, 15 May 2023, Item 3.2.1).
2. Requests for a working group to be formed by the Mayor, the Local Government Association voting delegates (Deputy Mayor Cr C Buchanan and proxy Cr P Jensen), the CEO and the Manager Governance, to prepare a draft submission for Council's consideration, on a proposed item of business on Local Government Reform for the October Local Government Association Annual General Meeting.
3. Requests Governance Staff provide a briefing options paper in regards to potential amendments to the Local Government Association Constitution to ensure member Councils are better heard and represented and options to include the

reform consultation process and the way that the Local Government Association consults on behalf of Councils.

CARRIED
Unanimously
0341/2023

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 15 May 2023, listed below, with the exception of items:

4.2.1 Mawson Lakes Parking Study - Update Report

US-OB2 Terrace Area – Mawson Lakes Model Yacht Club Deputation

which were withdrawn to be considered separately.

**CARRIED
0342/2023**

Administration

4.0.1 Recommendations of the Asset Management Sub Committee meeting held on Monday 8 May 2023

Moved Cr C Buchanan

Seconded Cr S Ouk

That the information contained in the Asset Management Sub Committee of the meeting held on 8 May 2023 be received and noted with respect to the following recommendations contained therein be adopted by Council:

**CARRIED
0342/2023**

AMSC1 Future Reports for the Asset Management Sub Committee

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Notes the report.

**CARRIED
0342/2023**

AMSC2 Lake Windemere Amenities

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Approves that a budget bid of \$750,000, be prepared for consideration in the 2024/25 financial year for further upgrades to Lake Windemere including;
 - 1.1 Sealing of the path around the lake
 - 1.2 Installation of exercise equipment around the lake
 - 1.3 Installation of barbeque facilities
 - 1.4 Installation of toilet facilities
 - 1.5 Installation of a dog park
2. Requests Administration to bring back a further report with costings for installation of a water fountain in the ornamental lake for consideration as part of the Quarter 1 Budget Review for the 2023/24 financial year.

**CARRIED
0342/2023**

AMSC3 John Street Seating

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. That Council notes the installation of additional seating (National Pharmacies and ANZ Bank)
2. Notes the improved seating as part of the laneway upgrades.

**CARRIED
0342/2023**

MWON1 Golding Avenue, Para Vista

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Requests the Administration present a report to the Asset Management Sub Committee regarding:
 - a. the recommissioning of the lights at Golding Avenue, Para Vista to extend the usage of the area into the evening hours, and
 - b. a review of the current playspace elements.

CARRIED
0342/2023

4.0.2 Recommendations of the Environmental Sustainability and Trees Sub Committee meeting held on Monday 8 May 2023

Moved Cr C Buchanan
Seconded Cr S Ouk

That the information contained in the Environmental Sustainability and Trees Sub Committee of the meeting held on 8 May 2023 be received and noted with respect to the following recommendations contained therein be adopted by Council:

CARRIED
0342/2023

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
0342/2023

ESATS2 Tree Removal Requests - Monthly Update for March 2023

Moved Cr C Buchanan
Seconded Cr S Ouk

That Council:

1. Notes the report.
2. Approves the removal of trees numbered 3, 60, 62, 73, 74, 75 and 76 as outlined in Attachment 1 of the report (ESATS2 – Tree Removal Requests – Monthly Update for March 2023 - Environmental Sustainability and Trees Sub Committee, 8 May 2023).

CARRIED
0342/2023

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

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Approves the lodgement of development applications seeking removal of:
 - a. The two regulated *Eucalyptus leucoxylon* tree at the front of 4 Meadow Lane, Gulfview Heights, noting that should the application be approved four replacement trees are required to be planted.
 - b. The regulated *Eucalyptus sideroxylon* at the front of 28 Lorraine Avenue, Para Vista, noting that should the application be approved two replacement trees are required to be planted.
 - c. The regulated *Eucalyptus sideroxylon* at the front of 195 Whites Road, Paralowie, noting that should the application be approved two replacement trees are required to be planted.
 - d. The regulated *Eucalyptus sideroxylon* at the front of 14 Guernsey Crescent, Salisbury North, noting that should the application be approved two replacement trees are required to be planted

**CARRIED
0342/2023**

4.0.3 Future Reports for the Urban Services Committee

Moved Cr C Buchanan
Seconded Cr S Ouk

That Council:

1. Notes the report.

**CARRIED
0342/2023**

For Decision

4.1.1 Capital Works - April 2023

Moved Cr C Buchanan
Seconded Cr S Ouk

That Council:

1. Approves the \$300,000 Non-discretionary Capital 2023/24 Budget Bid to replace failed pipe work adjacent Brickwork Place, Walkley Heights, as part of the Major Flooding Mitigation Service Continuity Program.
2. Notes the unsuccessful grant application for Burton Park Sportsfield Lighting Improvements and that these funds be carried forward to 2023/24 financial year to accommodate a future submission for these works.

**CARRIED
0342/2023**

For Information

4.2.2 New Drainage Works (DWN00132 - Elected Member Bid)

Moved Cr C Buchanan
Seconded Cr S Ouk

That Council:

1. Notes the report.

**CARRIED
0342/2023**

US-OB1 Review of Lease Agreements – Working Group

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Approves to form a Working Group Chaired by the Deputy Mayor and consisting of Chair, Urban Services Committee, Chair, Community Wellbeing and Sport Committee and Cr Graham to review the existing lease documents to identify changes to better align them with the strategic objectives of Council. Topics to be considered include, but not be limited to:
 - a. Length of future agreements
 - b. Ability of leases to sub lease
 - c. Use of licenses, rather than leases
 - d. A review of current lease holders club membership and utilisation of Council facilities
 - e. To meet with representatives of lease holders to discuss current lease arrangements and receive feedback
2. Requests the Working Group to report back to Council with its recommendations no later than November 2023.
3. Approves to hold over the existing agreements by no longer than six months, to end March 2024, within the parameters permitted by the *Local Government Act 1999*, to allow time for the review and any changes to be implemented.
4. Requests Administration to send a letter to all relevant agreement holders advising them of this resolution and of the holding over period to be implemented and the review process on the understanding that the proposed arrangement does not constitute an extension of the current agreement within the provisions of Section 202 of the *Local Government Act 1999*.

**CARRIED
0342/2023**

US-OB2 Bridgestone Park Licence Review Working Group

Moved Cr C Buchanan

Seconded Cr S Ouk

That Council:

1. Forms a Bridgestone Park Licence Review Working Group consisting of the Deputy Mayor and Ward Councillors, relevant staff, and two representatives from each of the Clubs.
2. Requests that the Working Group reviews all aspects of the licence agreement and provides a recommendation to the Urban Services Committee, by no later than September 2023, on proposed amendments to the licence agreement.
3. Requests that the Working Group reviews the management model of the canteen.

CARRIED

0342/2023

The meeting then proceeded to consider items 4.2.1 and US-OB2, which were withdrawn to be considered separately.

4.2.1 Mawson Lakes Parking Study - Update Report

Moved Cr B Brug

Seconded Cr S McKell

That Council:

1. Notes the report.
2. Requests that Administration present a further report on Mawson Lakes Parking to the Urban Services Committee in six months' time.

CARRIED

0343/2023

From Urban Services Committee meeting held 17 April 2023:

US-OB2 Terrace Area – Mawson Lakes Model Yacht Club Deputation

Moved Cr B Brug

Seconded Cr S McKell

That Council:

1. Thanks the Mawson Lakes Model Yacht Club for their Deputation.
2. Requests Council administration to bring back a status report

to the Urban Services Committee on the terrace issues raised in the Deputation.

3. Requests the Administration to consult with stakeholders including Mawson Lakes Yacht Club and include the outcome in the report.
4. Considers grant funding opportunities with state and federal government to assist with any required works to make the area safer.

CARRIED
0344/2023

5 Community Wellbeing and Sport Committee Meeting

Moved Cr C Buchanan
Seconded Cr D Hood

That Council:

Adopts the recommendations of the Community Wellbeing and Sport Committee meeting held on 15 May 2023, listed below.

CARRIED
0345/2023

Administration

5.0.1 Future Reports for the Community Wellbeing and Sport Committee

Moved Cr C Buchanan
Seconded Cr D Hood

That Council:

1. Notes the report.

CARRIED
0345/2023

For Information

5.2.1 Youth Sponsorship Applications - April 2023

Moved Cr C Buchanan
Seconded Cr D Hood

That Council:

1. Notes the Youth Sponsorship Applications assessed in April 2023, as included in this report.
2. Approves the application to represent Tasmania at the 2023 Australian National Tenpin Championships and Presidents Junior Interstate Shield (in Tasmania from 2 – 7 July 2023), as approval sits outside of the delegation of the Community Wellbeing and Sport Committee.

CARRIED
0345/2023

For Noting Only: Decisions Made Under Committee Delegation

See Further Information Item 5.1.1FI

5.1.1 Minor Capital Works Grant Program - Para Hills Soccer Club Incorporated - Para Hills Knights

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

1. Approves an allocation from the 2022/23 grants program for a maximum limit of \$75,000 to be made available and requests staff to work with the Club on a revised scope.
2. Requests that the Club's financials be provided as a confidential further information item at the May 2023 Council meeting.

**5.1.2 Community Grant Report
Grant No. 33/2022-23: The Mustard Seed Family Project Incorporated - Community Grant Application**

Recommendation

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 May 2023 round of Community Grants as follows:
 - Grant No. 33/2022-23 the Mustard Seed Family Project Incorporated Community Grant Application: to the value of \$5,000: to assist with costs towards the purchase of two coffee machines.

6 Innovation and Business Development Committee

No Innovation and Business Development Committee meeting was held in May 2023.

7 Audit and Risk Committee

No Audit and Risk Committee meeting was held in May 2023.

8 Council Assessment Panel: 26 April 2023

Council to note the minutes of the Council Assessment Panel meeting held on 26 April 2023.

9 CEO Review Committee

No CEO Review Committee meeting was held in May 2023.

GENERAL BUSINESS

Pursuant to section 75 of the Local Government Act 1999, Mayor Aldridge declared a material conflict of interest in relation to this matter on the basis that she is a member of Governing Body of GAROC. Mayor Aldridge stated that she will deal with the conflict by withdrawing from the meeting.

Mayor G Aldridge vacated the Chair and left the meeting at 9:08pm.

Deputy Mayor, Cr Buchanan assumed the Chair at 9:08pm.

