

Council Agenda

AGENDA

NOTICE OF MEETING

Notice is hereby given that an ordinary meeting of Council will be held in the

**Council Chamber – Glenelg Town Hall
Moseley Square, Glenelg**

Tuesday 25 January 2022 at 7.00pm

**Roberto Bria
CHIEF EXECUTIVE OFFICER**



Ordinary Council Meeting Agenda

1. OPENING

The Mayor will declare the meeting open at 7:00pm.

2. KAURNA ACKNOWLEDGEMENT

We acknowledge Kaurna people as the traditional owners and custodians of this land.

We respect their spiritual relationship with country that has developed over thousands of years, and the cultural heritage and beliefs that remain important to Kaurna People today.

3. SERVICE TO COUNTRY ACKNOWLEDGEMENT

The City of Holdfast Bay would like to acknowledge all personnel who have served in the Australian forces and services, including volunteers, for our country.

4. PRAYER

Heavenly Father, we pray for your presence and guidance at our Council Meeting. Grant us your wisdom and protect our integrity as we carry out the powers and responsibilities entrusted to us on behalf of the community that we serve.

5. APOLOGIES

5.1 Apologies Received

5.2 Absent

6. ITEMS PRESENTED TO COUNCIL

7. DECLARATION OF INTEREST

If a Council Member has an interest (within the terms of the Local Government Act 1999) in a matter before the Council they are asked to disclose the interest to the Council and provide full and accurate details of the relevant interest. Members are reminded to declare their interest before each item.

8. CONFIRMATION OF MINUTES

Motion

That the minutes of the Ordinary Meeting of Council held on 14 December 2021 be taken as read and confirmed.

Moved Councillor _____, Seconded Councillor _____

Carried

9. PUBLIC PRESENTATIONS

- 9.1 Petitions - Nil
- 9.2 Presentations - Nil
- 9.3 Deputations - Nil

10. QUESTIONS BY MEMBERS

- 10.1 Without Notice
- 10.2 On Notice
 - 10.2.1 Strategy for Greening of Roundabouts – Councillor Smedley (Report No: 16/22)
 - 10.2.2 Questions Without Notice Minutes – Councillor Abley (Report No: 18/22)

11. MEMBER'S ACTIVITY REPORTS - Nil**12. MOTIONS ON NOTICE**

- 12.1 Traffic Investigation – Buttrose Street, Maxwell Terrace and Sixth Avenue Roundabout – Councillor Fletcher (Report No: 06/22)
- 12.2 Vacant Land Corner of The Crescent and Colton Avenue, Hove – Councillor Fleming (Report No: 15/22)
- 12.3 Feral Pigeon Management - Councillor Smedley (17/22)

13. ADJOURNED MATTERS - Nil**14. REPORTS OF MANAGEMENT COMMITTEES AND SUBSIDIARIES - Nil****15. REPORTS BY OFFICERS**

- 15.1 Items in Brief (Report No: 01/22)
- 15.2 Caretaker Policy Review (Report No: 07/22)
- 15.3 Single Use Plastics Submission (Report No: 08/22)
- 15.4 Events Update (Report No: 09/22)
- 15.5 Seacliff Plaza Project Update (Report No: 11/22)
- 15.6 Renaming Hindmarsh Lane (Report No: 12/22)
- 15.7 Behavioural Standards for Elected Members – Consultation (Report No: 13/22)

16. RESOLUTIONS SUBJECT TO FORMAL MOTIONS

Presented for the information of Members is a listing of resolutions subject to formal resolutions, for Council and all Standing Committees, to adjourn or lay on the table items of Council business, for the current term of Council.

17. URGENT BUSINESS – Subject to the Leave of the Meeting

18. ITEMS IN CONFIDENCE**18.1 Code of Conduct Complaint (Report No: 10/22)**

Pursuant to Section 83(5) of the *Local Government Act 1999* the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:

- a. **information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead), and**
- h. **legal advice.**

18.2 Hoarding Fee Relief (Report No: 14/22)

Pursuant to Section 83(5) of the *Local Government Act 1999* the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:

- b. **Information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and would, on balance, be contrary to the public interest.**
- d. **Commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and would, on balance, be contrary to the public interest.**

19. CLOSURE

ROBERTO BRIA
CHIEF EXECUTIVE OFFICER

Item No: 10.2.1

Subject: **QUESTION ON NOTICE – STRATEGY FOR GREENING OF ROUNDABOUTS
– COUNCILLOR SMEDLEY**

Date: 25 January 2022

QUESTION

Councillor Smedley asked the following question:

“Could Administration please advise our current strategy for the beautification and greening of roundabouts across the City? Is there a current program underway and what is its scope?”

Background

Periodically I am asked by residents, who point to various roundabouts among them, those along Partridge Street and Moseley Street, as well as some in Glenelg North, what is being done to improve these often barren or poorly maintained spaces.

They draw attention as they offer an easy opportunity to add color and beauty to our days, with so many of us having to negotiate them each day.

ANSWER - General Manager, Assets and Delivery

An answer to this will be tabled at the 25 January 2022 Council meeting.

Item No: 10.2.2

Subject: **QUESTION ON NOTICE – QUESTIONS WITHOUT NOTICE MINUTES – COUNCILLOR ABLEY**

Date: 25 January 2022

QUESTION

Councillor Abley asked the following question:

“Can the minutes of a Council meeting record the questions without notice and the responses provided?”

ANSWER – Chief Executive Officer

To answer this, the starting position are the following sub-regulations under regulation 9 of the Meeting Regulations:

- (3) *A member may ask a question without notice at a meeting.*
- (4) *The presiding member may allow the reply to a question without notice to be given at the next meeting.*
- (5) *A question without notice and the reply will not be entered in the minutes of the relevant meeting **unless the members present at the meeting resolve that an entry should be made.***

The Council’s Code of Practice – Meeting Procedures is consistent with the statutory position, and provides as follows:

A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve the entry should be made.

The members present at the meeting at which the reply is given, must therefore resolve on each occasion that an entry be made in the minutes (or not, as the case may be).

The Council is unable, in a ‘blanket’ manner, to resolve that all such replies will be entered into the minutes. Indeed, any such resolved position would be beyond the power of the Council and regulation 9 is not capable of variation under regulation 6 of the Meeting Regulations.

Therefore the minutes of Council meeting can have questions without notice and replies recorded if the members present at the meeting at which the reply is given, resolve on each occasion that an entry be made in the minutes (or not, as they case may be).

Item No: 12.1

Subject: **MOTION ON NOTICE – TRAFFIC INVESTIGATION - BUTTROSE STREET, MAXWELL TERRACE AND SIXTH AVENUE ROUNDABOUT – COUNCILLOR FLETCHER**

Date: 25 January 2022

PROPOSED MOTION

Councillor Fletcher proposed the following motion:

Administration undertake an investigation including consultation with the Department of Infrastructure and Transport and City of Marion on options to reduce traffic volumes and congestion during peak hour traffic flow at Maxwell Terrace, Sixth Avenue and Buttrose Street and bring a report back to Council.

BACKGROUND

During peak traffic periods, approximately 7am to 9am and 3pm to 6pm weekdays, this intersection experiences high volumes of traffic in both the East West and North South corridors.

The traffic flow is largely unimpeded until tram boom gates are activated. At this point the traffic becomes a bottleneck at the roundabout intersection on Maxwell Terrace.

Traffic flow is impeded by any vehicles at the roundabout waiting to turn into Sixth Avenue.

This traffic is turning left from the west on Maxwell to head north into Sixth or right from the east on Maxwell to head north into Sixth. Once the boom gates are raised traffic takes time to clear as the east side of Maxwell is at the mercy of the traffic flow from the north on Sixth Avenue feeding in from Anzac Highway.

Item No: 12.2

Subject: **MOTION ON NOTICE – VACANT LAND CORNER OF THE CRESCENT AND COLTON AVENUE, HOVE – COUNCILLOR FLEMING**

Date: 25 January 2022

PROPOSED MOTION

Councillor Fleming proposed the following motion:

That Administration write to the relevant State Government department (Housing SA or DIT) to find out what are their plans for the vacant land located on the corner of The Crescent and Colton Avenue, Hove.

BACKGROUND

Residents in the area are asking, as this vacant land has been overgrown at times (although recently tidied up) and the residents are keen to know what the plans are for this site.

Item No: 12.3

Subject: **MOTION ON NOTICE – FERAL PIGEON MANAGEMENT – COUNCILLOR SMEDLEY**

Date: 25 January 2022

PROPOSED MOTION

That Administration investigate current best practice in pigeon management and report back to Council, in time for consideration in the current budget cycle, the report should consider the following:

- 1) Reduce/eradicate feral pigeon populations across the city, comprising both non-lethal and lethal alternatives, underpinned by actions including;
 - a. Education programs and materials for residents, visitors and hospitality providers on the roles that they play in reducing/removing opportunities for pigeons to roost and feed,
 - b. Options for financial or in-kind support of property owners undertaking approved pigeon management actions, and
 - c. Bans on active feeding of feral pigeons, both at home and in public places, with a range of penalties for non-compliance.
 - 2) Establish an annual operational budget to support the above activities, and
 - 3) Creation of a detailed Pigeon Management Policy, encapsulating the recommendations, for approval of Council.
-

BACKGROUND

I refer to Council Report 419/21 (Question on Notice – Feral Pigeons -14/12/2021). Given the known public health implications of an uncontrolled feral pigeon population in our City I have put forward the motion to have Administration investigate the current best practice in feral pigeon management.

Item No: 15.1
Subject: **ITEMS IN BRIEF**
Date: 25 January 2022
Written By: Personal Assistant
General Manager: Strategy and Corporate, Ms P Jackson

SUMMARY

These items are presented for the information of Members.

After noting the report any items of interest can be discussed and, if required, further motions proposed.

RECOMMENDATION

That the following items be noted and items of interest discussed:

1. **Local Government Association (LGA) Submission Round 2 Regulations**
 2. **Local Government Reforms – Regulations**
 3. **Statutory Declarations Practice**
 4. **Green Adelaide Urban Heat and Tree Canopy Cover Mapping Update**
 5. **Successful Grant Recipients – Office for Recreation, Sport & Racing**
 6. **Greener Neighbourhoods Grants program for Greening Seacliff**
 7. **The Local Battle of the Bands**
 8. **Purchasing exemption – Alwyndor**
-

REPORT

1. Local Government Association (LGA) Submission Round 2 Regulations

In November 2021, Council provided input to the Local Government Association (LGA) in response to the Office of Local Government's (OLG) call for feedback on the second round of draft regulations supporting the implementation of the *Statutes Amendment (Local Government Review) Act 2021* (the Review Act).

The Round 2 Regulations are:

- *Local Government (Financial Management) (Review) Variation Regulations 2021*
- *Local Government (General) (Annual Report) Variation Regulations 2021*
- *Local Government (Transitional Provisions) (Stage 2) Variation Regulations 2021*

Most of the regulations were supported, with a small number of amendments requested. The LGA's submission to OLG is attached for noting.

Refer Attachment 1

2. Local Government Reforms – Regulations

As part of reforms to the Local Government Act, the following changes have been made to Regulations:

- Commencement of regulation 5 of the *Local Government (Procedures at Meetings) (Review) Variation Regulations 2021* (Variation Regulations), amending regulation 9 of the *Local Government (Procedures at Meetings) Regulations 2013* (Procedures at Meetings Regulations).
- Commencement of regulation 6 of the *Local Government (Procedures at Meetings) (Review) Variation Regulations 2021* (Variation Regulations), amending regulation 12 of the *Local Government (Procedures at Meetings) Regulations 2013* (Procedures at Meetings Regulations).

The Variation Regulations require a council member to give at least 7 clear days' notice between asking a question on notice or providing a notice of motion and the date of the meeting at which that question is to be asked. Previously five days' notice was required.

Councils are not required to immediately update any Code of Practice—Procedures at Meetings for the change to take effect. The change will be incorporated at the next review of the code of practice, however this change has come into effect and therefore questions on notice and/or notice of motions need to be with the Chief Executive Officer no later than 5.00pm seven (7) clear days before the date of the meeting that the question in motion will appear (in this case Council meet on Tuesday, the deadline is 5.00pm the prior Monday).

3. Statutory Declarations Practice

On 1 December 2021 changes to the *Oaths Act 1936* commenced. The changes permanently extend permission for council members and some council employees to take statutory declarations. These permissions were implemented via temporary emergency provisions relating to COVID-19.

Updated Practice Guidance Notes which explain how to take a statutory declaration have been provided by the Local Government Association and are provided as Attachment 2.

Refer Attachment 2

4. Green Adelaide Urban Heat and Tree Canopy Cover Mapping Update

The Mayor received correspondence from Chris Daniels, Presiding Member, Green Adelaide Board regarding an update on the Urban Heat and Tree Canopy Cover Mapping proposal. The letter is attached for Elected Members information.

Refer Attachment 3

5. Successful Grant Recipients – Office for Recreation, Sport & Racing

On 10 January 2022, The Office for Recreation, Sport and Racing announced a list of successful funding recipients for various sporting infrastructure projects across the state. Three clubs within the City of Holdfast Bay have been successful in receiving funding.

Details of the successful grants are as follows:

Grassroots Facilities Program

1. Brighton and Seacliff Yacht Club - \$172,000 - To install a lift, accessible toilets and relocation of canteen.

Community Recreation and Sports Facilities Program

2. Somerton Bowling Club - \$26,100 - To install an irrigation system at Somerton Bowling Club, Somerton Park.
3. Somerton Park Tennis Club - \$38,700 - To replace LED lighting for four tennis courts and installation of three new lighting poles with LED lighting.

These projects have in-principle support from Council, subject to the clubs obtaining all necessary approvals sought under the *Planning, Development and Infrastructure Act 2016* for building and infrastructure upgrades. No financial commitment from Council has been provided at this stage. Administration will support the clubs to apply for necessary approval and additional funds where required.

6. Greener Neighbourhoods Grants program for Greening Seacliff

Funding of \$32,002 has been approved from the Greener Neighbourhoods Grants program for Greening Seacliff. This grants program provides funding for projects that increase tree canopy, reduce urban heat and provide benefits for local communities.

The Greening Seacliff application noted that Seacliff has just 15.7% canopy cover. This is substantially lower than the Adelaide metropolitan average of 24.7%. Seacliff is also a challenging area in which to plant street trees due to the higher than average density of underground services, combined with very narrow streets and limited footpaths.

The project is aligned with Council's Environment Strategy as it will directly contribute new canopy in areas where there is currently none, or where it consists of declared species or weeds, which will be replaced with native species. The project also contributes to the Kauria Yerta/Adelaide National Park City proposal and objectives by both adding additional greening to a highly urbanised space as well as engaging volunteers, residents and school students in hands-on planting, which helps to connect people with the rest of nature.