GB1 GAROC Draft Annual Business Plan 2023/2024

Moved Cr C Buchanan

Seconded Cr P Jensen

That Council:

1. Notes the GAROC draft Annual Business Plan 2023/2024, as included in Attachment 3 to this report (Council 22 May 2023 Item No. GB1).
2. Delegates to the Mayor, the Deputy Mayor and the Chief Executive Officer to finalise the City of Salisbury's feedback and priorities submission to GAROC, to inform its Annual Business Plan 2023/2024 as included in Attachment 2 to this report (Council 22 May 2023 Item No. GB1).
3. Requests GAROC defer the adoption of their Annual Plan pending a survey of all Councils asking them what their priorities are ranked from 1 to 10.

CARRIED
Unanimously
0346/2023

Mayor G Aldridge returned to the meeting and reassumed the Chair at 9:17pm.

MAYOR'S DIARY

MD1 Mayor's Diary

Moved Cr K Grenfell

Seconded Cr S Ouk

That Council:

1. Note this information.

CARRIED
0347/2023

REPORTS FROM COUNCIL REPRESENTATIVES

Nil.

QUESTIONS ON NOTICE

QON1 Question on Notice: Globe Derby Flooding

Cr Beau Brug has submitted the following Question on Notice:

Since the recent flooding in Globe Derby Park, what actions has Council taken to date and which further actions will be taken to improve the drainage and flooding issues?

General Manager City Infrastructure, Mr John Devine has provided the following response:

Following the flooding event in May 2022 Council undertook rectification works including the establishment of an embankment and the installation two flood gates to mitigate the risk of future flooding.

Following those works, Administration investigations resulted in further mitigation strategies being developed that include the design and installation of flood/tidal gates approximately 2.2 km upstream of the estuary, east of Port Wakefield Road to prevent tidal flows and flood waters from moving back up through the drainage system and flooding Globe Derby.

In March 2023 Administration submitted a funding application through the Disaster Ready Fund Program under the Australian Government's National Emergency Management Agency for a 50% funding grant for structural and non-structural works identified in the mitigation strategy and are awaiting the outcome of that application.

QON2 Question on Notice: St Kilda Mangroves

Cr Beau Brug submitted the following Question on Notice:

What is the current health status of the St Kilda Mangroves and what works are being undertaken in relation to the Mangroves?

General Manager City Infrastructure, Mr John Devine provided the following response:

The St Kilda mangroves have not seen any further significant loss at this point in time.

The mangroves further away from the salt pans suffered only little or no impact and these appear to be stable in health with most having flowered through the summer months.

The area closer to the salt pans was impacted more by high salinity water from the salt pan with areas of the forest showing no signs of regeneration. Investigation on site has noted that there a good number of juvenile trees occurring within this site as well as the summer providing a good number of propagules which also have been observed on site.

It is anticipated that the juvenile mangroves or propagules that have or will establish, may become stunted when they encounter this highly saline profile in the soil.

Monitoring of water depth and salinity continues to be monitored, particularly as winter approaches to see if the natural filling of the salt pan has any further impact on the mangrove forest.

QUESTIONS WITHOUT NOTICE

Nil.

MOTIONS ON NOTICE

MON1 Motion on Notice: Bridge Road and Nelson Road

Motion on Notice withdrawn by Cr L Brug.

MON2 Motion on Notice: Ingle Farm Recreation Centre

Motion on Notice withdrawn by Cr L Brug.

MOTIONS WITHOUT NOTICE

Refer pages 8 – 15.

OTHER BUSINESS

Nil.

ORDERS TO EXCLUDE THE PUBLIC

Further Information Item:

5.1.1FI Minor Capital Works Grant Program - Para Hills Soccer Club Incorporated - Para Hills Knights

Moved Cr K Grenfell

Seconded Cr S Ouk

Pursuant to Section 90(2) and (3)(d)(i) of the Local Government Act 1999, the Council orders that the public be excluded from attendance at this part of the meeting relation to Agenda Item 5.1.1FI Minor Capital Works Grant Program – Para Hills Soccer Club Incorporated – Para Hills Knights, except staff of the City of Salisbury on duty in attendance, Acting Chief Executive Officer, General Manager City Infrastructure, General Manager Community Development, General Manager City Development, Manager Governance, Acting Manager Community Experience and Relationships, Team Leader Council Governance to enable Council to consider Item 5.1.1FI in confidence on the basis that Council considers it necessary and appropriate to act in a meeting closed to the public (except staff of the City of Salisbury on duty in attendance) in order to receive, discuss or consider in confidence the matter. 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. *The disclosure of this information would, be contrary to the public interest because of the Commercial information contained.*

*On that basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential and the public's interest is best served by not disclosing the **Minor Capital Works Grant Program – Para Hills Soccer Club Incorporated – Para Hills Knights** item, attachment 1 and discussion at this point in time.*

CARRIED
0348/2023

The meeting moved into confidence at 9:22pm

The meeting moved out of confidence at 9:22pm

The meeting closed at 9:23pm.

CHAIRMAN.....

DATE.....

C1	Complaint 29 January 2023
	COUNCIL
DATE	22 May 2023
AUTHOR	Acting Chief Executive Officer
CITY PLAN LINKS	1.3 People are valued and they feel safe, included and connected
SUMMARY	Council received a complaint on 29 January 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden. In application of the Model Behavioural Management Policy, this report presents the findings of the independent investigation of the complaint against Cr Grace Bawden for Council's consideration.

RECOMMENDATION**That Council:**

1. Notes that a complaint was received on 29 January 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden.
2. Notes that Elected Member behaviour complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2, Council, 22 May 2023, Item C1) report from Norman Waterhouse Lawyers on the complaint received alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden, as included in attachment 1 (Council, 22 May 2023, Item C1).
4. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item C1) 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, 22 May 2023, Item C1) 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, 22 May 2023, Item C1) 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 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, 22 May 2023, Item C1) 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.

8. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item C1) 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.
9. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item C1) concludes that Cr Grace Bawden has breached clause 2.5 of the Behavioural Standards by which requires her to act in a manner consistent with her role, as defined in section 59 of the *Local Government Act 1999*.
10. Approves that, pursuant to Section 91(7) of the *Local Government Act 1999*, the discussion for this item will remain confidential and not available for public inspection until 30 June 2026.
11. Approves that, pursuant to Section 91(9)(c) of the *Local Government Act 1999*, the power to revoke the order under Section 91(7)(a)&(b) prior to any review or as a result of any review is delegated to the Chief Executive Officer.

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Norman Waterhouse Lawyers Report Cr Bawden Complaint 29/01/2023
2. Model Behavioural Management Policy – *provided under Separate Cover*

1. BACKGROUND

- 1.1 Council received a complaint on 29 January 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden.
- 1.2 Elected Member behaviour complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2) (the Policy).
- 1.3 The complainant requested that their identity be kept confidential.
- 1.4 In accordance with clause 4.5.3 of the Policy, Norman Waterhouse Lawyers (NWL), an independent third party, was engaged to formally consider the complaint.
- 1.5 This report is presented in confidence to protect the personal affairs of the individual and in accordance with the confidentiality provision in the Policy. If Council determines to take action under section 262C of the *Local Government Act 1999*, the report must be considered at a public meeting of the Council.
- 1.6 Council at its 27 March 2023 meeting received a report on a different complaint, concluding Cr Grace Bawden breached clauses 1.2, 1.4 and 2.3 of the Behavioural Management Standards. Council took subsequent action as per section 262(C)(2) of the *Local Government Act 1999*:

Council resolved at the 27 March 2023 meeting that it:

- *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.*

- *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.*
- 1.7 At its 24 April 2023 meeting, Council expressed by resolution its disappointment that compliance with the requirements in the above paragraph was not achieved, and requested 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*.
- 1.8 Council at its 24 April 2023 meeting received a report on different complaints, concluding Cr Grace Bawden breached clauses 1.2, 1.3, 1.4, 1.5, 2.2, 2.3 and 2.5 of the Behavioural Management Standards. Council took subsequent action as per section 262(C)(2) of the *Local Government Act 1999*:
- Council resolved at the 24 April 2023 meeting that it:
- *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.*
 - *Censures Cr Grace Bawden's conduct the subject of findings of breaches of the Behaviour Standards as set put in the NWL report.*
 - *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.*
 - *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.*
 - *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.*

2. CONSULTATION / COMMUNICATION

2.1 External

2.1.1 Norman Waterhouse Lawyers

3. REPORT

Process:

- 3.1 The process with respect to the management of the complaints is set out in the Model Behavioural Management Policy (the Policy). The complaints are being managed in accordance with the “Formal Action” section in Clause 4.5 of the Policy.

Norman Waterhouse Lawyers Report:

- 3.2 The 29 January 2023 complaint is detailed in paragraph 3 of the NWL report (Attachment 1) and relates to Cr Grace Bawden’s sharing of a Facebook post, commentary and caption.
- 3.3 NWL stated that social media activities are subject to the Behavioural Standards.
- 3.4 On the balance of probabilities, NWL have found that Cr Grace Bawden breached clauses 1.2, 1.3, 1.5, 2.2, 2.3 and 2.5 of the Behavioural Standards.

Next Steps:

- 3.5 In application of the Policy (Attachment 2), considering the recommendation in paragraph 6 of the report from NWL (Attachment 1), Council can resolve to act pursuant to section 262C of the *Local Government Act 1999*, noting that for such action the report must be considered at a public meeting of the Council.
- 3.6 Section 262C(2) of the *Local Government Act 1999* sets out the action the Council may take after inquiring into a complaint, namely the Council may do one or more of the following:
- 3.6.1 pass a censure motion in respect of the member;
 - 3.6.2 require the member to issue a public apology (in a manner determined by the Council);
 - 3.6.3 require the member to undertake a specified course of training or instruction;
 - 3.6.4 remove or suspend the member 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 (other than the office of member of the Council).
- 3.7 At a **public** Council meeting, Council can consider the NWL report (attachment 1), and resolve that it:
- 3.7.1 Notes the report presented to Council at its meeting on 22 May 2023 including the findings made by Norman Waterhouse Lawyers in relation to the 29 January 2023 complaint received, concluding that Cr Grace Bawden has, on the balance of probabilities, breached clauses 1.2, 1.3, 1.5, 2.2, 2.3 and 2.5 of the Behavioural Standards (Item C1, Attachment 1, Council, 22 May 2023).
 - 3.7.2 Censures Cr Grace Bawden’s conduct the subject of findings of breaches of the Behavioural Standards as set out in the NWL report (Item C1 Attachment 1, Council, 22 May 2023).