Refer Attachment 4

7. The Local Battle of the Bands

The Local Battle of the Bands was held on the Glenelg Foreshore on Saturday 27 and Sunday 28 November and was a collaborative event between HoldUp Youth Committee and Marion Youth Collective Committee (YCC). The event included an Open Comp on the Saturday for more established bands and a School-Based competition on the Sunday for emerging bands, building on the success of the inaugural 'The Local' held in 2020.

HoldUp and Marion YCC decided to open the event up to local bands with members between the ages of 12 to 25 years who had at least one band member that lived or studied in the City of Holdfast Bay or Marion. Council had a great response from the local community and ended up with ten competing bands, two headline acts and two DJs performing over the two days.

The event was a huge success with over 1000 people attending daily with more spectators outside the event compound gathering to watch the musicians play.

Importantly the event provided bands with exposure to a broader audience, performing on a professional stage with lighting and technical support with the Glenelg Foreshore as their backdrop. In addition the event facilitated future gig bookings for emerging talent.

The feedback received from participating bands and the community has been overwhelmingly positive with several requests for similar events in the future. And as such the HoldUp Youth Committee look forward to working together with Marion YCC and event stakeholders on future 'The Local' events.

8. Purchasing exemption – Alwyndor

A purchasing exemption has been granted by the Chief Executive Officer under the provisions of our Procurement Policy. Clause 3.5.1 refers to 'certain circumstances' under which the Chief Executive Officer may exempt application of the policy to pursue a method which will bring the best outcome, this includes considerations such as timing constraints, market limitations and emergencies.

This exemption is for the engagement of Provider Assist, a specialist aged care funding provider, to work with Alwyndor to maximise federal funding opportunities. Provider Assist have been engaged via exemption based on the following:

- their sole business focusses on aged care funding maximization via the aged care funding instrument (ACFI);
- the business has South Australian staff available to work with Alwyndor i.e. the situation with COVID-19 is such that relying on interstate providers may create an untenable level of risk. There is too high a likelihood that the work would not be able to be completed in a timely manner, as despite open borders, quarantine and isolation requirements are still constraints and the nature of the work requires face to face resident assessments;
- there are no other providers in the SA market whose sole focus is the work required from this engagement; and

- there is a guaranteed return on investment for the initial parcel of work with additional; parcel to be negotiated.

Given the above it is considered that the requirements of the Procurement Policy, specifically Clause 3.5.1 have been reasonably met.

The engagement commences 30 January 2022 and will be closely monitored noting Council approval is required for any exemption valued over \$200,000. If the engagement starts to near this threshold it will be reviewed as to whether to proceed to a tender or expression of interest process (notwithstanding market limitations) or seek a further exemption from Council.

Attachment 1





Statutory Declarations Practice Guidance Notes

Oaths Act 1936
December 2021



Acknowledgements

On 1 December 2021 changes to the *Oaths Act 1936* commenced.

The changes brought about by the *Oaths (Miscellaneous) Amendment Act 2021* resulted in changes to the Oaths Act that have permanently extended the permission for council members and some council employees to take statutory declarations.

The *Oaths Regulations 2021* and Codes of Practice maintain the status quo in terms of the requirements and procedures for statutory declaration and affidavits.

This resource has been prepared by the Local Government Association of SA (LGA) for the guidance of and use by member Councils. The LGA is the statutory peak body for Local Government in South Australia, representing all 68 Councils in the State.

© The LGA claims copyright ownership of the content of this document for member councils in South Australia only. Member councils of the LGA may download, display, print, reproduce and alter the material for use by member councils only. The LGA reserves the right to revoke such permission at any time should a council no longer be a member council. Apart from this permission and uses permitted under the Copyright Act 1968, all other rights are reserved. For further information regarding the use of LGA information/resources please contact the Governance Team on (08) 8224 2000 or governance@lga.sa.gov.au.

Contents

Introduction.....	1
What is a statutory declaration?.....	1
Who can witness a statutory declaration?.....	1
Council members.....	2
Council employees	2
General guidance for council members and employees	2
General guidance for councils	2
Specific practical guidance.....	3

Introduction

These Guidance Notes have been prepared for council members and council employees who are qualified to witness South Australian statutory declarations.

In response to COVID-19 a temporary expansion of categories of person who could witness a South Australian statutory declaration was made, which included elected members and some council employees. Following the expiry of section 16 of the COVID-19 Emergency Response Act 2020 (COVID-19 ER Act), the COVID-19 Emergency Response (Section 16) Regulations 2020 (Section 16 Regulations) that enabled this expansion also ceased.

On 1 December 2021 changes to the Oaths Act 1936 (Oaths Act) commenced. These changes result in the permanent extension of the temporary measures previously provided by virtue of the Section 16 Regulations and maintain the ability for council members and some council employees to witness South Australian statutory declarations.

What is a statutory declaration?

A statutory declaration is a document in which a person declares something to be true, for some legal or other official purpose. A statutory declaration must be made before, and signed by, a qualified witness.

Who can witness a statutory declaration?

The categories of qualified witnesses are very diverse. In addition to the more traditional categories of:

- a Commissioner for taking affidavits in the Supreme Court;
- a person who is registered as a conveyancer under the Conveyancers Act 1994;
- a justice of the peace;
- a police officer, other than a police officer who is a probationary constable;
- persons admitted and enrolled as a notary public of the Supreme Court;

Regulation 5 of the Oaths Regulations 2021 (Oaths Regulations) prescribes a vast list of classes of persons before whom a statutory declaration may be made, including marriage celebrants, teachers, veterinary surgeons, professional engineers, and many more.

Of specific relevance to councils are the following two categories of persons:

- Members of a local government authority of a State or Territory (i.e. Mayors and Councillors); and
- Permanent employees of a local government authority with 5 or more years of continuous service.

The extensive list of prescribed persons able to witness a statutory declaration facilitates greater access and removes the need to make appointments with Justices of the Peace or other members of the limited classes of persons who can ordinarily witness statutory declarations.

To assist councils and their members and employees who are qualified to witness South Australian statutory declarations, the following guidance is provided.

Council members

All council members currently in office in any South Australian council are qualified to witness a South Australian statutory declaration.

There is no need for any application to be made to any authority, or for any training to be conducted, for this qualification to take effect. It is simply effective as a matter of law.

Many council members are already Justices of the Peace by virtue of having made an application to the Attorney-General under the *Justices of the Peace Act 2005*. However, to be clear, no similar application is required under the Oaths Regulations in order for a council member to become qualified to witness statutory declarations.

Council employees

Any employee of a council who is a permanent employee (i.e. not casual or fixed-term) and who has five (5) or more years of continuous service with the council is qualified to witness a statutory declaration under the Oath Regulations. Again, there is no requirement for any application or training in order for this qualification to be effective.

Advice received by the LGA suggests the requirement for 5 years continuous service means 5 years continuous service with one particular council. That is, past service with a different council should be disregarded. While past service with a different council is regarded as 'continuous service' for the purpose of calculating long service leave and sick leave entitlements, this is only because there is a specific legislative provision to this effect in the *Local Government Act 1999*. There is no basis to infer that the Oath Regulations similarly recognise past service with a different council.

Employees who are not permanent employees and/or who do not have 5 or more years of continuous service with their current council may still qualify to witness statutory declarations under some other provision of the Oath Regulations. For example, if a council employee is a member of the Governance Institute of Australia, or the Association of Taxation and Management Accountants, then they are qualified under other provisions of the Oath Regulations, regardless of their employment status or length of service with the council.

General guidance for council members and employees

A council member or employee who is qualified to witness statutory declarations by virtue of the Oath Regulations can witness a statutory declaration about any matter, at any time, in any place.

There is no requirement for there to be any connection between the statutory declaration being witnessed and any function or responsibility of the council. Of course, just because a person is qualified to witness a statutory declaration, does not mean they have to. However, it is worth pointing out that the role of qualified witness is not onerous. A qualified witness does not need to have any knowledge of the subject matter of a declaration or know whether the declaration is actually true – the role of the witness is simply that: to witness (this is discussed further, below).

General guidance for councils

Councils may wish to consider designating particular persons as preferred witnesses who can deal with members of the public attending at a council office in order to have a statutory declaration

witnessed. If a council already has an 'in-house' Justice of the Peace, they would of course be an appropriate candidate.

Councils should also take care to properly identify which employees are qualified to witness statutory declarations. It is important to note that some senior employees, even long-serving ones, might not be qualified on the basis that they are fixed-term employees (and therefore not 'permanent').

Specific practical guidance

Requirement for face-to-face witnessing of statutory declarations

A statutory declaration must be witnessed face-to-face. The person making the declaration (**declarant**) and the witness must be physically present at the same location.

Although various changes have been made to legislative requirements in response to COVID-19 to provide flexibility in relation to face-to-face transactions/meetings, including enabling the conduct of certain meetings by audio or audiovisual means, the witnessing of oaths, affirmations and statutory declarations **must still occur in person**.

Council members and employees witnessing statutory declarations should take care to observe physical distancing principles and hygiene practices, including wearing masks where required, when undertaking this task.

The form of a statutory declaration

A statutory declaration is made in writing.

If there is no specific legislative provision governing the form in which a particular South Australian statutory declaration must be made, then it will need to take the following form (or at least substantially comply with the following form) as provided under the Oaths Act:

I, *[insert full name of person making declaration]*

do solemnly and sincerely declare that *[insert text of declaration]*.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1936*.

The State Government has prepared a template statutory declaration under the *Oaths Act 1936*, which is available [here](#) (template current as at time of writing). This template includes an appropriate signature block for declarant and witness.

Other template statutory declarations also exist. For example, councils (and the police) will have their own template statutory declaration for the nomination of drivers in respect of alleged parking offences. If an appropriate template exists and has been prepared by an appropriate authority, it should be used. Some legislation has specific requirements about what needs to be included in a statutory declaration. The declarant and the witness should consider whether any such specific requirements apply and, if so, whether they are met.

Declarants and witnesses should take care to avoid using Commonwealth statutory declaration templates for matters which relate to South Australian laws (and vice versa). This guide does not deal with statutory declarations made for purposes under Commonwealth laws.

How to witness a statutory declaration

The declarant should already have written their declaration (typed or handwritten) by the time they meet with the witness. They should be told to write their statutory declaration before making any appointment.

A witness does not need to know whether what the declarant is declaring is actually true. The role of the witness is merely to witness that the declarant does indeed declare the contents to be true. If the declarant wilfully makes a false statement in any material particular of their statutory declaration, the declarant commits a serious criminal offence.

The following guidance is taken from the State Government's *Justice of the Peace Handbook*, and should be applied whenever a qualified witness is witnessing a statutory declaration:

You must examine the statutory declaration to ensure that:

- the Act under which the statutory declaration is made is stated (in most cases the *Oaths Act 1936 (SA)*)
- the statutory declaration has been fully completed
- the declarant whose name is on the statutory declaration is present
- all blank spaces are crossed out with a 'Z', initialled by you and the declarant and dated [...]
- all alterations are initialled by you and the declarant and dated [...]
- if it is a multipage declaration, the declarant must number and sign each page
- all annexures to the statutory declaration are referred to in the statutory declaration and clearly marked as such
- the declarant has signed the statutory declaration in front of you
- ask the declarant for photo identification (eg driver's licence or passport) to confirm their identity.

If any annexures are annexed but not referred to in the statutory declaration, the declarant will need to make an alteration to the statutory declaration, initialled by the witness and the declarant, to refer to the annexure (or otherwise remove the annexure).

If an annexure is referred to in the statutory declaration but not annexed, it must be located and annexed before the witness can proceed with witnessing the statutory declaration (or otherwise the declarant must make an alteration to the statutory declaration, initialled by the witness and the declarant, to remove the reference to the annexure).

It is also a good habit to ask a standard series of question of any declarant before the witness signs the statutory declaration. The following guidance is again taken from the State Government's *Justice of the Peace Handbook*, and should be applied whenever a qualified witness is witnessing a statutory declaration under the *Oaths Act 1936*:

After having visually scanned the statutory declaration, ask the declarant the following:

- did you prepare and write the declaration yourself? If the answer is 'no' ask them 'have you read it and do you understand the contents'?
- do you understand that making a false statutory declaration is an offence that carries serious penalties, including possible imprisonment? You must hear the deponent say, "I understand", or "I do"
- [...]
- Is that your name at the start of the statutory declaration (pointing to name)?
- Is that your normal signature (pointing to signature in the declaration)?
- do you make this solemn declaration by virtue of the *Oaths Act 1936* and do you solemnly and sincerely declare that which is contained in this declaration, conscientiously believing the same to be true? If so, please say "I solemnly and sincerely declare".
- if there are any attachments to the declaration, ask the person "do you solemnly and sincerely declare that this/these attachment/s (pointing to the attachment/s) is/are the attachment/s referred to in the statutory declaration? if so please say "I solemnly and sincerely declare"

Once the witness has completed all of the above with the declarant, and the declarant has signed the declaration, the witness can sign the statutory declaration. On the last page of the statutory declaration, the witness should write:

- the place at which the statutory declaration is witnessed (a suburb will suffice, e.g. 'at Salisbury' or 'at Goolwa');
- the date;
- their signature;
- their authority to be a witness (e.g. 'Council member' or 'Council employee').

If there are multiple pages, the witness and the declarant must sign at the foot of each page. The declarant must number each page.

If there are annexures, the witness should write the following on the first page of each annexure (guidance again taken from the State Government's *Justice of the Peace Handbook*):

This is the annexure marked [eg Annexure 'A'] referred to in the statutory declaration of [name of declarant].

Declared before me at [suburb] in the State of South Australia.

This [full date eg dd/mm/yyyy]

Underneath that text, on each annexure, the witness should write their signature and their authority to be a witness (e.g. 'Council member' or 'Council employee').

The declarant does not need to sign annexures.



Local Government Association
of South Australia

The voice of local government.

148 Frome St
Adelaide SA 5000
GPO Box 2693
Adelaide SA 5001
T (08) 8224 2000
E lgasa@lga.sa.gov.au

lga.sa.gov.au

Attachment 2



Local Government Reform - Round 2 Regulations

Submission

November 2021

Local Government Reform - Round 2 Regulations

The Office of Local Government (OLG) has sought feedback on a number of draft Regulations (the Round 2 Regulations) which will support the commencement of the second round of changes to the *Local Government Act 1999* (the Local Government Act).

The Local Government Association (LGA) circulated the Round 2 Regulations to member councils seeking their feedback. The LGA consequently received a number of submissions in response. This document summarises the feedback received and presents the LGA's formal response in relation to the Round 2 Regulations.

The LGA looks forward to the opportunity to provide feedback on subsequent rounds of Regulations. We reiterate our request that the local government sector be provided with two months to provide responses to requests for feedback. This enables the LGA and council administrations to provide briefing papers and prepare council reports, to support the deliberations of elected members.