- 3.7.3 Requires Cr Grace Bawden to reflect on her behaviour and issue an unqualified public apology in respect of her conduct, with such apology to be presented at the June 2023 Council meeting, in writing or in person, and to be included in the Council Minutes.
- 3.7.4 Requires Cr Grace Bawden to reflect on her behaviour and publish an unqualified public apology in respect of her conduct on her social media page on which Cr Grace Bawden published the material the subject of the complaints made by 26 June 2023.

4. CONCLUSION / PROPOSAL

- 4.1 Council received a complaint on 29 January 2023 alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden. In application of the Model Behavioural Management Policy, this report presents the findings of the independent investigation of the complaints against Cr Grace Bawden for Council's consideration, with potential next steps outlined in paragraph 3.7 of this report.



**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 a complaint made against CR GRACE BAWDEN
under the Behavioural Standards for Council Members**

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1. BACKGROUND

- 1.1 The Council has received a complaint from a complainant (**the Complainant**) on 29 January 2023 (**the Complaint**) 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 a comment which states '*Civic participation in Salisbury is officially banned*' (**the Comment**) published as a comment on a Facebook post published by a Ms Amber Young on the 'Salisbury Council Area – Residents Community Forum' public Facebook group on 29 January 2023 (**the Post**);
 - 1.2.2 Cr Bawden's sharing of the Post on her own Facebook page on 29 January 2023 and the associated caption which states '*It's "extremist" to push back against [sic] Globalist ideals of enslavement*' (**the Shared Post and Caption**);
 - 1.2.3 Cr Bawden's 'laugh reaction' (**the Laugh Reaction**) to a Facebook post published by Councillor Severina Burner in which Cr Burner made reference to the Post.
- 1.3 The Complaint is being managed in accordance with the Local Government Association of South Australia Model Behavioural Management Policy (**the Policy**).
- 1.4 The Complainant has requested that their identity be kept confidential. The Mayor, being the person responsible for managing the Complaint under the Policy, has determined that the identity of the Complainant shall remain confidential.

2. PROCESS

- 2.1 The process with respect to the management of the Complaint is set out in the Policy. The Complaint is being managed in accordance with the 'Formal action' section in Clause 4.5 of the Policy.

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- 2.2 The person responsible for managing the Complaint 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 Complaint 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 Complaint had been made against her. A copy of the 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 Complaint.
- 2.6 Cr Bawden responded on 9 February 2023.
- 2.7 Following receipt of Cr Bawden's response to the 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 Complaint.
- 2.8 On 16 February 2023, we wrote to Cr Bawden:
 - 2.8.1 advising that the Mayor has decided to proceed to formal consideration of the Complaint in accordance with the Policy, and that the Mayor has determined to appoint Norman Waterhouse Lawyers to formally consider and investigate the Complaint;
 - 2.8.2 providing her with a copy of the Policy;
 - 2.8.3 providing her with the Mayor's contact details, being the person responsible for managing the Complaint;
 - 2.8.4 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
 - 2.8.5 reminding her of her obligations to maintain confidentiality in accordance with the Policy.

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- 2.9 On 16 February 2023, we also wrote to the Complainant:
- 2.9.1 advising that the Mayor has decided to proceed to formal consideration of their Complaint in accordance with the Policy, and that the Mayor has determined to appoint Norman Waterhouse Lawyers to formally consider and investigate their Complaint;
 - 2.9.2 providing them with a copy of the Policy;
 - 2.9.3 inviting them to provide us with any further information or documentation in support of their Complaint, or to further elaborate on any matters set out in their Complaint.
- 2.10 The Complainant did not respond.
- 2.11 On 6 April 2023, we wrote to Cr Bawden:
- 2.11.1 providing her with a summary document in respect of the Complaint;
 - 2.11.2 inviting her to provide us with any further information in relation to the subject matter set out in the summary document by 13 April 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 A response was received from Cr Bawden on 11 April 2023; however, no further information was provided in relation to the Complaint.
- 2.14 In accordance with clause 4.5.4 of the Policy, on 3 May 2023 we provided our provisional report to Cr Bawden and the Complainant who were invited to make submissions in relation to the provisional report.
- 2.15 No submissions or responses were received from Cr Bawden or the Complainant.
- 2.16 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:
- 2.16.1 the Policy;
 - 2.16.2 the Behavioural Standards;

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- 2.16.3 the Complaint;
- 2.16.4 all communications between the Mayor and Cr Bawden in relation to the Complaint;
- 2.16.5 all communications between Norman Waterhouse and Cr Bawden in relation to the Complaint;
- 2.16.6 all communications between Norman Waterhouse and the Complainant in relation to their Complaint;
- 2.16.7 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 Complaint. 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.

The Comment, Shared Post and Caption and Laugh Reaction

- 3.2 The Post is a Facebook post made by a Ms Amber Young on the 'Salisbury Council Area – Residents Community Forum' public Facebook group on 29 January 2023.
- 3.3 The Post states the following:

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'Salisbury Hub will be closed at 4.30pm on Monday 30th January due to security concerns about the S.M.A.R.T. Cities protest.'

- 3.4 The Comment made by Cr Bawden (i.e. *'Civic participation in Salisbury is officially banned'*) was a comment on the Post.
- 3.5 The Shared Post and Caption involved the sharing of the Post by Cr Grace Bawden and publishing of the associated caption (*'It's "extremist" to push back against [sic] Globalist ideals of enslavement'*) on Cr Bawden's personal Facebook page.
- 3.6 The Laugh Reaction was a reaction by Cr Bawden to a post made by Cr Burner on her 'Cr Severina Burner' Facebook page wherein she uploaded an image of the Post and made an associated caption which states the following:

'I don't know where this came from. If it's from the Council, itself, then I wasn't notified nor involved.'

In my opinion, the Mayor and most Councillors have been extremely sensitive about people wanting to peacefully protest or even have a say in their own future. It appears to me they are deliberately shutting down anyone who disagrees with them. See if I'm wrong, ask to talk at the meeting? I don't understand why they seek to work for the community but then they act like anyone who opposes is going to cause a riot.'

Don't trap people in a 15 minute city, and they wouldn't be fearful...maybe???

Just my opinion though.'

- 3.7 Copies of the Post, the Comment, the Shared Post and Caption, Cr Burner's post referred to above and the Laugh Reaction are included in the summary document enclosed at Annexure A.

The Complaint

- 3.8 The Complainant alleges in the Complaint that Cr Bawden's interactions with respect to the Post constitutes *'poor commentary'* and *'misconduct'*.
- 3.9 The Complainant 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 2.7 of the Behavioural Standards.

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Relevant Provisions of Behavioural Standards

- 3.10 The Behavioural Standards referred to above which Cr Bawden has allegedly breached in respect of the Complaint 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.
- ...
- 2.7 Use the processes and resources of Council appropriately and in the public interest.'

4. FINDINGS

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

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Social Media Activities are Subject to the Behavioural Standards

- 4.2 The subject matter of the Complaint relates to online social media activity of Cr Bawden. Those activities relate to a Council matter, namely the planned closure of the Council's Salisbury Hub on 30 January 2023 and the matter of smart cities generally, 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.

The Complaint**The Comment**

- 4.4 In publishing the Comment, 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 Comment relates to Cr Bawden's commitment and ability to discharge her duties conscientiously.
- 4.5 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.
- 4.6 On 27 January 2023, the Office of the Chief Executive Officer provided a communication to Council members in the following terms:

'Dear Elected Members,

I write to provide you an update regarding our plans for ensuring the safety and wellbeing of all Staff, Elected Members and the wider community ahead of the upcoming Council meeting scheduled for Monday, 30 January at 6:30pm.

This advice follows the initiatives identified at last week's special council meeting [sic]

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In light of this, we are working to implement a number of initiatives for everyone's safety on Monday evening in response to the current environment and following discussions with SAPOL.

Public entry to the building beyond 4.30pm will be prevented by locking the main entrance to allow for setting up of registration facilities for those members of the public attending the meeting, similarly, to avoid potential confrontation between employees and protestors and staff.

Your evening meal will be available in the Elected Members lounge as per usual at 5.30pm.

The public gallery will open from 5.45pm, with a maximum capacity of 20 persons seated as per usual. It is recommended that Elected Members please consider discouraging non-essentials guests/ family members from attending the meeting due to the above concerns.

The public will be required to sign in, as per this week's Council resolution, and security will manage the entry process, including limiting any items carried into the room that are non-essential to Council business.

We have been liaising with SAPOL, who have confirmed they will have a presence on site as a precautionary measure along with additional security to support the safe arrival and departure of all members and staff.

We have standard procedures in place to aid us in managing potential disruptions to our public meetings. Please follow the lead of staff in this scenario.

Thank you for your ongoing support as we respond to this matter in a way that prioritises our safety, while promoting the effective delivery of Council's business agenda.

Any further arrangements I will advise on Monday.'

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- 4.7 Cr Bawden received this communication prior to making the Comment.
- 4.8 Further, to our knowledge, there was no restriction on the relevant protest occurring, and it did in fact occur.
- 4.9 In light of the above, we find that Cr Bawden was at the time of making the Comment aware or ought to have been aware that members of the public were capable of attending the 30 January 2023 Council meeting, and were capable of attending the relevant protest (being a form of civic participation), and that the Comment was therefore incorrect.
- 4.10 We acknowledge that the Comment is likely intended to be sarcastic. We consider it likely that Cr Bawden is purposely exaggerating the situation by likening the early closure of the Salisbury hub to a complete 'ban' on civic participation (notwithstanding that members of the public could indeed attend the meeting and/or the protest). Sarcasm alone, particularly in the course of political back-and-forth, does not necessarily diminish community trust and confidence in the Council as a whole. However, the matter about which Cr Bawden is being sarcastic is not something which is purely a political issue. It relates to the actual practical operation of the Council. Cr Bawden has also not qualified the comment as being her own personal view (something which is the basis of separate breach, discussed later), and so the Comment might be construed by any reader as an official Council communication.
- 4.11 We consider it likely that many individuals will receive their information about the Council's activities from social media. Although the suggestion in the Comment that 'civic participation is officially banned' is outlandish, we consider it appropriate to proceed on the basis that some persons will believe this assertion. 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'¹ who may view the Comment and take it literally. Such persons would most likely have their trust and confidence in the Council diminished as a result of the Comment.

¹ 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.

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- 4.12 Other persons, aware that the assertion in the Comment is wrong, and aware as a matter of common sense that a protest may give rise to security issues, would likely be disappointed to see an elected representative making such an assertion. It is in our view likely that these persons may also lose trust and confidence in the Council as a result of the Comment.
- 4.13 Cr Bawden has breached clause 1.3 of the Behavioural Standards which requires her 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. Potentially misleading members of the community into thinking that they are not able to participate in civic activities is irresponsible and may foreseeably prevent community viewpoints and other information from being brought to the Council's attention. The Comment is therefore counterproductive to the Council's fulfilment of its role as a representative, informed and responsible decision maker, in the interests of its community.
- 4.14 Cr Bawden has not breached clause 1.4 of the Behavioural Standards which requires her to act in a reasonable, just, respectful and non-discriminatory way. Cr Bawden's action of expressing her view on social media, in a way which does not target or disparage anybody in particular, does not in our view constitute acting in way which is not reasonable, just, respectful and non-discriminatory way within the meaning of this clause. The content of the Comment does give rise to breaches which are explained above and below, but the action of making of the Comment does not in our view constitute acting in a manner contrary to clause 1.4 of the Behavioural Standards.
- 4.15 Cr Bawden has breached clause 1.5 of the Behavioural Standards which requires Cr Bawden to, 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. In publishing the Comment, Cr Bawden has failed to indicate at all that her views are personal and not those of the Council.
- 4.16 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.

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- 4.17 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. With reference to the matters set out in paragraphs 4.6 to 4.12 herein, Cr Bawden's Comment that 'civic participation is officially banned' in the Council is not accurate information. This is clear from the CEO's communication, and the fact that the relevant protest did indeed proceed. It would have been reasonable for Cr Bawden to include in the Comment the fact that members of the public were still able to attend the Council meeting, yet Cr Bawden did not do so.
- 4.18 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. With reference to the matters set out in paragraphs 4.6 to 4.12 herein, Cr Bawden's Comment that 'civic participation is officially banned' in the Council is misleading. Per the CEO's communication, members of the public were able to attend the Council meeting on 30 January 2023. Cr Bawden ought to have specified this in the Comment.
- 4.19 Cr Bawden has breached clause 2.5 of the Behavioural Standards which requires her to act in a manner consistent with her role, as defined in section 59 of the LG Act. In particular, the posting of a sarcastic and misleading Comment on social media about the community's ability to participate in the affairs of the Council, rather than providing correct information, is inconsistent with Cr Bawden's roles in section 59(1)(b) of the LG Act to provide community leadership and guidance and to facilitate communication between the community and the Council.
- 4.20 Cr Bawden has not breached clause 2.7 of the Behavioural Standards because there is no evidence that, by publishing the Comment, she has used the processes and resources of the Council.

The Shared Post and Caption

- 4.21 We find that Cr Bawden was expressing her own opinion in publishing the Shared Post and Caption. We find that Cr Bawden was clearly being facetious by referring to herself as 'extremist' in respect of her opposition of smart city technology (which she refers to as '*Globalist ideals of enslavement*') as put forward by the Council. She is entitled to that opinion, so long as it is

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expressed in a manner that is not contrary to the Behavioural Standards, given that it relates to a Council matter – smart city technology.

- 4.22 We are of the view that Cr Bawden has not breached clauses 1.1, 1.2, 1.3, 1.4, 2.1, 2.2, 2.3, 2.5 and 2.7 of the Behavioural Standards by publishing the Shared Post and Caption. Unlike the Comment discussed above (which in part concerned the actual practical operation of the Council), the Caption authored by Cr Bawden which accompanies the Shared Post is purely a matter of political opinion.
- 4.23 We are of the view that Cr Bawden has breached clause 1.5 of the Behavioural Standards which requires Cr Bawden to, 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. The Shared Post and Caption clearly concerns a Council matter – smart city technology. In the Shared Post and Caption Cr Bawden has failed to indicate at all that her views are personal and not those of the Council.

The Laugh Reaction

- 4.24 We are not of the view that Cr Bawden has breached any of the Behavioural Standards alleged by the Complainant in respect of the Laugh Reaction.
- 4.25 In light of the evidently shared opposition of Cr Bawden and Cr Burner to smart city technology, we consider it clear that the Laugh Reaction was intended as a way of Cr Bawden showing her support for the views expressed by Cr Burner in Cr Burner's post (rather than Cr Bawden laughing 'at' Cr Burner).
- 4.26 There is nothing particularly offensive or disrespectful about the post of Cr Burner to which the Laugh Reaction was made by Cr Bawden. We consider it worth specifically noting that Cr Burner's post clearly indicates that it is entirely the opinion of Cr Burner. While the Laugh Reaction is in our view an additional public comment by Cr Bawden, there is no mechanism on Facebook to specifically mark the Laugh Reaction as also being a 'personal view'. Given the absence of such a mechanism, and given the context of the Laugh Reaction (in particular the fact that Cr Burner properly qualifies her post as a personal view), in our view there was no way in which Cr Bawden could any

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more '*clearly indicate*' (as the Behavioural Standards require) that the Laugh Reaction was similarly a personal view of Cr Bawden.

5. CONCLUSION

- 5.1 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, 1.5, 2.2, 2.3 and 2.5 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 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;
 - 6.1.2 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.

Norman Waterhouse Lawyers
12 May 2023

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ANNEXURE

AYG/AYG/14409/511323/2354164

Third Alleged Breach

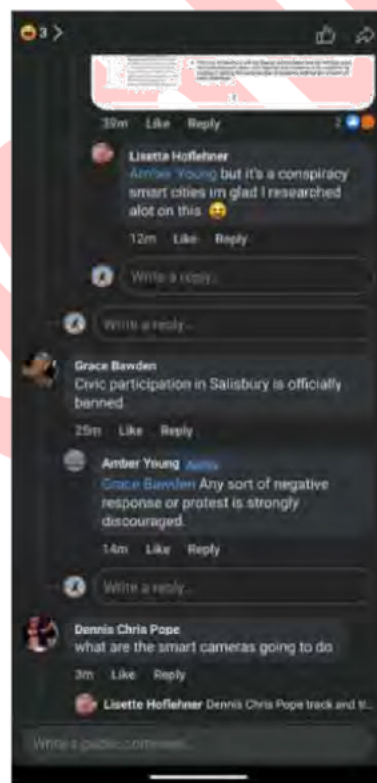
The circumstances in which the third breach is alleged to have occurred are:

- Your comment ('Civic participation in Salisbury is officially banned') published as a comment on the Facebook post published by Amber Young on the 'Salisbury Council Area – Residents Community Forum' public Facebook group on 29 January 2023. Ms Young's post stated the following:

'Salisbury Hub will be closed at 4.30pm on Monday 30th January due to security concerns about the S.M.A.R.T Cities protest.'

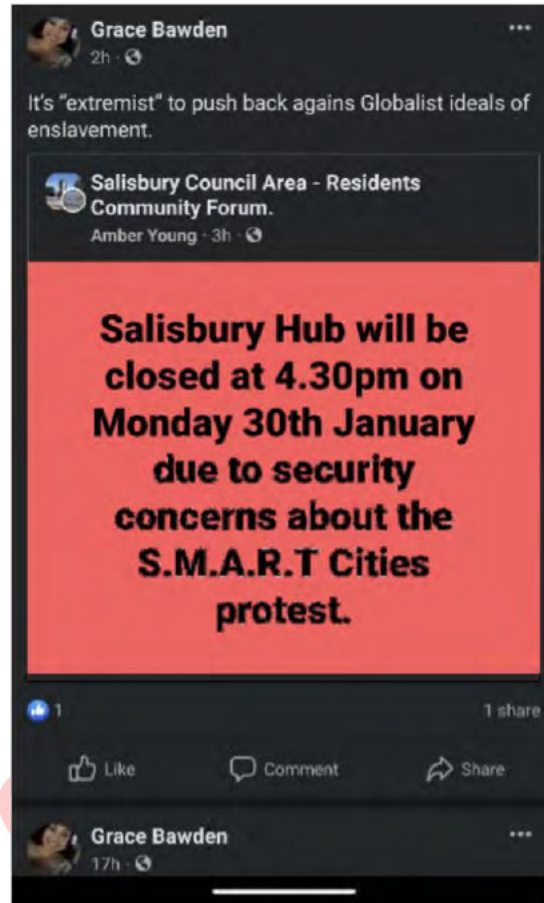
- Your sharing of Ms Young's post on your own Facebook page on 29 January 2023 and the associated caption which states 'It's "extremist" to push back against [sic] Globalist ideals of enslavement.'
- Your 'laugh reaction' to Cr Severina Burner's sharing of Ms Young's Facebook post on 29 January 2023.