Background

The Round 2 Regulations are:

- Local Government (Financial Management) (Review) Variation Regulations 2021
- Local Government (General) (Annual Report) Variation Regulations 2021
- Local Government (Transitional Provisions) (Stage 2) Variation Regulations 2021

The LGA has reviewed the proposed Regulations and the feedback received from member councils. In general, the LGA supports the majority of the proposed regulations on the basis that they reflect negotiated positions reached during the progression of the *Statutes Amendment (Local Government Review) Act 2021* (the Amendment Act) through the Parliamentary process.

However, following consultation with our member councils, the LGA suggests a small number of amendments. The LGA will continue to work with OLG to clarify requirements and will provide additional support to councils through development of guidance and information papers.

The LGA's specific submissions and recommendations are set out below.

Local Government (Financial Management) (Review) Variation Regulations 2021

Reg No.	Proposed Variation	LGA Comment
1-3	These regulations are procedural and uncontroversial.	The regulations are supported.
4(1)	This Regulation varies Regulation 5 of the Financial Management Regulations, which sets out inclusions required in a council's Long Term Financial Plan (LTFP). Regulation 5(2)(b) requires a statement which sets out the basis on which the LTFP has been prepared. This amendment requires this statement to also set out the key assumptions used as the basis for preparation of the LTFP.	It is likely that each council will already have developed a range of assumptions which underpin their LTFPs. This regulation is supported.
4(2)	This Regulation defines the prescribed period for the purposes of section 122(1c) of the Local Government Act as three years.	<p>The LGA recommends that consideration is given to a longer prescribed period of up to four or five years (rather than three), however provision could be made for ESCOSA to request information every three years if a council is deemed to be significantly underperforming or at risk of maladministration.</p> <p>As currently anticipated (refer Appendix A - Rate oversight scheme timeline), a council will submit the required information to ESCOSA in September of the 'relevant year' and ESCOSA will provide a response by the end of the following February.</p> <p>Most councils are well progressed with their draft Annual Business Plan and Budget development by the time the ESCOSA advice will be received and therefore, in Year 1, a council will only have the ability to give provisional consideration to ESCOSA advice and commence the development of an action plan to address the advice before their next 'relevant year'. In Year 2, council will have had time to further consider their response and to progress the implementation of the action plan. In Year 3 council will again be preparing to submit the required information.</p> <p>A longer prescribed period would give councils greater opportunity to action any change recommended by ESCOSA, and for the changes to have practical effect, including the opportunity for any consequences of the change to be evaluated and reported. It would also reduce the overall cost of the Rate oversight scheme compared to a three-year period, which ultimately flows through to rate payers.</p> <p>Additional flexibility in the prescribed period would allow ESCOSA to undertake a more risk-based approach to scheduling.</p>

Reg No.	Proposed Variation	LGA Comment
5	<p>The proposed Regulation varies Regulation 6—Annual business plans and sets out additional requirements to be included in annual business plans, which in summary are:</p> <ul style="list-style-type: none"> Total expected revenue from general rates compared to the total revenue from general rates for the previous financial year (excluding mandatory rebates and remissions). The percentage change in the total expected revenue from general rates compared to the total revenue from general rates for the previous financial year (excluding mandatory rebates and remissions). <p>Note: this must not include growth relating to increased property value, but may include an increase in the number of rateable properties.</p> <ul style="list-style-type: none"> The average change in the expected rates for the financial year for each land use category compared to the rates for each category for the previous financial year (if relevant). 	<p>An amendment to this regulation, to increase the prescribed period for the purposes of section 122(1c) of the Act, is recommended.</p> <p>The mandatory information to be reported:</p> <ul style="list-style-type: none"> should be information already readily available to a council and should not require unnecessary administrative work to meet the reporting requirements. should not prevent councils from reporting other relevant information about rates and growth in an alternate manner in its Annual Business Plan and in other council publications. <p>Officer level discussions with the OLG have indicated that the intention is that forecast figures will be used as the basis for comparisons, i.e. the comparisons will be between an amount adopted in the Annual Business Plan for the current financial year and an amount proposed to be adopted in the Annual Business Plan for the subsequent financial year.</p> <p>The LGA supports the intent of this regulation (increased transparency) and acknowledges that reporting against these three mandatory components is not an overly onerous obligation for councils.</p> <p>However, the LGA submits that the current drafting relating to <i>'rebates and remissions on rates that are not discretionary rebates or remissions'</i> is unnecessarily complex and recommends that <i>'mandatory rebates and remissions on rates'</i> should be used for simplicity and clarity.</p> <p>The LGA will continue to work with councils to clarify obligations and reporting requirements.</p> <p>The intent of the regulation is supported, however an amendment to drafting of this regulation, to simplify and clarify reference to mandatory rebates and remissions on rates, is recommended.</p>
6	<p>Proposed Regulation 10A identifies the document that council policies, practices and procedures of internal financial control must be in accordance with as the 'Better Practice Model—Internal Financial Control' (BPM).</p>	<p>The BPM has been developed by council financial managers. The BPM:</p> <ul style="list-style-type: none"> has been specifically prepared by and for the SA local government sector; is scalable, ensuring its applicability for councils of different sizes and type; recognises the financial and legislative constraints within which the SA local government sector operates.

Reg No.	Proposed Variation	LGA Comment
		<p>The BPM will continue to be a sector-produced document, although future changes must be approved by the Minister.</p> <p>This regulation is supported.</p>
7	<p>The Regulation changes the heading above section 17 from 'Audit committees' to 'Council and regional audit and risk committees.'</p>	<p>This change merely updates the heading and does not make a substantive change.</p> <p>This regulation is supported.</p>
8	<p>These changes update the Regulations, to take into account changes made to the Local Government Act.</p>	<p>This regulation is supported.</p>
9	<p>This regulation inserts new regulations 17A and 17B. Regulation 17A provides that regional audit and risk committees:</p> <ul style="list-style-type: none"> • must have between 3 and 5 members; and • must not include, as a member, the council's auditor. <p>Regulation 17B sets out the requirements to liaise with a council auditor as per section 126(4)(e) (council audit and risk committee) and section 126A(4)(e) (regional audit and risk committee).</p> <p>The prescribed requirements are that a meeting with the auditor occur on at least 1 occasion per year on a confidential basis, with a majority of the members of the committee present and no members or employees of the council present (other than members of the committee).</p>	<p>Similar propositions apply where an audit and risk committee is established in relation to a single council.</p> <p>A general obligation for the council audit committee to liaise with the council auditor previously existed in section 126(4)(c) of the Local Government Act. However, the changes made by sections 84(6) and 85 of the Amendment Act provide that liaison with the council auditor must occur in accordance with requirements prescribed by regulations.</p> <p>This regulation is supported.</p>

Local Government (General) Annual Reports) Variation Regulations 2021

Reg No.	Proposed Variation	LGA Comment
1-3	These regulations are procedural and uncontroversial.	This regulation is supported.
4	<p>The proposed variation to Regulation 35(2) provides that Annual Reports must include the following new information:</p> <ol style="list-style-type: none"> the report that a council must already produce annually on reviews of council decisions (pursuant to section 270(8)); a summary of the details (including the cost) of any interstate and international travel (excluding prescribed interstate travel) undertaken by members of the council during the relevant financial year funded in whole or in part by the council; a summary of the details (including the cost) of any interstate and international travel (excluding prescribed interstate travel) undertaken by employees of the council during the relevant financial year funded in whole or in part by the council; a summary of the details (including the cost) of any gifts above the value of \$50 provided to members of the council during the relevant financial year funded in whole or in part by the council; a summary of the details (including the cost) of any gifts above the value of \$50 provided to employees of the council during the relevant financial year funded in whole or in part by the council; and a statement of the total amount of expenditure incurred using credit cards provided by the council for use by members or employees of the council during the relevant financial year. 	<p>The LGA welcomes the deletion of many current unnecessary reporting requirements in Schedule 4. However, the new provisions will, on balance, increase councils' requirements to include material in their Annual Reports.</p> <p>The LGA recognises, however, that there are a number of community voices who would prefer an even greater increase to council reporting requirements. The LGA acknowledges that this reflects the negotiated position reached during the progression of the Statutes Amendment (Local Government Review) Act 2021 (the Amendment Act) through the Parliamentary process.</p> <p>Ideally, the mandatory information to be reported:</p> <ul style="list-style-type: none"> will already be collected by councils and will not impose a substantial additional regulatory burden; is already contained in council IT systems, enabling the information to be 'cut and pasted' into council Annual Reports. <p>In relation to the credit card expenditure reporting requirement, many councils are already publishing credit card details to their websites, which sets out greater detail in relation to credit card usage than required by this new annual report obligation.</p> <p>In relation to the requirement to report details of interstate travel, the LGA is of the view that the drafting of the regulation is complex and could be difficult to interpret. It is likely that explanatory materials will be needed to ensure councils understand this requirement.</p> <p>The LGA will continue to work with councils to clarify obligations and reporting requirements.</p> <p>This regulation is supported.</p>

Reg No.	Proposed Variation	LGA Comment
5	<p>This regulation varies Schedule 4 to include the following additional matter in a council Annual Report:</p> <ul style="list-style-type: none"> If the council is divided into wards, the council's ward quota. <p>A ward quota for a council is an amount ascertained by dividing the number of electors for the area of the council (as at the last closing date under the <i>Local Government (Elections) Act 1999</i>) by the number of members for the area of the council who represent wards (ignoring any fractions resulting from the division and expressed as a quota).</p>	<p>The LGA believes that new regulations should only be introduced if there is a 'problem' that requires regulatory intervention. The LGA is not aware of any evidence to suggest that councils are unaware of the applicable ward quotas or that communities seek this information from council via their annual reports.</p> <p>Anecdotal commentary from the OLG has suggested that a small number of councils have disregarded ward quotas during the conduct of representation reviews and proposed the inclusion of an additional reporting obligation to ensure councils actively monitor ward quotas.</p> <p>The LGA believes that any new regulatory burden should be proportionate to the 'problem' it seeks to overcome. The LGA does not see value in all 68 councils calculating and reporting their ward quotas annually in their annual reports and is unconvinced that this new regulatory obligation would achieve any policy objective.</p> <p>Feedback from member councils was overwhelmingly against the introduction of this new regulatory requirement.</p> <p>This regulation is not supported.</p>

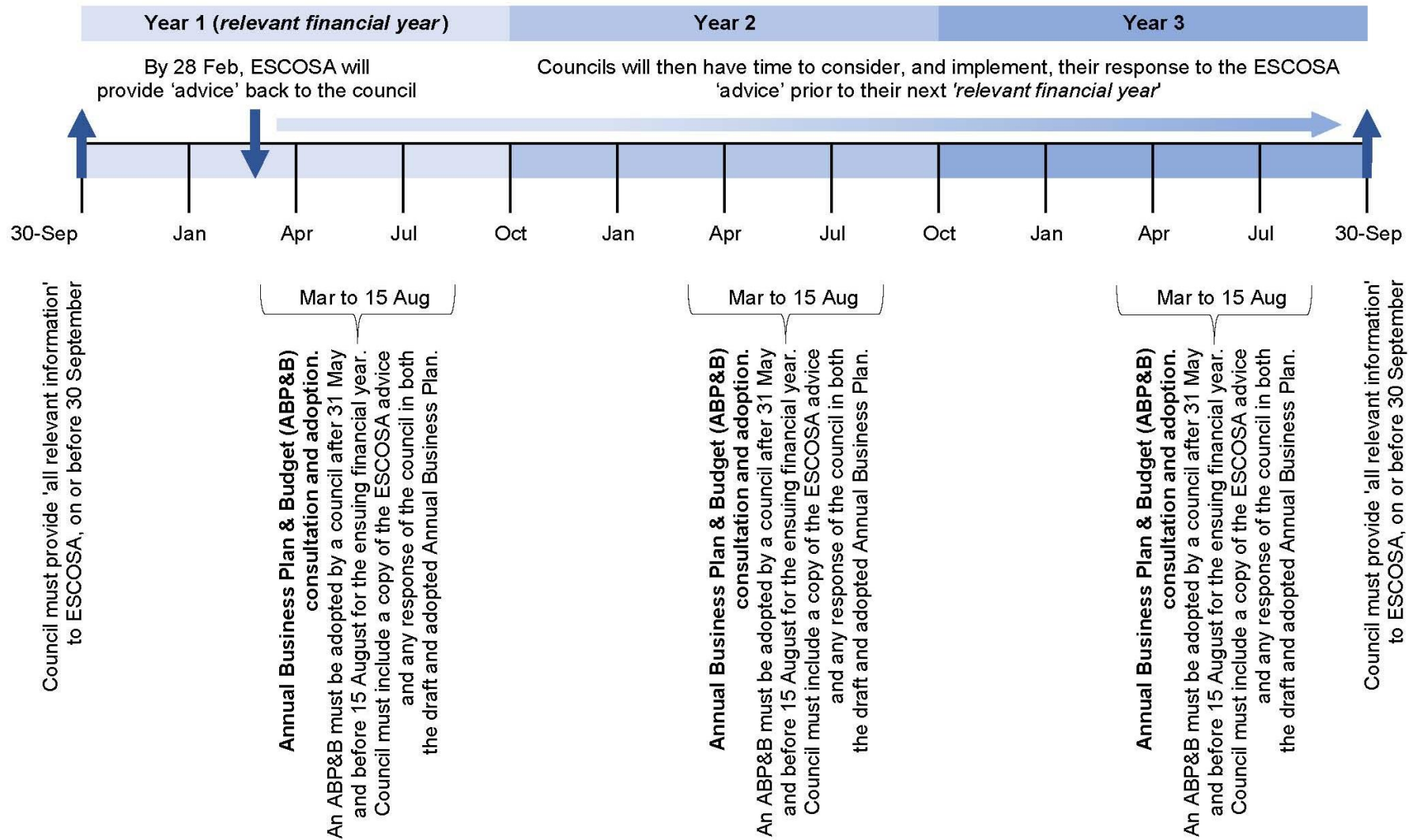
Local Government (Transitional Provisions) (Stage 2) Variation Regulations 2021