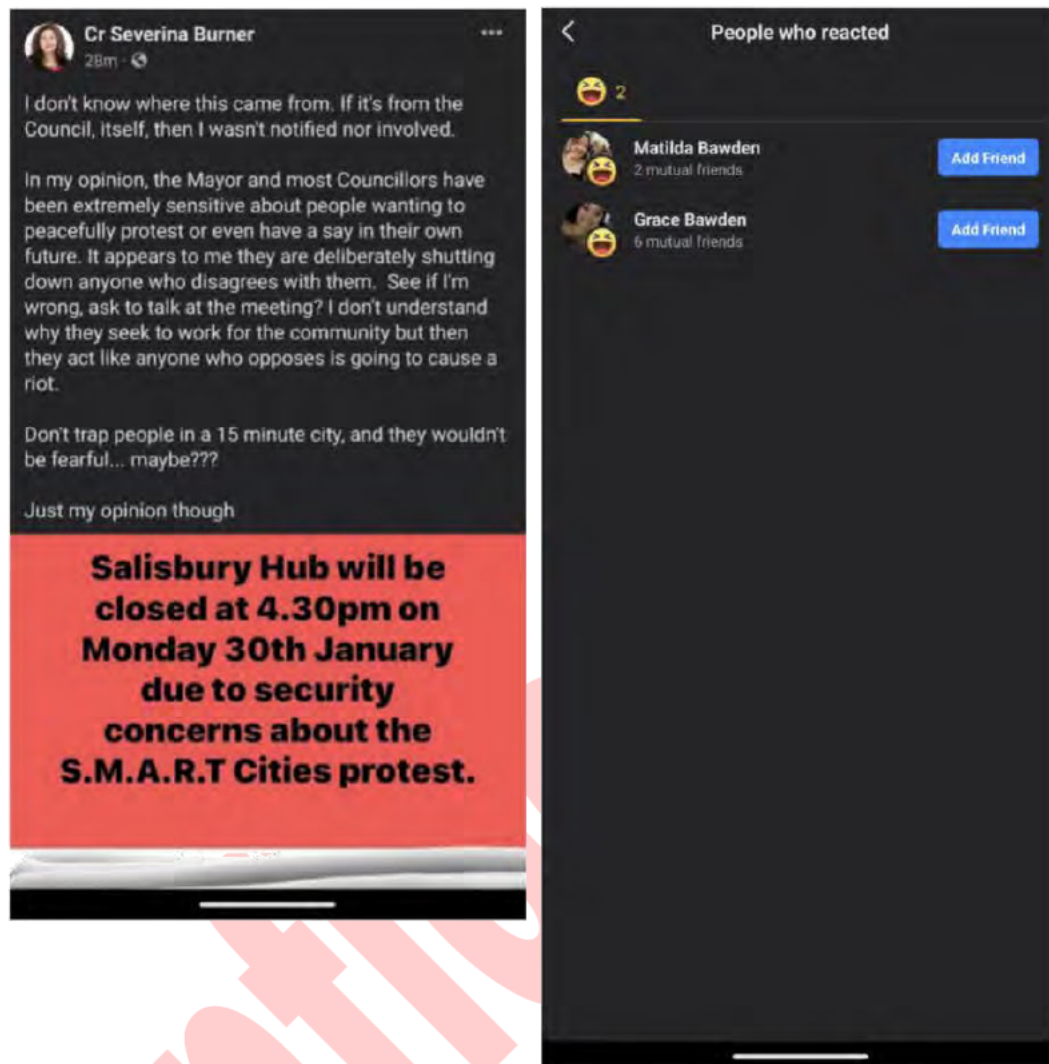
Copies of the relevant publications are set out below.



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The specific provisions of the Behavioural Standards 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 and 2.6.

C2 **Complaint 20 January 2023****COUNCIL****DATE** 22 May 2023**AUTHOR** Acting Chief Executive Officer**CITY PLAN LINKS** 1.3 People are valued and they feel safe, included and connected

SUMMARY Council received a complaint on 20 January 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden. In application of the Model Behavioural Management Policy, this report presents the findings of the independent investigation of the complaint against Cr Grace Bawden for Council's consideration.

RECOMMENDATIONThat Council:

1. Notes that a complaint was received on 20 January 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden.
2. Notes that Elected Member behaviour complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2, Council, 22 May 2023, Item C2).
3. Receives the independent report from Norman Waterhouse Lawyers on the complaint received alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden, as included in attachment 1 (Council, 22 May 2023, Item C2).
4. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item 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, 22 May 2023, Item 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, 22 May 2023, Item 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 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, 22 May 2023, Item 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.
8. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item 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.
 9. Approves that, pursuant to Section 91(7) of the *Local Government Act 1999*, the 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 power to revoke the order under Section 91(7)(a)&(b) prior to any review or as a result of any review is delegated to the Chief Executive Officer.

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Norman Waterhouse Lawyers Report Cr Bawden Complaint 20/01/2023
2. Model Behavioural Management Policy – *provided under Separate Cover*

1. BACKGROUND

- 1.1 Council received a complaint on 20 January 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden.
- 1.2 Elected Member behaviour complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2) (the Policy).
- 1.3 The complainant requested that their identity be kept confidential.
- 1.4 In accordance with clause 4.5.3 of the Policy, Norman Waterhouse Lawyers (NWL), an independent third party, was engaged to formally consider the complaint.
- 1.5 This report is presented in confidence to protect the personal affairs of the individual and in accordance with the confidentiality provision in the Policy. If Council determines to take action under section 262C of the *Local Government Act 1999*, the report must be considered at a public meeting of the Council.
- 1.6 Council at its 27 March 2023 meeting received a report on a different complaint, concluding Cr Grace Bawden breached clauses 1.2, 1.4 and 2.3 of the Behavioural Management Standards. Council took subsequent action as per section 262(C)(2) of the *Local Government Act 1999*:
 - *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.*
 - *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.

- 1.7 At its 24 April 2023 meeting, Council expressed by resolution its disappointment that compliance with the requirements in the above paragraph was not achieved, and requested 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*.
- 1.8 Council at its 24 April 2023 meeting received a report on different complaints, concluding Cr Grace Bawden breached clauses 1.2, 1.3, 1.4, 1.5, 2.2, 2.3 and 2.5 of the Behavioural Management Standards. Council took subsequent action as per section 262(C)(2) of the *Local Government Act 1999*:

Council resolved at the 24 April 2023 meeting that it:

- *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*
- *Censures Cr Grace Bawden's conduct the subject of findings of breaches of the Behaviour Standards as set put in the NWL report*
- *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.*
- *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.*
- *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.*

2. CONSULTATION / COMMUNICATION

2.1 External

2.1.1 Norman Waterhouse Lawyers

3. REPORT

Process:

- 3.1 The process with respect to the management of the complaints is set out in the Model Behavioural Management Policy (the Policy). The complaints are being managed in accordance with the “Formal Action” section in Clause 4.5 of the Policy.

Norman Waterhouse Lawyers Report:

- 3.2 The 20 January 2023 complaint is detailed in paragraph 3 of the NWL report (Attachment 1) and relates to Cr Grace Bawden’s Facebook post.
- 3.3 NWL stated that social media activities are subject to the Behavioural Standards.
- 3.4 On the balance of probabilities, NWL have found that Cr Grace Bawden breached clauses 1.2, 1.3, 1.5, 2.2, and 2.3 of the Behavioural Standards.

Next Steps:

- 3.5 In application of the Policy (Attachment 2), considering the recommendation in paragraph 6 of the report from NWL (Attachment 1), Council can resolve to act pursuant to section 262C of the *Local Government Act 1999*, noting that for such action the report must be considered at a public meeting of the Council.
- 3.6 Section 262C(2) of the *Local Government Act 1999* sets out the action the Council may take after inquiring into a complaint, namely the Council may do one or more of the following:
- 3.6.1 pass a censure motion in respect of the member;
 - 3.6.2 require the member to issue a public apology (in a manner determined by the Council);
 - 3.6.3 require the member to undertake a specified course of training or instruction;
 - 3.6.4 remove or suspend the member 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 (other than the office of member of the Council).
- 3.7 At a **public** Council meeting, Council can consider the NWL report (attachment 1), and resolve that it:
- 3.7.1 Notes the report presented to Council at its meeting on 22 May 2023 including the findings made by Norman Waterhouse Lawyers in relation to the 20 January 2023 complaint received, concluding that Cr Grace Bawden has, on the balance of probabilities, breached clauses 1.2, 1.3, 1.5, 2.2 and 2.3 of the Behavioural Standards (Item C2, Attachment 1, Council, 22 May 2023).
 - 3.7.2 Censures Cr Grace Bawden’s conduct the subject of findings of breaches of the Behavioural Standards as set out in the NWL report (Item C2, Attachment 1, Council, 22 May 2023).

- 3.7.3 Requires Cr Grace Bawden to reflect on her behaviour and issue an unqualified public apology in respect of her conduct, with such apology to be presented at the June 2023 Council meeting, in writing or in person, and to be included in the Council Minutes.
- 3.7.4 Requires Cr Grace Bawden to reflect on her behaviour and publish an unqualified public apology in respect of her conduct on her social media page on which Cr Grace Bawden published the material the subject of the complaints made by 26 June 2023.

4. CONCLUSION / PROPOSAL

- 4.1 Council received a complaint on 20 January 2023 alleging breaches of the Behavioural Standards for Council Members by Cr Grace Bawden. In application of the Model Behavioural Management Policy, this report presents the findings of the independent investigation of the complaints against Cr Grace Bawden for Council's consideration, with potential next steps outlined in paragraph 3.7 of this report.



**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 a complaint made against CR GRACE BAWDEN
under the Behavioural Standards for Council Members**

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1. BACKGROUND

- 1.1 The Council has received a complaint from a complainant (**the Complainant**) on 20 January 2023 (**the Complaint**) 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 publication of a Facebook post on an unspecified date, as re-published in the Messenger North newspaper on an unspecified date (**the Post**).
- 1.3 The Complaint is being managed in accordance with the Local Government Association of South Australia Model Behavioural Management Policy (**the Policy**).
- 1.4 The Complainant has requested that their identity be kept confidential. The Mayor, being the person responsible for managing the Complaint under the Policy, has determined that the identity of the Complainant shall remain confidential.

2. PROCESS

- 2.1 The process with respect to the management of the Complaint is set out in the Policy. The Complaint is being managed in accordance with the 'Formal action' section in Clause 4.5 of the Policy.
- 2.2 The person responsible for managing the Complaint 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 Complaint 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 Complaint had been made against her. A copy of the 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 Complaint.

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- 2.6 Cr Bawden responded on 9 February 2023.
- 2.7 Following receipt of Cr Bawden's response to the 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 Complaint.
- 2.8 On 16 February 2023, we wrote to Cr Bawden:
- 2.8.1 advising that the Mayor has decided to proceed to formal consideration of the Complaint in accordance with the Policy, and that the Mayor has determined to appoint Norman Waterhouse Lawyers to formally consider and investigate the Complaint;
 - 2.8.2 providing her with a copy of the Policy;
 - 2.8.3 providing her with the Mayor's contact details, being the person responsible for managing the Complaint;
 - 2.8.4 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
 - 2.8.5 reminding her of her obligations to maintain confidentiality in accordance with the Policy.
- 2.9 On 16 February 2023, we also wrote to the Complainant:
- 2.9.1 advising that the Mayor has decided to proceed to formal consideration of their Complaint in accordance with the Policy, and that the Mayor has determined to appoint Norman Waterhouse Lawyers to formally consider and investigate their Complaint;
 - 2.9.2 providing them with a copy of the Policy;
 - 2.9.3 inviting them to provide us with any further information or documentation in support of their Complaint, or to further elaborate on any matters set out in their Complaint.
- 2.10 The Complainant did not respond.