Reg No.	Proposed Variation	LGA Comment
1-3	These regulations are procedural and uncontroversial.	This regulation is supported.
4	<p>Pursuant to section 16 of the Amendment Act substantial changes will be made to sections 50 and 50A of the Local Government Act relating to public consultation. This will include a new (state-wide) Community Engagement Charter (CEC). Each council must also adopt a Community Engagement Policy (CEP).</p> <p>The Transitional Regulations provide that until the new CEC and CEP commence, a council may satisfy its public consultation obligations by complying with their existing public consultation policy.</p>	<p>This change gives council certainty about which public consultation/community engagement rules apply in relation to sections 12 and 92 of the Local Government Act.</p> <p>However, there are many other sections of the Local Government Act where public consultation is required. The LGA would welcome the broadening of the scope of this Transitional Regulation, to clarify that councils may use their existing public consultation policies in relation to any public consultation required by the Local Government Act, until such time as sections 50 and 50A commence.</p> <p>The LGA will continue discussions to ensure effective implementation of reforms relating to community engagement.</p> <p>This regulation is supported.</p>
5	<p>Changes to section 51 of the Local Government Act will require the Principal Member of the council to be elected from the whole council area. It will no longer be possible for a Principal Member to be elected by the other council members. This regulation provides transitional arrangements for councils that currently have a principal member chosen by the members of the council from amongst their own number. The change to principal member appointment or election must occur via a representation review process, as set out in section 12 of the Local Government Act. The regulations remove a number of the steps in that process to facilitate the transition.</p>	<p>These Transitional Provisions will only apply to councils that are required to change the way their Principal Member is elected following the commencement of the changes to section 51.</p> <p>This regulation is supported.</p>

<p>6.1</p>	<p>Amendments to section 122 of the Local Government Act will require a council's long-term financial plan to include a 'funding plan'.</p> <p>Until commencement of the changes to section 122 of the Local Government Act, a council will be taken to have satisfied its obligations pursuant to section 122(1e) if it provides ESCOSA with "all relevant information on the intended sources of the council's projected total revenue for the period to which its long-term financial plan relates (such as revenue from rates, grants and other fees and charges)".</p>	<p>The proposed Transitional Provisions sets out a way for councils to comply with their new obligations to report information to ESCOSA, before the commencement of the obligation for the council to have that information in place.</p> <p>The LGA is concerned that the expression "all relevant information" is too broad. Information can be 'relevant' whilst also being superfluous, repeated, or unhelpful, etc. A council's entire rating database is probably 'relevant' information, and the proposed obligation would require a council to provide "all" of it.</p> <p>The LGA is concerned that for transitional purposes, the regulations as drafted do not provide sufficient clarity as to what information councils must report.</p> <p>The LGA recommends alternative wording so that a council can satisfy its obligations pursuant to section 122(1e) provided it has prepared the information submitted to ESCOSA in a manner consistent with the Uniform Presentation of Finances from the Model Financial Statements.</p> <p>The Model Financial Statements are updated each year and approved by the Minister. The LGA will work with the SA Local Government Financial Management Group (SALGFMG) and OLG to ensure the Uniform Presentation of Finances provides sufficient clarity as to what information councils must report. The Model Financial Statements are generally finalised by June each year, meaning they would be available prior to the anticipated first submission to ESCOSA in September 2022.</p> <p>An amendment to this regulation, to remove use of the term "all relevant information" and replace with a description that provides greater clarity regarding the information councils must report, is recommended.</p>
<p>6.2</p>	<p>The Transitional Provisions will authorise existing members of council audit committees to remain on the new audit and risk committee until the expiration of their current term of office, despite the new requirements of section 126(2).</p>	<p>Many regional councils have difficulty in recruiting independent members for their audit committees.</p> <p>The Transitional Provisions will give councils additional time to transition to the new requirements, including time to recruit suitable new audit and risk committee members.</p> <p>This regulation is supported.</p>
<p>6.3</p>	<p>The Transitional Provision provides that, if an audit firm comprises at least one registered company auditor, then the changes to section 128(6) do not commence until the end of the term of the current contract with that audit firm.</p>	<p>This is a sensible transitional provision which will enable councils to honour their existing commercial contracts with auditors. The new requirements will commence at the end of the current contractual term.</p> <p>This regulation is supported.</p>

Appendix A – ESCOSA Rate Oversight Scheme Timeline (3 year prescribed period)

DRAFT



Note: Councils must provide information once in every prescribed period (currently 3 years) in accordance with a schedule determined by ESCOSA. It is expected that councils will be divided into three tranches & the financial year in which a particular council is required to provide information according to the schedule will be the *relevant financial year* for that council.

Summary

The LGA is recommending minor amendments to the proposed Round 2 Regulations to support the commencement of the second round of changes to the *Local Government Act 1999*. The LGA is mindful of the limited time remaining before the intended commencement date of these Regulations.

Assuming the State Government is prepared to consider giving effect to the LGA's recommendations, the LGA undertakes to work constructively on any proposed changes and commits to providing feedback on any proposed draft Regulations in a timely manner.

The LGA looks forward to continued close collaboration on these issues.



Local Government Association
of South Australia

The voice of local government.

148 Frome St
Adelaide SA 5000

GPO Box 2693
Adelaide SA 5001

T (08) 8224 2000

E lgasa@lga.sa.gov.au

www.lga.sa.gov.au

Attachment 3



GA-D00000104

22 December 2021

Mayor Amanda Wilson
City of Holdfast Bay

Via email: awilson@holdfast.sa.gov.au

cc Mr Robert Bria, Chief Executive Officer, City of Holdfast Bay

81-95 Waymouth St
Adelaide SA 5000
GPO Box 1047
Adelaide SA 5001 Australia
Ph: +61 8 8463 3733

dew.greenadelaide@sa.gov.au
www.greenadelaide.sa.gov.au

Dear Mayor Wilson

Re: Urban Heat and Tree Canopy Cover Mapping Update

I'm writing to you following my previous correspondence in June 2021 regarding the Green Adelaide Board's (the Board) proposal to lead urban heat and tree canopy cover mapping across metropolitan Adelaide, which included a request for funding contributions of \$10,000. On behalf of the Board, thank you for your commitment to contribute to this project. I am pleased to advise that sufficient funding has been committed by several councils as well as the State Government through Wellbeing SA and the Department for Infrastructure and Transport (DIT), in addition to the Green Adelaide Board to enable the first stage of data capture to proceed.

Green Adelaide is coordinating the **urban heat and tree canopy mapping** across 18 metropolitan councils. This will establish a full dataset to form the basis for ongoing monitoring of change, achievements and projects at various scales, from the entire metropolitan region potentially down to individual properties. This recapture will also inform the development of the urban greening strategy for metropolitan Adelaide.

I am pleased to advise that suppliers for the data capture have been contracted, and that this will be undertaken between January and March 2022. Data will be delivered by May 2022, after which analysis will be undertaken.

Green Adelaide staff will continue to engage with key agency and council representatives at an officer level through workshops to discuss and prioritise the data analysis products (technical reports and communications materials) that will best meet the needs of project partners.

Once again thank you for your contribution and continuing support of this important work. If you would like any further information on this matter, please contact Brenton Grear, Director Green Adelaide, at Brenton.grear@sa.gov.au or 0428 823 622.

Yours sincerely

A handwritten signature in blue ink that reads "Chris Daniels".

Chris Daniels
Presiding Member
Green Adelaide Board



Attachment 4



21EW0015271



**Government
of South Australia**

**Office of the Minister for
Environment and Water**

81-95 Waymouth Street
Adelaide SA 5000

GPO Box 1047
Adelaide SA 5001

Tel 08 8463 5680
minister.speirs@sa.gov.au

Mayor Amanda Wilson
City of Holdfast Bay
Email: awilson@holdfast.sa.gov.au

Dear Mayor,

A handwritten signature in black ink, appearing to read 'Amanda Wilson'.

Re: 2021/22 Greener Neighbourhoods Grants program Application Outcome

Thank you for your application for funding through the 2021/22 round of the Greener Neighbourhoods Grants program (GNGP), I appreciate the effort and enthusiasm that your staff have shown in the preparation of your organisation's application.

I am pleased to inform you that your project '**Greening Seacliff**' has been approved for funding for the amount of **\$32,002** (GST exclusive).

The GNGP has been very successful, with over \$1.61 million of funding awarded since 2019/20 for projects which will increase tree canopy, reduce urban heat, and provide benefits for local communities. Funding awarded through the 2021/22 round brings the total funding awarded to more than \$3.35 million.

Increasing tree canopy and quality public green space across our suburbs and regional cities provides many benefits, increasing liveability and enhancing health and wellbeing through nature connectedness as well as providing habitat for native fauna.

I am proud to support your organisation to deliver practical, on-ground benefits for local communities as an example of the work that will transform Adelaide as a National Park City. I look forward to future updates on the environmental and social outcomes which result from this project.

Green Adelaide staff will liaise with staff from your organisation to formalise the grant agreement for your project. If you have any questions prior to this, please contact James Peters, Senior Policy Officer, by phoning (08) 8226 8580 or emailing james.peters@sa.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Speirs'.

DAVID SPEIRS MP
Minister for Environment and Water

Date: 10 | 01 | 2022

Item No: 15.2
Subject: **CARETAKER POLICY - REVIEW**
Date: 25 January 2022
Written By: Manager, Strategy and Governance
General Manager: Strategy and Corporate, Ms P Jackson

SUMMARY

Section 91A of the *Local Government (Elections) Act 1999* (the Elections Act) requires councils to prepare and adopt a caretaker policy to govern the conduct of the Council and its staff during the election period for a general election.

Council's existing Caretaker Period Policy, which was due for review in July 2022, has been reviewed against new Caretaker Guidelines issued by the Local Government Association, and a revised policy is attached for council's consideration and approval (Attachment 3).

RECOMMENDATION

That Council approve the Caretaker Policy as provided in Attachment 3.

STRATEGIC PLAN

Statutory Requirement

COUNCIL POLICY

Caretaker Period Policy

STATUTORY PROVISIONS

Local Government (Elections) Act 1999
Local Government Act 1999

BACKGROUND

Section 91A of the *Local Government (Elections) Act 1999* (the Elections Act) requires councils to prepare and adopt a caretaker policy to govern the conduct of the Council and its staff during the election period for a general election.

REPORT

During an election period councils are prohibited from making designated decisions. The use of Council resources for the advantage of a particular candidate or group of candidates is also prohibited. Council may apply in writing to the Minister for an exemption when circumstances warrant a designated decision being made.

Council has an existing Caretaker Period Policy (Attachment 1), which was last reviewed in 2017. It is good practice to review policies periodically, and this policy was scheduled for review in July 2022.

Refer Attachment 1

In December 2021, the Local Government Association (LGA) released Caretaker Guidelines, which are provided as Attachment 2. These Guidelines provided information regarding current legislative requirements in relation to caretaker arrangements.

Refer Attachment 2

The LGA also provided a model policy, which has been used as a guide to revise council's existing Caretaker Period Policy. Due to the extent of changes, a tracked-change version is not provided.

The key changes are as follows:

- 'Background' from previous policy removed;
- Restructured 'Purpose' and 'Scope' – the intent is the same as the previous policy, but the new policy has simplified these sections;
- Definitions have been added per the model policy – CEO, Council Staff, Council Members;
- The definition of Election Period has been modified to be relevant to the upcoming election period;
- The 'Strategic Reference' has been updated;
- The 'Principles' have been restructured and elements of scope that were included in the previous policy were moved to the correct heading;
- Sections 2.4.1 – 2.4.3, which articulate a process if a decision must be made, have been added per the model policy; and
- Section 2.5, which relates to use of council resources, has been updated and clarified per the model policy.

A new proposed policy that meets the LGA Guidelines is provided as Attachment 3 for Council's review and approval.

Refer Attachment 3

BUDGET

Nil

LIFE CYCLE COSTS

Not applicable.

Attachment 1



Trim Container	FOL/17/1008
First Issued / Approved:	22/06/2010
Last Reviewed:	23/05/2017
	C230517/784
Next Review:	30/06/2022

1. PREAMBLE

The purpose of this policy is to implement the statutory caretaker period requirements under section 91A of the *Local Government (Elections) Act 1999*.

During a local government ‘election period’ for a ‘general election’, Council will assume a ‘caretaker mode’ and will avoid actions and decisions which could be perceived as intended to influence voters or otherwise to have a significant impact on or unnecessarily bind the incoming Council.

1.1 Background

It is a long established democratic principle that outgoing elected bodies should not use public resources for election campaigning, nor make decisions which may unreasonably, inappropriately or unnecessarily bind an incoming Council.

The *Local Government (Elections) Act 1999* was amended in 2009 to require each Council to prepare and adopt a caretaker policy to govern the conduct of the Council and its staff during the election period for a general election. Section 91A, in conjunction with regulation 12 of the *Local Government (Elections) Regulations 2010* stipulates that the caretaker policy must at a minimum prohibit the making of certain designated decisions by the Council during a caretaker period.

During a Local Government ‘election period’, Council will assume a ‘Caretaker mode’, and will avoid actions and decisions which could be perceived as intended to affect the results of an election or otherwise to have a significant impact on or unnecessarily bind the incoming Council.

1.2 Purpose

The purpose of this policy is to clearly outline the parameters that Council will operate within during a Caretaker period. Caretaker provisions are necessary to provide the community with confidence and certainty in relation to Council decision making during the lead-up to a general election of Council. Its purpose is to ensure transparent and accountable government during election periods.

1.3 Scope

This policy applies to all elected members, employees, contractors and volunteers of Council and to all decisions of Council, Council committees and Council delegates.

This policy does not apply to Supplementary elections.

CARETAKER PERIOD POLICY

This policy is to be taken to form part of the Code of Conduct for Council Employees gazetted for the purpose of section 110 of the *Local Government Act 1999* and the Code of Conduct for Council Members gazetted for the purpose of section 63 of the *Local Government Act 1999*.

1.4 Definitions

The following definitions apply to this policy.

Election Period is the period from the date nominations open to the date the Certificate of the Election is completed and returned to the Council – a period of approximately 10 weeks.

Designated decision means a decision prohibited by the *Local Government (Elections) Act 1999*:

- a. relating to the employment or remuneration of the Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer or to suspend the Chief Executive Officer for serious and wilful misconduct;
- b. to terminate the appointment of the Chief Executive Officer;
- c. to enter into a contract, arrangement or understanding (other than a contract for road works, road maintenance or drainage works) the total value of which exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates in the preceding financial year, except if the decision:
 - i. relates to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004 (SA)*, or under section 298 of the *Local Government Act 1999 (SA)*;
 - ii. is an expenditure or other decision required to be taken under an agreement by which funding is provided to the Council by the Commonwealth or State Government or otherwise for the Council to be eligible for funding from the Commonwealth or State Government;
 - iii. relates to the employment of a particular Council employee (other than the Chief Executive Officer);
 - iv. is made in the conduct of negotiations relating to the employment of Council employees generally, or a class of Council employees, if provision has been made for funds relating to such negotiations in the budget of the Council for the relevant financial year and the negotiations commenced prior to the election period; or
 - v. relates to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the Council; or
- d. allowing the use of Council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of Council resources by all candidates).

General election means a general election of council members held:

CARETAKER PERIOD POLICY

- a. under section 5 of the *Local Government (Elections) Act*; or
- b. pursuant to a proclamation or notice under the *Local Government Act 1999 (SA)*.

Minister means the Minister for Local Government or other minister of the South Australian government vested with responsibility for the *Local Government (Elections) Act*.