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- 2.11 On 6 April 2023, we wrote to Cr Bawden:
- 2.11.1 providing her with a summary document in respect of the Complaint;
 - 2.11.2 inviting her to provide us with any further information in relation to the subject matter set out in the summary document by 13 April 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 A response was received from Cr Bawden on 11 April 2023, however, no further information was provided in relation to the Complaint.
- 2.14 In accordance with clause 4.5.4 of the Policy, on 3 May 2023 we provided our provisional report to Cr Bawden and the Complainant who were invited to make submissions in relation to the provisional report.
- 2.15 No submissions or responses were received from Cr Bawden or the Complainant.
- 2.16 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:
- 2.16.1 the Policy;
 - 2.16.2 the Behavioural Standards;
 - 2.16.3 the Complaint;
 - 2.16.4 all communications between the Mayor and Cr Bawden in relation to the Complaint;
 - 2.16.5 all communications between Norman Waterhouse and Cr Bawden in relation to the Complaint;
 - 2.16.6 all communications between Norman Waterhouse and the Complainant in relation to their Complaint;
 - 2.16.7 any other information referred to or enclosed with this report.

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3. THE COMPLAINT

- 3.1 It is relevant to provide a brief summary of smart cities in the context of the Complaint. 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.

The Post

The Post which is the subject of the Complaint (as re-published in the Messenger North newspaper) states the following:

'Not-so-SMART Cities are being rolled out by stealth and in tiny increments you don't even know about or have a say in, from LED lights, CCTV cameras with Facial Recognition, sensors, microphones.

YES. THIS IS ABOUT GLOBAL ENSLAVEMENT and if you are more worried about your footpaths, you should worry much more about your children's future.'

The Complaint

- 3.2 The Complainant alleges in the Complaint that it was *'offensive, ignorant and irresponsible of someone elected to serve the public [to] spout conspiracy theories as fact.'*

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- 3.3 The Complainant alleges that Cr Bawden has breached clauses 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7 of the Behavioural Standards.

Relevant Provisions of Behavioural Standards

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

'Council members must:

1. General behaviour

...

- 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.*
- 2.4 *Take all reasonable and appropriate steps to correct the public record in circumstances where the Member becomes aware that they have unintentionally misled the community or the Council.*
- 2.5 *Act in a manner consistent with their roles, as defined in section 59 of the Act.*
- 2.6 *In the case of the Principal Member of a Council, act in a manner consistent with their additional roles, as defined in section 58 of the Act.*
- 2.7 *Use the processes and resources of Council appropriately and in the public interest.'*

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4. FINDINGS

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

Social Media Activities are Subject to the Behavioural Standards

- 4.2 The subject matter of the Complaint relates 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.
- 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.

Findings with Respect to the Complaint

- 4.4 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. In particular, we find that Cr Bawden's use of the word 'stealth' is intended to suggest that the Council is implementing smart city technology in a way which is hidden and is purposely trying to avoid public attention on the issue. We also find that Cr Bawden's reference to 'global enslavement' is intended to suggest that the Council's rollout of smart city technology is aimed at serving interests other than those of the Council's community.
- 4.5 There does not appear to be any evidence before us to suggest that the Council has acted in stealth in deciding to commit to providing smart city technology. There have been many instances of public debate in relation to smart city technology by the Council or a Council committee, such as:
- 4.5.1 on 28 September 2020, Council noted at its ordinary meeting that further consultative work will be performed on the Smart Salisbury Framework and Smart Salisbury Implementation Plan 2020 – 2022 and that a Smart Salisbury governance model will be established;

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- 4.5.2 on 27 April 2021, Council resolved at its ordinary meeting to include the installation of fencing smart access at Bridgestone Reserve, Salisbury South, within PR25017 Smart City Projects Program;
- 4.5.3 on 22 August 2022, Council resolved at its ordinary meeting to approve the transfer of funds relating to 'smart cities initiatives' to the Business Transformation Future Fund;
- 4.5.4 on 19 December 2022, questions without notice were asked and answered at the ordinary Council meeting in relation to smart city technology and advice sought by Council administration regarding same;
- 4.5.5 on 30 January 2023, Council reaffirmed at its ordinary meeting its commitment to provide appropriate smart city technology.
- 4.6 Further, it appears an update was made by the Council and published on its website on 7 February 2023 regarding its commitment to *'implementing appropriate digital technology, as reflected within its adopted City Plan 2035'*
- 4.7 Despite the absence of any apparent factual basis for Cr Bawden's assertion that the Council has rolled out smart city technology in stealth, and that this forms part of some 'global enslavement', we consider it appropriate to proceed on the basis that some persons will believe those 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'¹ who may view the Post (either on Facebook or in the Messenger North article) and believe that the Council has rolled out smart city technology in stealth.
- 4.8 Although Cr Bawden does not specially name the Council in the Post, it is clear from the context of the Council's support for smart cities, Cr Bawden's opposition to smart cities, and Cr Bawden's position as a member of the Council that readers of the Post will take it to be directed at the Council (possibly along with other councils).

¹ 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.

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- 4.9 For these reasons, Cr Bawden's conduct in publishing the Post does not generate community trust and confidence in the Council.
- 4.10 Cr Bawden has breached clause 1.3 of the Behavioural Standards which requires her 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. In particular, Cr Bawden's suggestion of a lack of transparency on the part of the Council with respect to smart cities despite the many instances of public debate about the topic (listed above) is not consistent with being either informed or responsible.
- 4.11 Cr Bawden has not breached clause 1.4 of the Behavioural Standards which requires her to act in a reasonable, just, respectful and non-discriminatory way. Cr Bawden's action of expressing her view (notwithstanding the unsupported nature of that view) on social media, in a way which does not target or disparage anybody in particular, does not in our view constitute acting in way which is not reasonable, just, respectful and non-discriminatory way within the meaning of this clause. The content of the Post does give rise to breaches which are explained above and below, but the action of making of the Post does not in our view constitute acting in a manner contrary to clause 1.4 of the Behavioural Standards.
- 4.12 Cr Bawden has breached clause 1.5 of the Behavioural Standards which requires Cr Bawden to, 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. The Post clearly concerns a Council matter – smart city technology. In the Post Cr Bawden has failed to indicate at all that her views are personal and not those of the Council.
- 4.13 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.
- 4.14 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

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the Council. With reference to the matters set out in paragraphs 4.5 and 4.6 herein, Cr Bawden's comment that the Council has rolled out smart city technology in stealth is not accurate information. It would have been reasonable for Cr Bawden to take steps to consider whether the Council had publicly determined to commit to providing smart city technology before publishing the Post. There is no evidence that Cr Bawden did so, which is supported by the content of the Post. We therefore find that Cr Bawden has failed to take all reasonable steps to provide accurate information to the community.

- 4.15 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. With reference to the matters set out in paragraphs 4.5 and 4.6 herein, Cr Bawden has misled the community in respect of her comment that the Council has rolled out smart city technology in stealth. It would have been reasonable for Cr Bawden to take steps to consider whether the Council had publicly determined to commit to providing smart city technology before publishing the Post. There is no evidence that Cr Bawden did so, which is supported by the content of the Post. Cr Bawden was also herself a councillor during some of these public debates, and so should have known that it was misleading to describe the Council's approach as being characterised by 'stealth'. We therefore find that Cr Bawden has failed to take all reasonable steps to ensure that the community is not knowingly misled.
- 4.16 Cr Bawden has not breached clause 2.4 of the Behavioural Standards which requires her to take all reasonable and appropriate steps to correct the public record in circumstances where the member became aware that they have unintentionally misled the community or the Council. We make this finding as it appears, on the balance of probabilities, that the Post was *intentionally* rather than *unintentionally* misleading.
- 4.17 Cr Bawden has not breached clause 2.5 of the Behavioural Standards which requires her to act in a manner consistent with her role, as defined in section 59 of the LG Act. We do not consider that any of the roles specified in section 59 of the LG Act are relevant to Cr Bawden's conduct in publishing the Post.
- 4.18 Cr Bawden has not breached clause 2.6 of the Behavioural Standards because Cr Bawden is not the Principal Member of the Council.

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- 4.19 Cr Bawden has not breached clause 2.7 of the Behavioural Standards because there is no evidence that, by publishing the Post, she has used the processes and resources of the Council.

5. CONCLUSION

- 5.1 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, 1.5, 2.2 and 2.3 of the Behavioural Standards by publishing the Post.

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 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;
- 6.1.2 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.

Norman Waterhouse Lawyers
12 May 2023

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ANNEXURE

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

SUMMARY DOCUMENT DATED 6 APRIL 2023

THIRD PART OF INVESTIGATION

First Alleged Breach

The circumstances in which the first breach is alleged to have occurred is your publication of the following Facebook posts on unspecified dates, as published in the 'Messenger North' newspaper.



The specific provisions of the Behavioural Standards for Council Members (**the Behavioural Standards**) alleged to have been breached are clauses 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7.

C4	Complaint 24 February 2023
	COUNCIL
DATE	22 May 2023
AUTHOR	Acting Chief Executive Officer
CITY PLAN LINKS	1.3 People are valued and they feel safe, included and connected

SUMMARY Council received a complaint on 24 February 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Severina Burner. In application of the Model Behavioural Management Policy, this report presents the findings of the independent investigation of the complaint against Cr Severina Burner for Council's consideration.

RECOMMENDATION

That Council:

1. Notes that a complaint was received on 24 February 2023, alleging breaches of the Behavioural Standards for Council Members by Cr Severina Burner.
2. Notes that Elected Member behaviour complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2, Council, 22 May 2023, Item C4).
3. Receives the independent report from Norman Waterhouse Lawyers on the complaint received alleging breaches of the Behavioural Standards for Council Members by Cr Severina Burner, as included in attachment 1 (Council, 22 May 2023, Item C4).
4. Notes that the report from Norman Waterhouse Lawyers as included in attachment 1 (Council, 22 May 2023, Item C4) 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.
5. Approves that, pursuant to Section 91(7) of the *Local Government Act 1999*, the discussion for this item will remain confidential and not available for public inspection until 30 June 2026.
6. Approves that, pursuant to Section 91(9)(c) of the *Local Government Act 1999*, the power to revoke the order under Section 91(7)(a)&(b) prior to any review or as a result of any review is delegated to the Chief Executive Officer.