Major policy decision includes any decision (not being a designated decision):

- a. to spend unbudgeted monies;
- b. to conduct unplanned public consultation;
- c. to endorse a new policy;
- d. to dispose of Council land;
- e. to approve community grants;
- f. to progress any matter which has been identified as an election issue; and
- g. any other issue that is considered a major policy decision by the Chief Executive Officer.

Significant decision is any major policy or other decision which will significantly affect the Council area or community or will bind the incoming Council.

1.5 Strategic Reference

Culture: Supporting excellent, efficient operations

2. PRINCIPLES

- 2.1 This policy applies throughout the election period for a general election. For the purposes of the Local Government Elections, the policy will commence on the date nominations open and ends at the conclusion of the election, when results have been declared.
- 2.2 This policy applies during an 'election period' of Council to cover:
 - a. 'designated decisions' as defined in the *Local Government (Elections) Act 1999* that are made by the Council
 - b. 'other significant decisions' that are made by the Council.
- 2.3 Designated Decisions (section 91A of the *Local Government (Elections) Act 1999*)
 - 2.3.1 Council, a committee of Council, a delegate of the Council, including the Chief Executive Officer and sub-delegates of the Chief Executive Officer are prohibited from making a designated decision during an election period.
 - 2.3.2 A designated decision made by Council during an election period is invalid, except where an exemption has been granted by the Minister.
 - 2.3.3 Any person who suffers loss or damage as a result of acting in good faith on a designated decision made by the Council in contravention of this

CARETAKER PERIOD POLICY

policy is entitled to compensation from the Council for that loss or damage.

2.3.4 If the Council considers that it is faced with extraordinary circumstances which require the making of a designated decision during an election period, the Council may apply in writing to the Minister for an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the *Local Government (Elections) Act* and this policy.

2.3.5 If the Minister grants an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the *Local Government (Elections) Act* and this policy, then the Council and Council staff will comply with any conditions or limitations that the Minister imposes on the exemption.

2.4 Other Significant Decisions

2.4.1 So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling major policy decisions for consideration during an 'election period' and, endeavour to ensure that such decisions:

- (a) are considered by Council prior to the 'election period'; or
- (b) are scheduled for determination by the incoming Council.

2.4.2 A 'significant decision' is any major policy decision or other decision which will significantly affect the Council area community as a whole or will bind the incoming Council.

2.5 Use of Council Resources

2.5.1 Council notes that section 91A(8)(d) of the *Local Government (Elections) Act 1999* prohibits the use of Council resources for the advantage of a particular candidate or group of candidates. This includes a candidate or candidates who are currently elected members of the Council.

2.5.2 Council resources must be used exclusively for normal Council business during an 'election period', and must not be used in connection with an election (including election campaigning) other than uses strictly relating to the election process.

2.6 Continuing the functions of the Council during the caretaker period

2.6.1 Nothing in this policy prevents the Mayor, elected members and staff carrying on the business of the Council during the caretaker period.

2.6.2 The Chief Executive Officer will ensure as far as is practical that Council initiatives will not be launched during the caretaker period where they are deemed to conflict with the provisions of this policy.

CARETAKER PERIOD POLICY

- 2.6.3 The Mayor will continue to be Council's spokesperson in the media or at other official functions.

3. REFERENCES

3.1 Legislation

- *Local Government Act 1999*
- *Local Government (Elections) Act 1999*

3.2 Other References

- *LGA Caretaker Guidelines*

Attachment 2



Caretaker Guidelines

December 2021

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

© The LGA claims copyright ownership of the content of this document for member councils in South Australia only. Member councils of the LGA may download, display, print, reproduce and alter the material for use by member councils only. The LGA reserves the right to revoke such permission at any time should a council no longer be a member council. Apart from this permission and uses permitted under the Copyright Act 1968, all other rights are reserved. For further information regarding the use of LGA information/resources please contact the Governance Team on (08) 8224 2000 or governance@lga.sa.gov.au.

For further information contact the Governance Team

148 Frome Street Adelaide SA 5000 | governance@lga.sa.gov.au | 08 8224 2000 | lga.sa.gov.au

Contents

1	Introduction	1
2	Overview	1
2.1	Decision of the council	2
2.2	Election period	2
3	Designated decisions	2
3.1	Decisions relating to the employment of the Chief Executive Officer	2
3.2	Specific contracting decisions	3
4	Prohibition on the use of council resources to give selective advantage	4
4.1	Scope of the prohibition.....	4
4.2	What are ‘council resources’?	4
4.3	Meaning of ‘advantage’	4
4.4	Normal council business or campaigning?	5
4.5	Use of council resources for personal benefit.....	6
4.6	Specific council resource scenarios.....	7
5	Council staff activities during an election period	10
6	Equity of assistance to candidates	10
6.1	Candidate Assistance and Advice	10
6.2	Election Process Enquiries.....	10



1 Introduction

Section 91A of the *Local Government (Elections) Act 1999* (the Elections Act) requires councils to prepare and adopt a caretaker policy to govern the conduct of the council and its staff during the election period for a general election.

On 10 November 2021, section 188 of the *Statutes Amendment (Local Government Review) Act 2021* (the Amendment Act) commenced, which amended section 91A—Conduct of council during election period of the Elections Act.

Section 91A(2) of the Elections Act stipulates that the caretaker policy must at a minimum:

- (a) prohibit the making of a designated decision; and
- (b) prohibit the use of council resources for the advantage of a particular candidate or group of candidates,

during an election period.

The Local Government Association of SA (LGA) has prepared a model caretaker policy on the basis of meeting the minimum legislative obligations under section 91A of the Elections Act. Councils may wish to incorporate additional requirements within any caretaker policy adopted.

These Caretaker Guidelines (the Guidelines) provide an overview of the scope and meaning of the legislative requirements under section 91A of the Elections Act and should be read in conjunction with the model caretaker policy. Terms which are defined in the model caretaker policy have the same meanings in the Guidelines.

2 Overview

Section 91A(2) of the Elections Act sets minimum standards for council caretaker policies.

Caretaker policies must at a minimum:

- prohibit the making of a designated decision during the election period; and
- prohibit the use of council resources for the advantage of a particular candidate or group of candidates during the election period.

In considering how the policy applies to the prohibition on making designated decisions, regard must be had to three separate elements. In particular the following must be present:

- 1) a decision of council;
- 2) made during an election period;
- 3) which is a designated decision.

The caretaker policy must also prohibit the use of council resources for the advantage of a particular candidate or group of candidates during the election period.

2.1 Decision of the council

Section 91A of the Elections Act applies to a decision of the council. This will include decisions made directly by the council at a meeting or indirectly through a council committee or other delegate or sub-delegate.

2.2 Election period

During an election period councils are prohibited from making designated decisions. The use of council resources for the advantage of a particular candidate or group of candidates is also prohibited. Council may apply in writing to the Minister for an exemption from the application of this section to a designated decision.

An election period:¹

- (a) commences on either:
 - (i) the day on which nominations for a general election close; or
 - (ii) if a council's caretaker policy specific an earlier date, that date; and
- (b) expires at the conclusion of the general election.

Section 91A of the Elections Act does not apply to a decision that is announced during the election period but was made prior to the election period.

3 Designated decisions

Only specific types of decisions will be designated decisions under section 91A of the Elections Act. The designated decisions are outlined below.

The Elections Act stipulates that any designated decision made by a council during an election period without a ministerial exemption is invalid.

Any person who suffers loss or damage as a result of acting in good faith on a designated decision made in contravention of section 91A of the Elections Act is entitled to compensation from the council for that loss or damage.

3.1 Decisions relating to the employment of the Chief Executive Officer

Any decision relating to the employment, remuneration or termination² of the Chief Executive Officer, other than a decision to:

- (a) appoint an acting Chief Executive Officer; or
- (b) suspend a Chief Executive Officer for serious and wilful misconduct,³

will be a designated decision.

¹ Section 91A(8) *Local Government (Elections) Act 1999*

² Section 91A(8) *Local Government (Elections) Act 1999*

³ Regulation 12(1)(b) *Local Government (Elections) Regulations 2010*

3.2 Specific contracting decisions

Certain council decisions regarding specific types of contracts made during an election period will be designated decisions.

Generally, a decision to enter into a contract, arrangement or understanding (other than a 'prescribed contract') the total value of which exceeds whichever is the greater of \$100,000 or 1% of the council's revenue from rates in the preceding financial year⁴ will be a designated decision. However, there are exclusions from this general position provided in section 91A of the Elections Act and the *Local Government (Elections) Regulations 2010* (the Elections Regulations).

3.2.1 Prescribed contracts

Prescribed contracts are expressly excluded from the types of contracts which are able to be the subject of a designated decision. A 'prescribed contract' is defined in section 91A of the Elections Act to mean a contract entered into by a council for the purpose of undertaking road construction, road maintenance or drainage works.

3.2.2 Exemptions

Other types of contracts are excluded from being the subject of a designated decision by the Elections Regulations. These types of decision are decisions:

- (a) relating to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004* or under section 298 of the *Local Government Act 1999* (the Local Government Act);
- (b) for an expenditure or other decision required to be taken under an agreement by which funding is provided to the council by the Commonwealth or State Government or otherwise for the council to be eligible for funding from the Commonwealth or State Government;
- (c) relating to the employment of a particular council employee (other than the Chief Executive Officer);
- (d) made in the conduct of negotiations relating to the employment of council employees generally, or a class of council employees, if provision has been made for funds relating to such negotiations in the budget of the council for the relevant financial year and the negotiations commenced prior to the election period; or
- (e) relating to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the council.

As set out above, the legislation does not prohibit a council from making a type of decision listed in the Elections Regulations. Councils should be mindful however of community perceptions and are encouraged to exercise care before proceeding with such a decision during a Caretaker Period.

⁴ Section 91A(8) *Local Government (Elections) Act 1999*

4 Prohibition on the use of council resources to give selective advantage

4.1 Scope of the prohibition

A council's caretaker policy must prohibit the use of council resources for the advantage of a particular candidate or group of candidates during an election period. A caretaker policy may however allow the equal use of resources by all candidates for election.

The prohibition does not prevent all candidates, including council members utilising council resources that are available to all members of the public.

Examples of this include a candidate using a council library public computer to design election campaign material and produce copies for distribution on a council photocopier (that is available to the general public). Candidates should not be given access to council facilities that are not available to other candidates.

There are constraints on the personal use of council resources under the Local Government Act and the Code of Conduct for Council Members. These provisions are discussed in section 4.5 of these guidelines.

4.2 What are 'council resources'?

'Council resources' is a broad concept which is undefined in the Elections Act. A general definition of the term 'resources' provided in the *Macquarie Dictionary* is '*the collective wealth and assets of a country, organisation, individual*'. Applying this definition, any asset or information owned or controlled by a council is a 'council resource'.

Council resources may include:

- (a) materials published by council;
- (b) facilities and goods owned by the council;
- (c) attendance and participation at functions and events;
- (d) access to council information; and
- (e) media services.

Council staff and contractors engaged by a council are also council resources.

4.3 Meaning of 'advantage'

The concept of 'advantage' is broad and is defined in the *Macquarie Dictionary* as '*any state, circumstance, opportunity, or means especially favourable to success, interest, or any desired end*'. In the context of section 91A of the Elections Act, the relevant advantage is in respect of being elected or re-elected.

An advantage will be conferred where council resources can be used, or the permissible uses of the resource favours, one (or some) candidates over others. An advantage arises when a candidate utilises resources, information or support that is not available to a candidate in an election who is not an existing council member.

The Ombudsman has given 'advantage' a broad interpretation. The Ombudsman's view is that any activity that gives a perception of favouring one candidate over another is an advantage.

In previous decisions of the Ombudsman:

- (a) A decision to engage an independent contractor to conduct a section 270 review of a procurement decision did not involve the use of council resources for the advantage of a particular candidate, even though one possible outcome of the review would have assisted or harmed the electoral chances of particular candidates.
- (b) A decision to include a mayor's review of the achievements of the council in an 'Annual Review' document sent to households did provide such an advantage.

Whether the scope of the 'advantage' under section 91A of the Elections Act extends to a perceived advantage is likely to be a matter for debate. Councils should, however, be aware of this view when making council resources available during an election period.

4.4 Normal council business or campaigning?

A breach of the prohibition on using council resources for the advantage of a particular candidate:

- (a) can occur inadvertently; and
- (b) does not require a specific council decision.

For example, if existing members of council are provided with a card which enables them to make copies of documents using council photocopiers (including copiers in a public library) and other candidates are not provided with this council resource, this would provide the council member with a (prohibited) advantage if they were permitted to use it for campaigning.

Other examples of council resources that, if used during the election period for campaign purposes, or purposes that would otherwise provide a genuine advantage to the candidate, which would contravene a council caretaker policy include:

- (a) Mobile phones
- (b) Council vehicles
- (c) Council-provided landline phones, computers and other office equipment beyond that provided to members of the public (eg in a public library)
- (d) Council-provided business cards
- (e) Requests to council employees to perform tasks
- (f) The ability to issue invitations to council events
- (g) Council travel arrangements (eg access to council-negotiated rates for flights, accommodation or hire cars)
- (h) Access to areas that members of the public cannot access, including areas within the property of third parties (eg a 'Mayor's Parlour' at a suburban football oval).
- (i) Councils printed materials (e.g. brochures or other documents)

It is reasonable for councils to continue to provide resources where these are necessary for a council member to perform their duties as a council member, *provided* these resources are not used to advantage a candidate or group of candidates. For example:

- (a) Access to council facilities, for the purpose of a council meeting. This may include refreshments, if usually provided as an adjunct to council meetings
- (b) Access to a secure area of the council website, where council agendas, minutes and other council documents can be obtained.

Where council members are standing for re-election, the council should consider whether the continued provision of council resources during the election period will provide an advantage to existing council members (or other particular candidates) in their election campaigns.

Reasonable minds are likely to differ over whether the use of particular council resources will advantage particular candidates. A council's Caretaker Policy should consider all of the resources made available to council members and should set out which of these will not be available during an election period.

Specific scenario advice is provided in section 4.6 of this Guideline.

4.5 Use of council resources for personal benefit

The use of council resources for personal benefit is distinct from the prohibition against the use of council resources for the advantage of a particular candidate or group of candidates.

The use of council resources for personal benefit is regulated by legislation other than section 91A of the Elections Act. However, as the use of council resources by a council member for the purposes of an election campaign will be a use of those resources for personal benefit, the same activity may be regulated by both sets of rules.

Council members standing for re-election to council must take care that they only use council resources for normal council business and not to assist them in campaigning.

The general duties on council members under section 62 of the Local Government Act include offences for improper use of information⁵ or position⁶ to gain personal advantage for the council member or another person.

Section 78 of the Local Government Act provides for the use of council resources by council members. Section 78(3) of the Local Government Act states:

A member of a council must not use a facility or service provided by the council under this section for a purpose unrelated to the performance or discharge of official functions or duties (unless the use has been approved by the council and the member has agreed to reimburse the council for any additional costs or expenses associated with this use).

The Code of Conduct for Council Members prohibits the use of council resources for private purposes without authorisation.

The use of council resources for personal benefit in breach of these requirements could be corruption in public administration for the purpose of the *Independent Commission Against Corruption Act 2012* (SA) or maladministration or misconduct for the purpose of the *Ombudsman Act 1972* (SA) and be the subject of a complaint to the office of Public Integrity (**OPI**) or Ombudsman respectively.

Conduct of a public officer that results in a substantial mismanagement of public resources may also be the subject of a complaint to the Ombudsman.

Disciplinary consequences or prosecutions may ultimately result from the unauthorised use of council resources for private purposes.

⁵ Section 62(3) *Local Government Act 1999*

⁶ Section 62(4) *Local Government Act 1999*

4.6 Specific council resource scenarios

The business of a council does not cease during an election period. Council resources will continue to be used during the election period. There is a distinction between the use of council resources in the ordinary course of council operations and the use of council resources by a candidate or group of candidates for campaigning purposes. Where resources are used for campaign purposes, this will be the use of council resources for personal benefit.

During an election period, council members and council staff must take care that council resources are not used for the purpose of election campaigning. Some specific scenarios are discussed below where this issue may arise.

4.6.1 Council publications during an 'election period'

The publication by a council of information for the advantage of a particular candidate or group of candidates is prohibited by section 91A of the Elections Act. Publishing includes publication by any medium, including but not limited to leaflets, newspapers, posters, email, websites, radio or television.

Councils have a statutory responsibility to publish certain information regarding general elections. Under section 12(b) of the Elections Act, each council is responsible for the provision of information, education and publicity designed to promote public participation in the electoral processes for its area, to inform potential voters about the candidates who are standing for election in its area and to advise its local community about the outcome of the elections and polls conducted in its area.

All election materials published by a council should fall within the types of material described in section 12(b) of the Elections Act and not contain any material which would advantage a particular candidate or candidates.

'Electoral material' is defined in the Elections Act as *'an advertisement, notice, statement or representation calculated to affect the result of an election or poll'*. Given that the purpose of electoral material is to persuade voters towards a particular candidate or group of candidates, it will not be appropriate for a council to publish electoral material.

Councils may publish other material during an election period. If council is considering publishing or distributing material during the election period, the council should consider whether or not the material would confer an advantage on a particular candidate or group of candidates for election. If an advantage would be conferred, then the material should not be published or distributed.

Where a council publication made in the ordinary course of council operations would be published during an election period, care should be taken as to the contents of these publications, to ensure that the council and council members are not criticised for publishing information which may assist or hinder the electoral prospects of particular candidates.

Council members are able to publish electoral material on their own behalf (provided that they comply with sections 27 and 28 of the Elections Act). Council members should not assert or imply that the electoral material originates from or is endorsed by the council. A council member also should not use council resources (not available to the general public) to create or distribute his or her electoral material, including through the use of council stationery, computers, printers, photocopiers or staff or the application of council logos.

4.6.2 Attendance at Events and Functions

Events and functions can take many forms including conferences, workshops, forums, launches, promotional activities, and social occasions (such as dinners, receptions and ceremonies).

Council members can continue to attend events and functions in their capacity as a council member during an election period provided that their attendance is consistent with the ordinary course of a council member's duties and is not used for campaigning.

Council members should consider whether or not their attendance at an event or function is likely to be viewed as campaigning. In part, this may depend on the conduct of the council member while in attendance at the event or function. Care should particularly be taken by council members if they are asked to give a speech at an event or function during an election period.

4.6.3 Access to council information

Section 61 of the Local Government Act provides council members with a right to access council documents in connection with the performance or discharge of the functions or duties of the member. This right of access continues during an election period.

Council members should take care that access to council documents is in connection with the performance or discharge of their functions or duties of the member. Access to council documents for the purpose of campaigning or to gain an advantage in an election is an improper use of information gained by virtue of the council member's position as a member of council.

4.6.4 Media Services

Council's media services should be used to promote council activities or initiatives or community activities or initiatives which are endorsed or otherwise supported by council.

Media services should, during the election period, be used in the ordinary course of council operations. Care should be taken that media services will not be used to advantage a particular council member in his or her re-election campaign by profiling that member or activities which are closely associated with that member.

Council members should not use their position as an elected representative or their access to council staff and other council resources to gain media attention in support of an election campaign. To do so, would contravene section 62(4) of the Local Government Act which prohibits a council member improperly using his or her position as a council member to gain, directly or indirectly, an advantage for himself or herself or for another person. Council members can be prosecuted for this offence.

Access to media monitoring is likely to confer a campaigning advantage on recipients of monitoring reports. Media monitoring can be useful to council members in the performance of their official duties but is not usually essential. Councils should carefully consider suspending the access of council members to media monitoring during an election period.

4.6.5 Public consultation during an election period

Public consultation (sometimes called 'community engagement') must be undertaken during an election period if the consultation is mandated by legislation.

Where consultation is discretionary then the consultation can occur during the election period. Consideration should be given prior to the consultation being scheduled as to whether or not the consultation will influence the outcome of the election. If the matter subject to the consultation is likely to be closely associated in the minds of voters with a particular candidate or group of candidates, then it may be prudent to delay the consultation until after the election period.

4.6.6 Expenses incurred by council members

Payment or reimbursement of costs relating to council members' out-of-pocket expenses incurred during an election period will only apply to necessary costs that have been incurred in the performance of normal council duties. This is consistent with general requirements applying to the reimbursement of council members under section 77 of the Local Government Act.

No reimbursements should be provided for campaign expenses or for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

4.6.7 Council branding and stationery

Councils should not endorse particular candidates for election. Council logos, letterheads, or other council branding or council resources or facilities should not be used for a candidate's election campaign.

4.6.8 Support staff to council members

Council staff who provide support to council members should not be asked to undertake any tasks connected directly or indirectly with an election campaign for a council member, except where similar support is provided to all candidates.

In some councils, Mayor's will have access to support staff for assistance with email and diary management and coordination of activities related to the performance of their role. During an election period it is important to ensure clear separation of 'business as usual' (e.g. acknowledging or responding to emails received, coordinating calendar appointments) and campaigning activity (e.g. preparation and distribution of campaign flyers) and that council staff do not provide any assistance with the latter.

4.6.9 Equipment and facilities

Council resources such as council computers, stationery and business cards can continue to be used by council members during an election period for **normal council business**. For example, use of a council provided device to receive and read an electronic copy of the council agenda and use of the device during the council meeting. Council resources should not be used for campaign purposes, for example, use of the council provided email address and the council device to email a newsletter to community groups seeking their support in the election, as this will contravene the Local Government Act and the Code of Conduct for Council Members.

5 Council staff activities during an election period

Council staff should not undertake any activity that may influence the outcome of an election, except where the activity is required to facilitate the conduct of a fair election process and is authorised by the Chief Executive Officer.

Council staff should not authorise, use or allocate a council resource for any purpose which may influence voting in the election, except where it is required to facilitate the conduct of a fair election process and is authorised by the Chief Executive Officer. This includes making council resources available to council members for campaign purposes.

Council staff must not assist a council member with the member's election campaign during hours of work. Whilst it is not illegal for council staff to assist a council member with the member's election campaign in their own time, such campaign assistance creates reputational risks for the staff member, the candidate, the council and for the integrity of the election process.

Where the use of council resources could be construed as being related to a candidate's election campaign, the incident must be reported to the Chief Executive Officer.

6 Equity of assistance to candidates

6.1 Candidate Assistance and Advice

Councils should not favour a candidate or group of candidates for election, over other candidates.

Any assistance or advice provided to candidates as part of the conduct of an election will be provided equally to all candidates.

For example, if a council intends to provide information sessions for potential candidates, as far as practicable, the same information should be provided to all candidates.

Existing council members or other candidates should not be provided with additional information that would confer an electoral advantage (eg a heads up about a State MP's street meeting or information about an agenda item coming up on the agenda of a meeting of an influential community group).

The types of assistance that are available will be documented and communicated transparently to all candidates in advance.

6.2 Election Process Enquiries

All election process enquiries from candidates, whether current council members or not, are to be directed to the Electoral Commissioner as the returning officer or, where the matter is outside of the responsibilities of the returning officer, to the Chief Executive Officer or his or her nominee.

148 Frome St
Adelaide SA 5000
GPO Box 2693
Adelaide SA 5001
T (08) 8224 2000
E lgasa@lga.sa.gov.au

lga.sa.gov.au

Attachment 3



ECM DSID:	
First Issued / Approved:	22/06/2010
Last Reviewed:	23/05/2017 25 January 2022 C230517/784
Next Review:	30/06/2026
Responsible Officer:	Manager Strategy and Governance
Date Placed on Intranet::	Date Placed on Intranet

1. PREAMBLE

1.1 Purpose

This policy implements the statutory caretaker period requirements under section 91A of the *Local Government (Elections) Act 1999*, ensuring transparent and accountable government during election periods.

1.2 Scope

This policy applies throughout the election period for a general election.

This policy does not apply to Supplementary elections.

This policy applies to the council and all council staff.

This policy is to be taken to form part of the Code of Conduct for Council Employees gazetted for the purpose of section 110 of the *Local Government Act 1999* and the Code of Conduct for Council Members gazetted for the purpose of section 63 of the *Local Government Act 1999*.

1.3 Definitions

Chief Executive Officer means the appointed Chief Executive Officer or Acting Chief Executive Officer or nominee.

Council staff means any person that is employed full-time, part-time or casually by the Council who receives remuneration for their work.

Council member means an elected member of the City of Holdfast Bay.

Election Period is the period from the date nominations open to the date the Certificate of the Election is completed and returned to the council. For the purposes of the Local Government Elections of November 2022, the policy commences on 23 August 2022 and ends at the conclusion of the election, when the results have been declared.

Designated decision means a decision prohibited by the *Local Government (Elections) Act 1999*, including a decision:

CARETAKER POLICY

- a. relating to the employment or remuneration of the Chief Executive Officer, other than a decision to appoint an acting Chief Executive Officer or to suspend the Chief Executive Officer for serious and wilful misconduct;
- b. to terminate the appointment of the Chief Executive Officer;
- c. to enter into a contract, arrangement or understanding (other than a contract for road works, road maintenance or drainage works) the total value of which exceeds \$390,400 (being 1% of Council's revenue from rates in the 2021-22 financial year) except if the decision:
 - i. relates to the carrying out of works in response to an emergency or disaster within the meaning of the *Emergency Management Act 2004 (SA)*, or under section 298 of the *Local Government Act 1999 (SA)*;
 - ii. is an expenditure or other decision required to be taken under an agreement by which funding is provided to the Council by the Commonwealth or State Government or otherwise for the Council to be eligible for funding from the Commonwealth or State Government;
 - iii. relates to the employment of a particular Council employee (other than the Chief Executive Officer);
 - iv. is made in the conduct of negotiations relating to the employment of Council employees generally, or a class of Council employees, if provision has been made for funds relating to such negotiations in the budget of the Council for the relevant financial year and the negotiations commenced prior to the election period; or
 - v. relates to a Community Wastewater Management Systems scheme that has, prior to the election period, been approved by the Council;or
- d. that would allow the use of Council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of Council resources by all candidates).

General election means a general election of council members held:

- a. under section 5 of the *Local Government (Elections) Act 1999*; or
- b. pursuant to a proclamation or notice under the *Local Government Act 1999*.

Major policy decision includes any decision (not being a designated decision):

- a. to spend unbudgeted monies;
- b. to conduct unplanned public consultation;
- c. to endorse a new policy;
- d. to dispose of Council land;
- e. to approve community grants;
- f. to progress any matter which has been identified as an election issue; and
- g. any other issue that is considered a major policy decision by the Chief Executive Officer.

Minister means the Minister for Local Government or other minister of the South Australian government vested with responsibility for the *Local Government (Elections) Act 1999*.

Significant decision is any major policy or other decision which will significantly affect the Council area or community or will bind the incoming Council.

1.4 Strategic Reference

Statutory compliance.

2. PRINCIPLES

- 2.1 Council, a committee of council, a delegate of the council (including the Chief Executive Officer and sub-delegates of the Chief Executive Officer) are prohibited from making a designated decision during an election period.
- 2.2 A designated decision made by council during an election period is invalid, except where an exemption has been granted by the Minister.
- 2.2.1 If the council considers that it is faced with extraordinary circumstances which require the making of a designated decision during an election period, the council may apply in writing to the Minister for an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the *Local Government (Elections) Act* and this policy.
- 2.2.2 If the Minister grants an exemption to enable the making of a designated decision that would otherwise be invalid under section 91A of the *Local Government (Elections) Act* and this policy, then the council and council staff will comply with any conditions or limitations that the Minister imposes on the exemption.
- 2.3 Any person who suffers loss or damage as a result of acting in good faith on a designated decision made by the Council in contravention of this policy is entitled to compensation from the Council for that loss or damage.
- 2.4 So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling significant decisions (including major policy decisions) for consideration during an election period and ensure that such decisions are:
- (a) considered by Council prior to the election period; or
 - (b) scheduled for determination by the incoming Council.
- 2.4.1. The determination as to whether a decision is significant will be made by the Chief Executive Officer after consultation with the Mayor. A record of all such determinations must be made and must be made available to candidates on request.
- 2.4.2 Where a decision is deemed to be significant but circumstances require that the decision be made during an election period, a Report will be prepared for council. The Report will assist council to assess whether the decision can be deferred for consideration by the incoming council.
- 2.4.3 The Report must explain why the matter is significant, why it is urgent, what the consequences of deferral are, whether a decision will limit

CARETAKER POLICY

options for the incoming council, relevant statutory and operational considerations and an assessment of whether dealing with the matter in the election period is in the best interests of the council area and community.

2.5 Council resources must not be used for the advantage of a particular candidate or group of candidates, including candidates who are currently council members.

2.5.1 The following council resources must not be used for the advantage of particular candidates and may only be used by council members, where necessary, in the performance of their ordinary duties as a council member:

- Mobile phones
- Council vehicles
- Council provided information and technology and office equipment beyond that provided to all members of the public
- Council-provided business cards
- Requests to council employees to perform tasks which would confer an advantage on a candidate or group of candidates
- Invitations to council events
- Council travel arrangements, including corporate rates
- Access to areas that members of the public cannot access, including areas within third party properties (for example, a council 'corporate box' or 'Mayor's Parlour' at a sporting venue)
- Council-produced promotional brochures and documents.

2.5.2 Council staff must not undertake any activity that may influence the outcome of an election, except where the activity is required for the purposes of a fair election process and is authorised by the Chief Executive Officer. Council staff must not assist a council member with election campaign activities during hours of work.

2.6 Nothing in this policy prevents the ordinary business of the council continuing during the caretaker period.

2.7 The Mayor will continue to be council's spokesperson in the media in relation to council business or at other official functions.