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Norman Waterhouse Lawyers Report Cr Burner Complaint 24 February 2023
2. Model Behavioural Management Policy – *provided under Separate Cover*

1. BACKGROUND

- 1.1 Elected Member behaviour complaints are managed in accordance with the Model Behavioural Management Policy (Attachment 2) (the Policy).
- 1.2 The complainant did not seek his identity be kept confidential.
- 1.3 In accordance with clause 4.5.3 of the Policy, Norman Waterhouse Lawyers (NWL), an independent third party, was engaged to formally consider the complaint.
- 1.4 This report is presented in confidence to protect the personal affairs of the individual and in accordance with the confidentiality provision in the Policy. If Council determines to take-action under section 262C of the *Local Government Act 1999*, the report must be considered at a public meeting of the Council.
- 1.5 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. Council took subsequent action as per section 262(C)(2) of the *Local Government Act 1999* and resolved that it:
 - 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.
 - 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.
- 1.6 At its 24 April 2023 meeting, Council expressed by resolution its disappointment that compliance with the requirements in the above paragraph was not achieved, and requested 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*.
- 1.7 Council at its 24 April 2023 meeting received a report on two different complaints, concluding Cr Severina Burner breached clauses 1.2, 1.4, 1.5 and 3.1 of the Behavioural Management Standards. Council took subsequent action as per section 262(C)(2) of the *Local Government Act 1999*:

Council resolved at the 24 April 2023 meeting that it:

 - *Censures Cr Severina Burner's conduct the subject of findings of breaches of the Behaviour Standards as per the NWL report*
 - *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.*

- *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.*
- *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.*
- *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.*

2. CONSULTATION / COMMUNICATION

2.1 External

2.1.1 Norman Waterhouse Lawyers

3. REPORT

Process:

- 3.1 The process with respect to the management of the complaints is set out in the Model Behavioural Management Policy (the Policy). The complaint is managed in accordance with the "Formal Action" section in Clause 4.5 of the Policy.

Norman Waterhouse Lawyers Report:

- 3.2 The 24 February 2023 complaint is detailed in paragraph 3 of the NWL report (Attachment 1) and relates to Cr Severina Burner's Facebook post.
- 3.3 NWL stated that social media activities are subject to the Behavioural Standards.
- 3.4 On the balance of probabilities, NWL have found that Cr Severina Burner breached clause 1.4 of the Behavioural Standards by failing to act in a reasonable, just, respectful and non-discriminatory way.

Next Steps:

- 3.5 In application of the Policy (Attachment 2), considering the recommendation in paragraph 6 of the report from NWL (Attachment 1), Council can resolve to act pursuant to section 262C of the *Local Government Act 1999*, noting that for such action the report must be considered at a public meeting of the Council.
- 3.6 Section 262C(2) of the *Local Government Act 1999* sets out the action the Council may take after inquiring into a complaint, namely the Council may do one or more of the following:
- 3.6.1 pass a censure motion in respect of the member;
 - 3.6.2 require the member to issue a public apology (in a manner determined by the Council);

- 3.6.3 require the member to undertake a specified course of training or instruction;
- 3.6.4 remove or suspend the member 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 (other than the office of member of the Council).
- 3.7 At a **public** Council meeting, Council can consider the NWL report (attachment 1), and resolve that it:
 - 3.7.1 Notes the report presented to Council at its meeting on 22 May 2023 including the findings made by Norman Waterhouse Lawyers in relation to the 24 February 2023 complaint received, concluding that Cr Severina Burner has, on the balance of probabilities, breached clause 1.4 of the Behavioural Standards (Item C4, Attachment 1, Council, 22 May 2023).
 - 3.7.2 Censures Cr Severina Burner's conduct the subject of findings of breach of the Behavioural Standards as set out in the NWL report (Item C4, Attachment 1, Council, 22 May 2023).
 - 3.7.3 Requires Cr Severina Burner to reflect on her behaviour and issue an unqualified public apology in respect of her conduct, with such apology to be presented at the June 2023 Council meeting, in writing or in person, and to be included in the Council Minutes.
 - 3.7.4 Requires Cr Severina Burner to reflect on her behaviour and publish an unqualified public apology in respect of her conduct on her social media page on which Cr Severina Burner published the material the subject of the complaint made by 26 June 2023.
 - 3.7.5 Requires Cr Severina Burner to reflect on her behaviour and issue an unqualified apology to Mr David Waylen, in writing or in person, and specifically in respect of her conduct towards him.

4. CONCLUSION / PROPOSAL

- 4.1 Council received a complaint on 24 February 2023 alleging breaches of the Behavioural Standards for Council Members by Cr Severina Burner. In application of the Model Behavioural Management Policy, this report presents the findings of the independent investigation of the complaint against Cr Severina Burner for Council's consideration, with potential next steps outlined in paragraph 3.7 of this report.



**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 a complaint made against CR SEVERINA
BURNER under the Behavioural Standards for Council
Members**

AYG/AYG/14409/511323/2354159

1. BACKGROUND

- 1.1 The Council has received a complaint from Mr David Waylen on 24 February 2023 (**the Complaint**) alleging breaches of the Behavioural Standards for Council Members (**the Behavioural Standards**) by Councillor Severina Burner.
- 1.2 The Complaint relates to Cr Burner's alleged conduct in respect of a post she published on her 'Cr Severina Burner' Facebook page at an unspecified date (**the Post**). The Post refers to Mr Waylen himself.
- 1.3 The Complaint is being managed in accordance with the Local Government Association of South Australia Model Behavioural Management Policy (**the Policy**).

2. PROCESS

- 2.1 The process with respect to the management of the Complaint is set out in the Policy. The Complaint is being managed in accordance with the 'Formal action' section in Clause 4.5 of the Policy.
- 2.2 The person responsible for managing the Complaint 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 Complaint after receipt and considered that the matter warranted further consideration.
- 2.5 On 24 February 2023, the Mayor advised Cr Burner by email of the fact that the Complaint had been made against her. A copy of the Complaint was provided to Cr Burner. The Mayor requested Cr Burner to provide a response by 3 March 2023 to inform her initial assessment of the Complaint.
- 2.6 Cr Burner responded to the Mayor's email on 25 February 2023.
- 2.7 Following receipt of Cr Burner's response to the Complaint, the Mayor determined to proceed to formal consideration of the 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 Complaint.

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- 2.8 On 6 April 2023, we wrote to Cr Burner:
- 2.8.1 providing her again with a copy of the Complaint (given that the complainant has not requested their identity to be kept confidential), which included the specific provisions of the Behavioural Standards alleged to have been breached;
 - 2.8.2 reminding her that the Mayor is the person responsible for managing the Complaint;
 - 2.8.3 inviting her to provide us with any further information in relation to the subject matters set out in the Complaint by 13 April 2023;
 - 2.8.4 providing her with copies of the Policy and Behavioural Standards; and
 - 2.8.5 reminding her of her obligations to maintain confidentiality in accordance with the Policy.
- 2.9 A copy of the Complaint is **enclosed** at **Annexure A**.
- 2.10 No response was received from Cr Burner to our 6 April 2023 letter.
- 2.11 In accordance with clause 4.5.4 of the Policy, on 3 May 2023 we provided our provisional report to Cr Burner and Mr Waylen who were invited to make submissions in relation to the provisional report.
- 2.12 Mr Waylen responded on 3 May 2023 and concurred with our provisional findings and recommendation.
- 2.13 No response was received from Cr Burner.
- 2.14 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:
- 2.14.1 the Policy;
 - 2.14.2 the Behavioural Standards;
 - 2.14.3 the Complaint;
 - 2.14.4 all communications between the Mayor and Cr Burner in relation to the Complaints;

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- 2.14.5 all communications between Norman Waterhouse and Cr Burner in relation to the Complaint;
- 2.14.6 all communications between Norman Waterhouse and Mr Waylen in relation to the Complaint;
- 2.14.7 any other information referred to or enclosed with this report.

3. THE COMPLAINT

- 3.1 The Post states the following:

'And David Waylan [sic] represents the Business Association? I never would have known or met this man (not sure what pronouns are preferred) if it weren't for recently being elected and targeted by him and others for my personal thoughts and beliefs. Disgraceful and Disgusting! His intelligence and hostility towards myself, Cr Bawden and anyone on this thread is easy to see. He has no shame because he really believe [sic] he is of some importance.

This is definitely only my personal thoughts.'

- 3.2 Below the Post in the image supplied by Mr Waylen in the Complaint there is another Facebook post published by Mr Waylen. That post states the following:

'It was discussed tonight and passed unanimously by 13 elected members and the motion includes a community communication plan that shares with all residents the facts about Smart City and the benefits to the Salisbury Community.'

- 3.3 It is unclear whether the Post by Cr Burner and the post by Mr Waylen were published in a public Facebook group. Although Mr Waylen's post above was posted four weeks before the date of the image, and Cr Burner's Post was posted one day before the date of the image (according to the date stamp on the screenshot in the Complaint), it appears likely that Cr Burner's Post was a response to the post made by Mr Waylen, given that the Post refers to Mr Waylen.

- 3.4 Complainant A alleges in the Complaint that:

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- 3.4.1 he takes offence at the comment *'this man (not sure what pronouns are preferred)'*;
 - 3.4.2 the description of his behaviour as disgraceful and disgusting is an attack on his personal and professional credibility;
 - 3.4.3 the assertion that he demonstrates hostility is an unsubstantiated accusation, and providing an alternate viewpoint, fact/evidence-based argument or a general comment does not fit into that characterisation;
 - 3.4.4 he has never shown hostility towards Council members;
 - 3.4.5 he is always respectful when addressing Council members;
 - 3.4.6 the comment *'he has no shame because he really believes he is of some importance'* is insulting and demeaning.
- 3.5 Mr Waylen alleges that Cr Burner has breached clauses 1.1, 1.2 and 1.4 of the Behavioural Standards.

Relevant Provisions of Behavioural Standards

- 3.6 The Behavioural Standards referred to above which Cr Burner 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.*
- ...
- 1.4 Act in a reasonable, just, respectful and non-discriminatory way.'*

4. FINDINGS

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

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Social Media Activities are Subject to the Behavioural Standards

- 4.2 The subject matter of the Complaint relates to online social media activities of Cr Burner. Mr Waylen is the Executive Officer of the Salisbury Business Association Inc. and appears to be (based on the comments in the Complaint) an active member of the Council community.
- 4.3 It appears that the Post is a reaction or response to Mr Waylen's post about smart cities, which is a Council matter.
- 4.4 In light of this, we consider it salient to make the following observations.
- 4.5 The Behavioural Standards apply to all Council members, at all 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.
- 4.6 Having regard to the matters discussed at above paragraphs 4.2 to 4.5, we make the following findings in respect of the Post, on the balance of probabilities.