3. REFERENCES

3.1 Legislation

- *Local Government Act 1999*
- *Local Government (Elections) Act 1999*

3.2 Other References

- *LGA Caretaker Guidelines December 2021*

Item No: 15.3
Subject: **SINGLE-USE PLASTICS SUBMISSION**
Date: 25 January 2022
Written By: Environment Officer
General Manager: Assets and Delivery, Mr M de Heus

SUMMARY

Green Industries SA have invited submissions on their most recent discussion paper, *Turning The Tide: The future of single-use plastic in South Australia (2021)*. Administration has developed a submission for approval by Council.

RECOMMENDATION

That Council endorse the proposed response to the Green Industries SA ‘Turning the Tide’ discussion paper on single-use plastics discussion paper and authorise the Chief Executive Officer to send the response on behalf of Council, with any minor amendments as required.

STRATEGIC PLAN

Sustainability Aspiration 2030s – The amount of waste sent to landfill has reduced by 75% on 2020 levels
Sustainability Aspiration 2050s+ - We send zero waste to landfill

COUNCIL POLICY

Not Applicable.

STATUTORY PROVISIONS

Not Applicable.

BACKGROUND

Green Industries SA published a discussion paper late last year, ‘Turning the Tide’ regarding the future of single-use plastics in South Australia. As a leader in innovative and sustainable waste management, the City of Holdfast Bay administration has developed the attached submission in response, based on our expertise.

After becoming the first state in Australia to ban single-use plastic bags in 2009, and prohibit single use plastic items like plastic straws and cutlery in March 2021, South Australia will be prohibiting polystyrene items like cups, bowls, plates and 'clamshell' containers and all oxo-degradable products from 1 March 2022.

A number of additional single-use plastic products that could potentially be banned can be made from alternatives that are reusable, recyclable, or compostable. These items of plastic have been identified for feedback.

The City of Holdfast Bay's "Compostable bags in supermarket trial" is mentioned in the discussion paper on page 18. This trial provided evidence base that the banning of plastic barrier bags as a priority in favor of alternative compostable options increases household food recycling efficiency, reduces waste to landfill and assists in building the local circular economy.

REPORT

Administration has developed the attached submission in response to the Green Industries SA discussion paper, *Turning The Tide: The future of single-use plastic in South Australia (2021)*.

Refer Attachments 1 and 2

The Environmental Officers at other Southern Region Waste Resource Authority (SRWRA) Councils have reviewed the discussion paper and the affect it may have on recycling at SRWRA. The recommendations within the paper are generally supported by the other SRWRA councils' environmental officers.

Some clear recommendations from the councils is around education and clear labelling so that materials can be composted or recycled easily and correctly and reduce risk of contamination in the material recovery facilities.

The environmental benefits of reducing single use plastic will be substantial. Administration recommends that Council approve the submission.

BUDGET

Not Applicable.

LIFE CYCLE COSTS

Not Applicable.

Attachment 1





holdfast.sa.gov.au

Brighton Civic Centre 24 Jetty Road, Brighton SA 5048

PO Box 19 Brighton SA 5048

P 08 8229 9999 F 08 8298 4561

Glenelg Customer Service Centre and Library

2 Colley Terrace, Glenelg SA 5045

25 January 2022

Green Industries SA
GPO Box 1047
Adelaide SA 5001

Via email – sup@sa.gov.au

Dear Ian Overton

City of Holdfast Bay submission to Turning the Tide 2021 Single-Use Plastic Discussion Paper

Being a metropolitan council home to 9 km of coastline and a popular tourist destination, the City of Holdfast Bay (CHB) sees firsthand the significant impact that single-use plastic has on our environment. We are committed to assisting our community and visitors to reduce their reliance on single-use plastics through a number of measures including: implementation of the Australian-first compostable bags in supermarkets trial; promotion of use of reusable cups; and, Jetty Road Brighton and local Surf Life Saving Clubs being amongst the first SA Plastic Free precincts.

We are delighted with the positive impact that the compostable bags in supermarkets trial has had on food waste diversion and the circular economy, and are pleased to see other supermarkets, including Glenelg Woolworths, trial the bags in store.

We acknowledge the State Government's commitment and ongoing partnerships with CHB to phase out various single-use plastics in favour of alternatives that are recoverable through disposal in the FOGO and recycling bin to reduce litter, increase landfill diversion and promote growth within our leading circular economy.

Please find below the Council endorsed responses to key issues questions within the discussion paper relevant to Local Government.

PRODUCTS FOR CONSIDERATION

1. PLASTIC BAGS

The CHB supports the ban of plastic produce bags by March 2023 and thicker style plastic carry bags by March 2024 in favour of compostable or alternatives that can be recycled through household kerbside bin services (such as paper bags).

Kerbside audit results and feedback from residents during the compostable bags in supermarket trial demonstrated the community confusion around which bags are compostable through the kerbside FOGO bin and what bags are not (bags that are only partly plant-based or labelled biodegradable not compostable). The CHB proposes that

an extensive education campaign be implemented before the ban to ensure residents dispose of the bags correctly in the FOGO bin and/or for use in their kitchen caddy.

Clear labelling on alternatives and requirements of use of the Australian Compostable Standard logo are key to reducing confusion for both residents and industry, who are unsure about what alternatives should be used.

Given the increased availability of locally made compostable bags, the CHB believe that the proposed timing around both bans is feasible for industry and will assist in continued growth in local infrastructure and the circular economy.

2. SINGLE-USE PLASTIC CUPS

The CHB supports the ban of single-use plastic cups, except where they are either 100% compostable or 100% recyclable via the household kerbside stream. The March 2024 timeframe is supported and will give industry and manufacturers adequate time to cope with the increased demand.

As kerbside recycling of recyclable cups is not currently feasible, the CHB suggests investment into technology that allows for easier recovery of recyclable coffee cups in the future.

Take away cups where the cup is 100% compostable but the lid is a non-recyclable plastic cause great confusion to the community. Along with clear and prominent labelling featuring the Australian Compostable Standard where appropriate, a state-wide community education program will be required to ensure cups end up in the correct waste stream.

3. SINGLE-USE PLASTIC LIDS

The CHB supports the ban of single-use plastic lids, except where they are 100% compostable or recyclable via the household kerbside stream. As kerbside recycling of recyclable lids is not currently feasible, the CHB proposes investment into technology that allows for easier recovery of recyclable coffee lids in the future. As per the above, having single-use lids that are not disposable via the same stream has led to community confusion.

The CHB therefore propose that the lid must be 100% compostable or 100% recyclable via the same stream of the cup the lid is on. Both the lid and the cup must be of the same compostable or recyclable material in order to reduce community confusion and contamination.

As well as an education campaign on which stream coffee cups go in, an education campaign on the benefits of using reusable cups should also be investigated. Prior to the COVID19 outbreak, the CHB actively promoted cafes who accepted and offered discounts for reusable cups for takeaway beverages. The reusable cup campaign will be reviewed in 2022 and republished on social media when appropriate.

4. SINGLE-USE PLASTIC FOOD CONTAINERS, BOWLS AND PLATES

The CHB supports the ban of single-use plastic food containers, bowls and plates by March 2024.

As Queensland, WA and Victoria have already banned or flagged banning plastic food containers, bowls and plates, the CHB believes that the timeframe for the ban is more than adequate for industry. Food businesses in our Plastic Free precincts are already using compostable and recyclable alternatives to these items.

5. PLASTIC BALLOON STICKS AND TIES

The CHB supports the ban of plastic balloon sticks and ties by March 2023. As this ban is common in Europe, the timeframe for the ban is seen as adequate for suppliers and retailers to source alternatives.

The CHB introduced a *Local Government Land By-law* in 2019 that prohibited the deliberate release of an unsecured balloon containing helium on local government land.

The CHB proposes that the *Local Nuisance and Litter Control Act 2016* be amended to be applied to '*litter to land, water and into the air*' in order to explicitly target deliberate helium balloon releases.

6. PLASTIC-STEMMED COTTON BUDS

The CHB supports the ban of plastic-stemmed cotton buds by March 2023. The timeframe is seen adequate given a number of other jurisdictions have flagged similar bans and that there are now numerous more sustainable alternatives.

OTHER PRODUCTS FOR CONSIDERATION

1. FRUIT STICKERS

The CHB supports the ban of fruit stickers by 2025. This later timeframe allows for more non-plastic options to be developed and become more widely available. This includes the potential use of lasers, which are much more efficient in terms of energy use, cost and not using plastics.

2. PLASTIC CONFETTI

The CHB supports the ban of plastic confetti by March 2023. Given the large variety of alternatives already available, this shorter timeframe is adequate for industry to adapt to the ban.

3. PLASTIC PIZZA SAVERS

The CHB supports the ban of plastic pizza savers by March 2023. Given that they are unnecessary for the majority of pizza orders and a cardboard alternative is already in use, the CHB agrees that the 2023 timeframe is adequate.

4. PLASTIC SOY SAUCE FISH

Given the lack of alternatives available, the CHB supports that a ban on plastic soy sauce fish be reviewed at a later date.

CHB residents are encouraged to put small plastic items (including soy sauce fish, plastic beverage plugs, plastic lids and bread bag tags) in a 2L HDPE container for recycling via the kerbside stream. The CHB recommends that a bin education piece be developed in the future for *Which Bin?* about how to recycle small plastics. Implementation of soy sauce fish recycling stations where sushi is sold should also be investigated.

5. PLASTIC BEVERAGE PLUGS

Given that alternatives such as inbuilt stoppers are already used in Australia by takeaway companies such as Hungry Jacks, the CHB believes that the industry has the capacity to adapt to a ban at a later stage (2024 or 2025).

As per the above, the CHB recommends that in the interim an education piece be developed regarding the recycling of small plastics.

6. PLASTIC BREAD TAGS

The CHB supports the review of plastic bread tags at a later date. The CHB propose that as per the above, an education piece should be developed for *Which Bin?* on the correct disposal of plastic and cardboard bread tags.

7. OTHER (EPS) CONSUMER FOOD AND BEVERAGE CONTAINERS

On 1 March 2022, expanded polystyrene (EPS) cups, bowls, plates and clamshell containers will be prohibited from sale, supply or distribution in South Australia. The CHB supports the ban of other (EPS) consumer food and beverage containers by March 2025. Given that interstate jurisdictions have already flagged or legislated the ban, the timeframe is more than adequate and could potentially be achieved well before March 2025. Many sustainable alternatives are currently in use.

8. EPS TRAYS USED FOR MEAT, FRUIT AND OTHER FOOD ITEMS FOR RETAIL SALE.

The CHB supports the ban of EPS trays used for meat, fruit and other items for retail sale by March 2025. Given interstate jurisdiction have already flagged or legislated the ban, the timeframe is more than adequate and could potentially be achieved well before March 2025.

9. PRE-PACKAGED AND ATTACHED PRODUCTS

These products include EPS or plastic cutlery contained in pre-packaged food, for example noodles in a cup. Given the national scale and complexity of pre-packaged and attached products, the CHB support that a ban of these products be dealt with within the 2025 National Packaging Targets.

OTHER PROPOSED PRODUCTS

1. BLACK RECYCLABLE PLASTICS

Optical sorters cannot pick up black plastics in Material Recovery Facilities (MRFs) making them difficult to recycle. Large retailers such as Woolworths have been approached by the waste sector and moved away from using black plastics for this reason. The CHB propose that the South Australian government advocate at the National level for a phase out of black plastics that are otherwise recyclable at the kerbside level as another colour.

2. DISPOSABLE FACEMASKS

The COVID-19 pandemic is estimated to generate up to 7,200 tonnes of medical waste every day, most of which is disposable facemasks. Whilst banning the use of disposables is not feasible, the CHB would like to see the use of reusable masks more heavily promoted and recycling options more widely available.

The CHB has mask disposal boxes for recycling at the Brighton Civic Centre and Glenelg Library. The boxes have a plastic liner in them, as well as a foldable lid to reduce the chance of spread, if someone infected recycles their mask. This is in line with the [Safe Work Australia guidelines on mask disposal](#).

A minimum 2 month quarantine period for high risk parcels is also undertaken by the processor.

3. PLASTIC FRUIT PROTECTION

Some fruit is sold including a plastic wrap (e.g. continental cucumbers) to protect the fruit or maintain freshness. The CHB propose that the State Government promote alternatives to these wraps and more non-plastic options be developed.

4. CONSISTENCY AMONGST RECYCLERS

Currently there is inconsistency amongst community education messaging about what is acceptable to be placed in kerbside recycling bins. For example, *Which Bin?* advises that plastic lids are to be placed in a plastic milk bottle but MRFs advise that bottle caps should be placed in a coloured HDPE container (e.g. washing detergent or shampoo bottle) as they are the same material. They should not be placed in natural/clear HDPE bottles such as milk bottles because they are different materials and cause

contamination. In addition, fine material (less than 50 mm) should not be placed in the recycling bins.

The CHB propose that an education piece should be developed by *Which Bin?* about the correct disposal of recyclables, which is consistent across SA to minimise the risk of contamination.

Thank you again for the opportunity to provide feedback on the discussion paper, Turning the Tide 2021 Single Use Plastic

Please direct any questions to Environmental Officer, Shani Wood on 8229 9837 or General Manager Assets and Delivery, Michael de Heus on 8229 9803.