Findings with Respect to the Complaint

- 4.7 Cr Burner 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 Post relates to Cr Burner's commitment and ability to discharge her duties conscientiously.
- 4.8 Cr Burner has not 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 Post contains her own opinion about Mr Waylen. While the manner in which she has expressed her opinion may not be respectful (see below), we do not consider that the Post diminishes community trust and confidence in the Council as a whole.
- 4.9 Cr Burner has breached clause 1.4 of the Behavioural Standards by failing to act in a reasonable, just, respectful and non-discriminatory way. In particular,

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we find that Cr Burner intended to insult and belittle Mr Waylen in the Post by stating that *'I never would have known or met this man (not sure what pronouns are preferred)'* and that *'he has no shame because he really believe [sic] he is of some importance'*. We find that these particular comments were unreasonable and disrespectful to Mr Waylen. We further find that the comment regarding pronouns, having clearly been made facetiously, was disrespectful to other persons.

- 4.10 It appears that Cr Burner and Mr Waylen were already known to each other at the time of the Post. It appears that Cr Burner therefore would already have been aware that Mr Waylen is appropriately described by the pronouns he/him/his. Indeed, Cr Burner proceeds to use those exact pronouns (he/him/his) in the remainder of the Post. In light of this, and having regard to Cr Burner's clear disdain for Mr Waylen as evidenced in the Post, we find on the balance of probabilities that Cr Burner's purported concern about not knowing the correct pronouns for Mr Waylen was feigned. We consider that the comment was intended as an insult to Mr Waylen. We note that Mr Waylen was indeed insulted. Further, we consider that trivialising the matter of proper use of gender identity pronouns is disrespectful to persons who consider proper usage of gender identity pronouns to be important, including but not limited to many transgender and nonbinary persons.
- 4.11 We find on the balance of probabilities that Cr Burner's comments about Mr Waylen having no shame and believing himself to be important was intended to publicly belittle Mr Waylen. Such conduct is unreasonable and disrespectful, especially when directed by an elected Council representative to a member of the public. It does not appear, from the information provided, that Cr Burner's Post was made in response to any similarly disparaging post by Mr Waylen. Rather it appears to have been in response to a relatively innocuous post by Mr Waylen about the Council's support for smart cities generally. Even if there is some history of acrimonious exchanges between Mr Waylen and Cr Burner (which the Post alludes to, although we have not seen evidence of this), this would not make the content of Post reasonable or respectful.

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5. CONCLUSION

- 5.1 Based on the findings made in relation to the Complaint, Cr Burner has in our view, on the balance of probabilities, breached clause 1.4 of the Behavioural Standards by publishing the Post.

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, 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 Mr Waylen specifically in respect of her conduct towards him, 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 a finding of a breach of the Behavioural Standards as set out in this report.

Norman Waterhouse Lawyers
12 May 2023

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ANNEXURE

AYG/AYG/14409/511323/2354159

From: Executive Officer <eo@salisburyba.com.au>
Sent: Friday, 24 February 2023 11:38 AM
To: John Harry <JHarry@salisbury.sa.gov.au>; Gillian Aldridge <GAldridge@salisbury.sa.gov.au>
Cc: Rudi Deco <RDeco@salisbury.sa.gov.au>
Subject: Breach of Behavioural Standards for Council Members

(Friday 24th February 2023

Mr John Harry
Chief Executive Officer
City of Salisbury

Mayor Gillian Aldridge OAM
Presiding Member
City of Salisbury

CONFIDENTIAL

Dear John and Gillian,

I write this complaint on the assurance that Cr. Burner has received the appropriate training around Member Conduct and as both a ratepayer within the City of Salisbury and Executive Officer of the Salisbury Business Association which has a representation of approx. 125 property owners and 320+ business owners / operators.

I have listed the pertinent parts that I believe Cr Burner fails to observe:

1

LOCAL GOVERNMENT ACT 1999 SECTION 75E**Behavioural Standards for Council Members****The Behavioural Standards for Council Members (Behavioural Standards)**

Council members are required to act with integrity, serve the overall public interest and provide community leadership and guidance.

The community expects council members to put personal differences aside, to focus on the work of the council and to engage with each other and council employees in a mature and professional manner.

Behavioural Standards

Council members must:

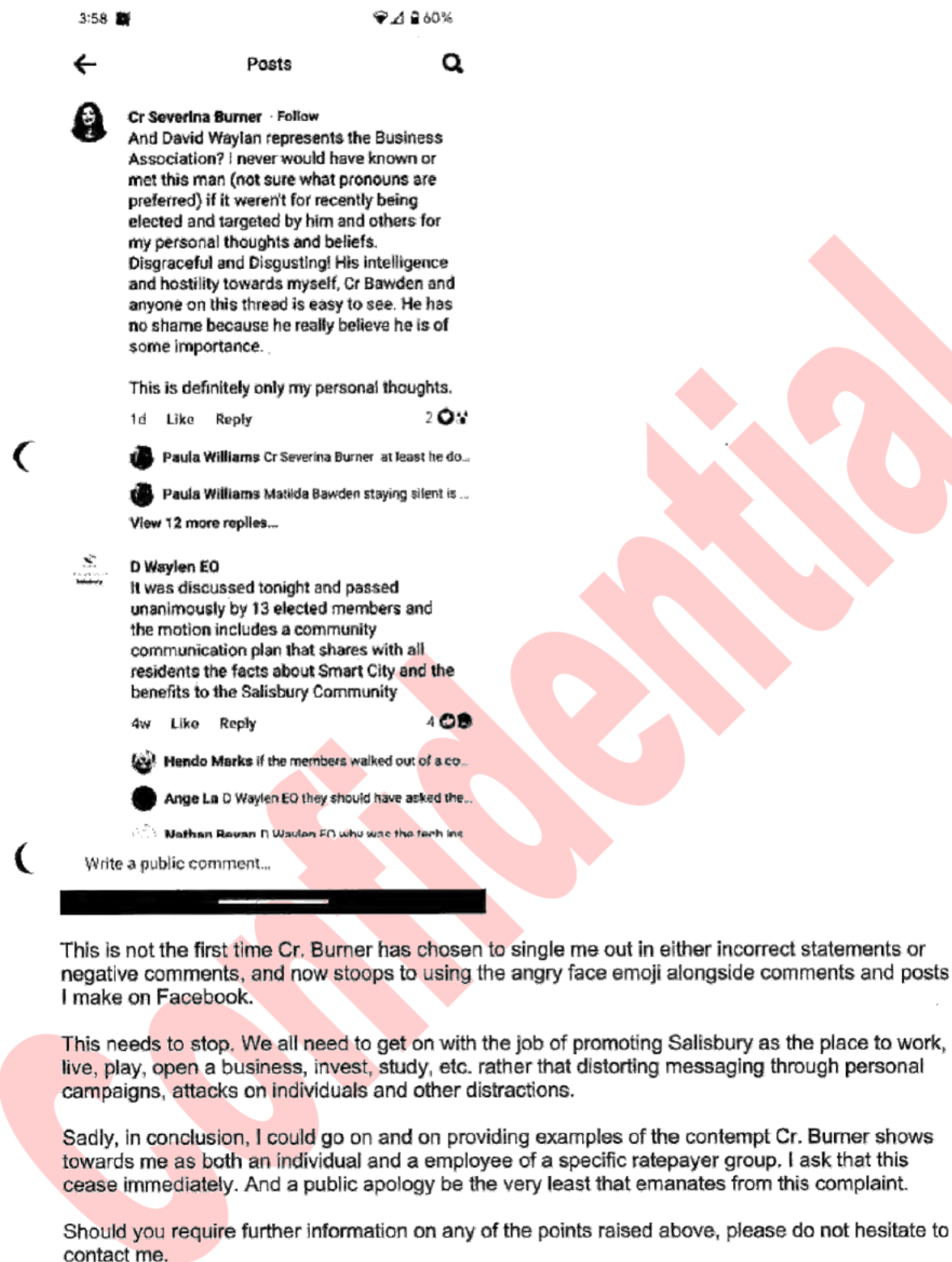
1. General behaviour

- 1.1 Show commitment and discharge duties conscientiously.
- 1.2 Act in a way that generates community trust and confidence in the Council.
- 1.4 Act in a reasonable, just, respectful and non-discriminatory way.

(My complaint is specific to the Facebook post, made by Cr. Severina Burner on her Councillor page (as opposed to her private page).

- 1) I take offence at the comment ... "this man" (not sure what pronouns are preferred.
- 2) Calling in to question my "intelligence" when she hasn't even met me or raised any concerns or issues directly with me
- 3) Describes my behaviour as "Disgraceful and Disgusting" which attacks both my personal and professional credibility
- 4) The unsubstantiated accusation that I demonstrate "hostility" to Cr. Burner, Cr. Bawden and other members of a specific Facebook page, which has never been the case. Providing an alternate viewpoint, fact/evidence based argument or a general comment does not fit into this characterisation
- (5) I believe I have NEVER shown any hostility towards any Elected Members, that is not my personal or professional modus operandi when working with Elected Members
- 6) I am always respectful when addressing Elected Members through either a formal deputation or during Public Questions time, and have never been challenged by the Presiding Member for any breaches of etiquette
- 7) The comment re. "he has no shame he really believe he is of some importance" is insulting and demeaning. That has never been my position (the importance of business and our local businesses is my entire focus) – my role is to strongly advocate for, and promote, business across the Salisbury City Centre, and across the City of Salisbury and my philosophy has always been to work collaboratively with anyone and everyone who can help facilitate these outcomes. I have never waived from this commitment

I continue, through both my professional role and personal life, to promote Salisbury as a great place, full of opportunities



Thank you for your time in hearing my concerns.

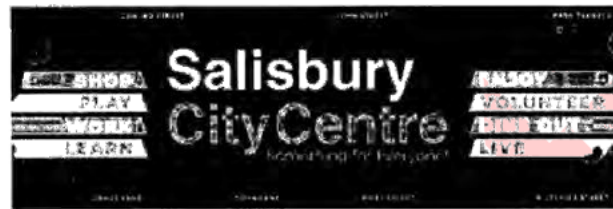
Kind regards,

David

David Waylen
Executive Officer

Salisbury Business Association Inc.
Supporting LOCAL Business

2023 ... A year full of possibilities



Proudly Managing on behalf of our MEMBERS the:
Salisbury Business Showcase Month
Salisbury City Centre Business Awards
Salisbury Community Christmas Parade
Salisbury ... Food, Glorious Food

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<https://www.facebook.com/salisburycitycentre>

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