Yours Sincerely,

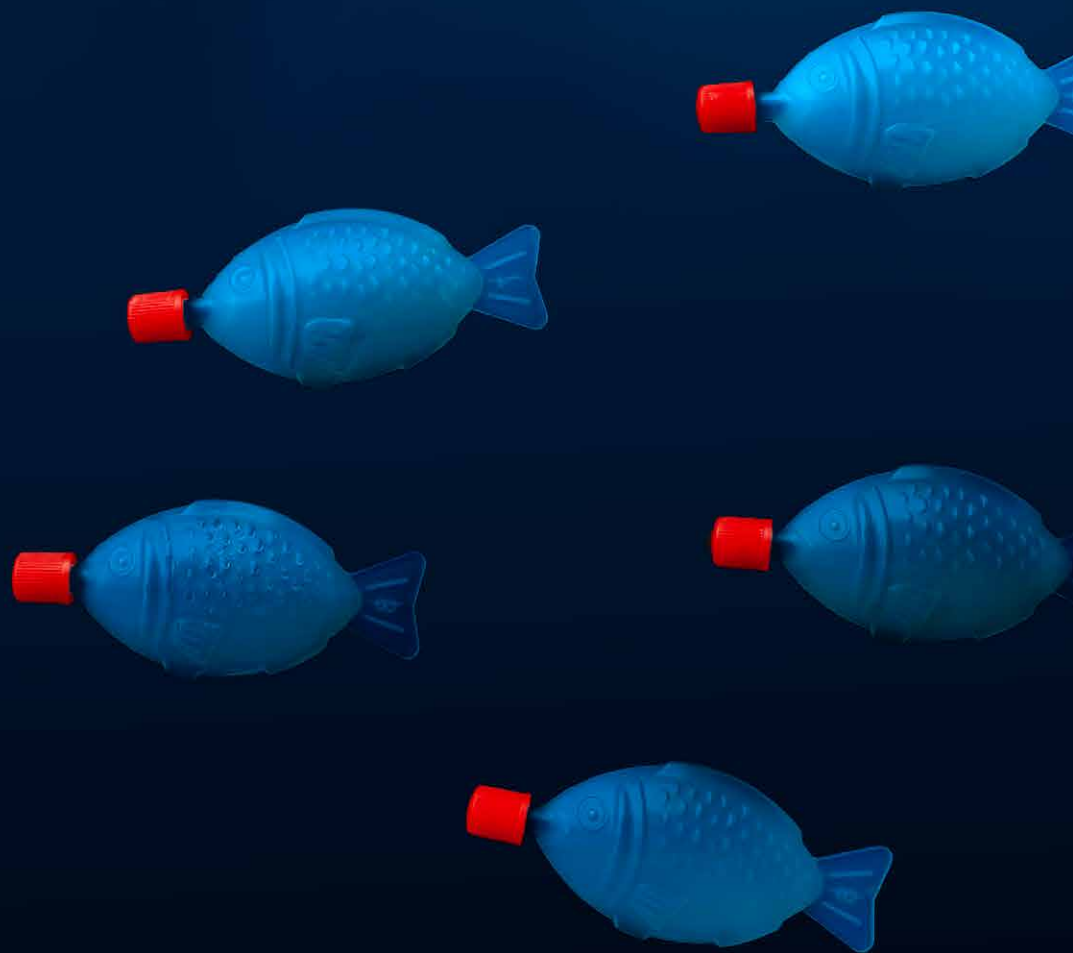
Roberto Bria
Chief Executive Officer

Attachment 2



TURNING THE TIDE

2021



The future of single-use
plastic in South Australia



Government of South Australia
Green Industries SA



**Government
of South Australia**

Green Industries SA

© 2021 Green Industries SA

Green Industries SA is pleased to allow this material to be reproduced in whole or in part, provided the meaning is unchanged and its source, publisher and authorship are acknowledged.

Published by:

Green Industries SA GPO Box 1047
Adelaide SA 5001

Telephone [08] 8204 2051

Email: greenindustries@sa.gov.au

Acknowledgement of Country

We acknowledge the Kurna people of the Adelaide Plains as the traditional custodians of the land on which we live and work on.

We respect their spiritual relationship with Sea and Country and acknowledge their Elders – past, present and emerging.

We also pay our respect to the cultural authority of Aboriginal and Torres Strait Islander peoples from other areas of South Australia and Australia.

Contents

From the Minister	05
What we want to know	06
Background and context	08
What are South Australia's next priorities?	12
Fast facts	14
<hr/>	
Products for consideration	16
Plastics bags	17
Single-use plastic cups	20
Plastic lids on single-use cups (including coffee cup lids)	22
Single-use plastic food containers, bowls and plates	23
Plastic balloon sticks and ties	24
Plastic-stemmed cotton buds	25
<hr/>	
Other products for consideration	26
Fruit stickers	27
Plastic confetti	28
Plastic pizza savers	28
Plastic soy sauce fish	29
Plastic beverage plugs	30
Plastic bread tags	31
Other expanded polystyrene (EPS) consumer food and beverage containers	32
EPS trays used for meat, fruit and other food items for retail sale	33
Pre-packaged and attached products	34
<hr/>	
Appendix 1: South Australia's journey	37
Appendix 2: Australian developments	40
Appendix 3: National Action on Single-use Plastic Products	42
Appendix 4: Global Action on Single-Use Plastic Products	44
Appendix 5: References in text	46



From the Minister



South Australia enhanced its already impressive environmental credentials last year when it became the first Australian state to ban and restrict some of the most problematic single-use plastics: straws, cutlery and beverage stirrers. This was a lighthouse moment for our nation and provided a strong signal that other jurisdictions have since followed.

South Australia's *Single-use and Other Plastic Products (Waste Avoidance) Act 2020* came into operation on 1 March 2021, and I have been encouraged both by the willingness of business and industry to adjust and adapt to the changes and by the ongoing community support for the State Government's vision and intent.

A second phase of change will begin soon. From 1 March 2022, expanded polystyrene cups, bowls, plates and clamshell containers will be banned, as will oxo-degradable plastic products, which include some produce bags, pet waste bags, bin liners, magazine wraps and dry cleaning bags.

But there is more work to be done, and the government is seeking opinions and ideas from all South Australians about products to be considered for possible future phase outs. Specifically, we are looking for input in relation to nine plastic products identified in the legislation alongside a range of other products.

It is an important issue, but also a complex one.

We know that a culture of convenience has a high cost for our state, our nation and our planet, and that we can make a big difference by replacing single-use products with those that can be reused or genuinely recycled in a circular economy.

At the same time, we know that the manufacture and use of these products is very much a part of modern society, so change requires thought, care and planning. We need to be clear about the alternatives and put in place sensible strategies and timelines.

But ultimately, we need to address wasteful consumption habits, and this is an important step that all South Australians can take. I encourage you to read this paper and join the discussion.

David Speirs MP

Minister for Environment and Water

What we want to know

Two stages of South Australia's initiative to turn the tide on single-use plastic are already in train.

- On 1 March 2021, single-use plastic **straws, cutlery and beverage stirrers** were prohibited from sale, supply or distribution in the state. Exemptions apply in some circumstances, such as allowing access to single-use straws for disability or medical needs.
- From 1 March 2022, the sale, supply or distribution of **expanded polystyrene cups, bowls, plates and clamshell containers** will be prohibited, as will the manufacture, production, sale, supply or distribution of **oxo-degradable plastic products**, which include additives to accelerate their fragmentation.

We are now seeking community and industry input to help consider future stages of product phase-outs and the timing of these.

The following nine product groups have been identified for attention at section 14(2) of the *Single-use and Other Plastic Products Act 2020*:

- single-use plastic cups (including coffee cups)
- single-use plastic food containers
- single-use plastic bowls
- single-use plastic plates
- plastic lids of single-use coffee cups
- plastic balloon sticks
- plastic balloon ties
- plastic-stemmed cotton buds
- plastic bags

Other products being considered in this discussion paper include:

- fruit stickers
- plastic confetti
- plastic pizza savers
- plastic soy sauce fish
- plastic beverage plugs
- plastic bread tags
- other expanded polystyrene consumer food and beverage containers
- expanded polystyrene trays used for meat, fruit and other items for retail sale

Each of these products is considered in this paper, beginning on page 16. There are issues specific to each product, but in general we are seeking answers to the following questions in each case:

- Should South Australia consider banning or restricting this product group?
- Are there viable alternatives, and if so, what are they?
- What sort of exemptions, if any, may be needed?
- What are the health, economic, logistical or social issues that should inform any decisions?
- What sort of timeframes should be considered?
- How long would businesses, industry and supply chains need to prepare?

Your feedback

Your views will help inform government consideration of phase-outs of the different product groups, implementation timeframes and matters for further consideration, such as alternative products and potential exemptions.

You may agree or disagree with or comment on the general issues discussed in this paper, or the proposed measures identified to address single-use plastic products.

Please provide reasons for your comments, supported by relevant data and information. You can make an important contribution by suggesting more appropriate ways to address single-use plastic products.

Comments can be provided in writing or online, including by undertaking a short survey, at:

replacethewaste.sa.gov.au/survey

Written submissions must be lodged with Green Industries SA in writing, either via our email address sup@sa.gov.au or by post to GPO Box 1047, Adelaide, SA 5001.

Include your name, position, organisation and contact details (telephone number, email and postal address) with your submission.

The deadline for comments and submissions is **5:00pm, Saturday, 19 February 2022.**

Submissions will be treated as public documents, unless received in confidence subject to the requirements of the *Freedom of Information Act 1991*, and may be quoted in full or part in subsequent Green Industries SA (GISA) reports. If you do not want the public to read your answers, please write “confidential” on your submission.

A summary of feedback will be prepared and released publicly. Subject to the outcomes of this consultation process, further consultation with business, industry and other parties will be undertaken.



Tips for written submissions

- List points so that issues raised are clear, and include a summary of your submission.
- If possible, in each point refer to the appropriate section, chapter or proposal in this discussion paper.
- If you discuss different sections of this document, keep these distinct and separate, so there is no confusion as to which section you are considering.
- Attach any factual information you wish to provide and give details of the source.



Scan here to take our fast, four minute survey



Background and context

The plastic problem

It is recognised around the world that phasing out single-use plastics is an important and achievable step in striving to reduce pollution, cut carbon emissions and protect marine life.

There are a range of plastic packaging and consumer products that are designed to be used once, often away from home and for just a short time or a very limited number of uses, before being thrown away. These include packaging, bags and disposable foodware items.

Consumers and industry can make a conscious choice to avoid problematic and unnecessary single-use plastics, and when supported by governments these seemingly small actions result in real and powerful environmental benefits.

Globally recognised concepts such as ecologically sustainable development, the circular economy, the waste management hierarchy and the United Nations Sustainable Development Goals [see Appendix 5] provide a framework for how we should consider our impact on the planet and what steps we should take.

Much of the information and content contained in this discussion paper is based on desktop research and investigation and has been framed within the context of these existing policy settings and the underlying community sentiment associated with single-use plastics.

The views and perspectives of business and industry are crucial in considering initiatives regarding single-use plastic products. This was demonstrated in the feedback received on the *Turning the tide on single-use plastic products* discussion paper in 2019 and in the deliberations of the South Australian Government's Single-Use Plastics Stakeholder Taskforce that informed the development of the state's legislation, *The Single-use and Other Plastic Products [Waste Avoidance] Act 2020* and *Other Plastic Products [Waste Avoidance] Act 2020*.

There are clear advantages in replacing non-recyclable products with those that can be recycled, and all such endeavours are to be applauded. However, the real problem is that the

products are single-use. They require resources and energy to manufacture and distribute, and comprehensive, integrated and accessible systems to effectively recycle. A potentially recyclable item can easily become litter or find its way into landfill.

Avoiding the need for some products altogether, or designing products to be reusable as part of a circular economy approach, is a preferred outcome, but manufacturers will need support to achieve this. It will take time to put in place required systems and infrastructure changes, in part because of global production and supply chain logistics.

The South Australian story so far

The *Turning the tide* discussion paper received 3,564 public submissions, comments, survey responses and letters, along with 68 submissions from industry stakeholders. There was broad support for increased measures to address single-use plastics, and many respondents shared how they were achieving this in their own households, businesses, organisations and communities.

There was also support for government intervention, with the rationale that this was needed for change(s) to be achieved. The discussion paper referenced specific items – straws, cutlery and takeaway coffee cups among them – but respondents felt there were others to be considered.

Most comments related to the packaging of items by manufacturers or at retailers' point of sale, or to takeaway food containers.

A subsequent document, *Turning the tide on single-use plastic products: Approach and next steps*, released in July 2019, set out the Government's response. It announced the intention to develop legislation to phase out single-use and other plastic products, establish a stakeholder taskforce to inform the development of the legislation and implement a plastic-free precinct pilot program.

Legislation to restrict and prohibit certain single-use and other plastic products was introduced into the South Australian Parliament on 30 April 2020 and

was passed on 9 September 2020. The *Single-use and Other Plastic Products (Waste Avoidance) Act 2020* (SUP Act) came into operation on 1 March 2021. Exemptions under the Act were implemented via regulations on the same date.

The first stage of the single-use plastic legislation has been hugely successful with broad adoption by the public and the introduction of a range of alternatives to the market. The second stage will commence on 1 March 2022, with other stages to follow.

For more detailed information about South Australia's journey, see Appendix 1.

National and international responses

Since the release of South Australia's discussion paper (2019), the Australian Government and other state and territory governments have taken further steps to address problematic and unnecessary plastic products, with strong community support. This combination of efforts is highlighted in Appendices 2 and 3.

Of particular note, at a meeting on 15 April 2021, Australian environment ministers identified eight product types for industry to phase out nationally by 2025, if not sooner, given progress on some items. These are:

- lightweight plastic bags
- plastic products misleadingly termed as "degradable"
- plastic straws
- plastic utensils and stirrers
- plastic bowls and plates
- expanded polystyrene (EPS) consumer food containers (e.g. cups and clamshells)
- EPS consumer goods packaging (loose fill and moulded)
- microbeads in personal health care products.

Although timeframes may vary between states and territories, some alignment and consistency is evident, which strengthens South Australia's resolve to continue to demonstrate its leadership and commitment within the context of this more holistic approach.

Globally, action continues in relation to single-use and other problematic and unnecessary plastics. Appendix 4 highlights some of these approaches.

According to the Intergovernmental Panel on Climate Change (IPCC), the evidence is clear that carbon dioxide (CO₂) is the main driver of climate change, even as other greenhouse gases and air pollutants also affect the climate. A 2021 report states that human actions still have the potential to determine the future course of climate and that this will require strong, rapid, and sustained reductions in greenhouse gas emissions. [See Appendix 5]

The Centre for International Environmental Law suggests that over 99% of plastics are sourced from chemicals made from fossil fuels. The production of plastics from fossil feedstocks has a significant carbon impact that will become even more significant with the projected surge in consumption of plastics. [See Appendix 5]

Impact of COVID-19

The COVID-19 pandemic has required greater use of single-use plastic items to comply with hygiene guidelines, particularly in health and medical settings.

For this reason, plastic products used specifically for health-related applications are not considered for phase out through the SUP Act.

The most obvious issue is with face masks, which are mandatory in some public places in South Australia and recommended in many others. Neither single-use nor reusable masks can be recycled through kerbside bin systems. SA Health's advice is that they be placed in waste bins.

There have been proposals in Australia and overseas regarding recycling disposable masks. However, these need to be considered in the context of public safety and associated health advice.





South Australia's second stage

On 1 March 2022, expanded polystyrene (EPS) cups, bowls, plates and clamshell containers will be prohibited from sale, supply or distribution in South Australia. This date has been included in the legislation since its commencement and aligns with the Government's July 2019 commitment that these products will be prohibited 12 months following the initial products.

As identified by the Australian Packaging Covenant Organisation (APCO), food packaging made from EPS is currently not recyclable through kerbside recycling services in Australia, and there are no alternative collection systems available. [See Appendix 5]

Because EPS is light and very buoyant, many containers find their way into waterways and oceans, where they persist for long periods (the material does not biodegrade) before breaking down into microplastics. These small pieces then find their way into the marine food chain.

Other Australian states and territories have banned or are intending to ban these types of EPS products, as they are generally regarded as problematic and unnecessary (see Appendix 1). The European Union's ban on EPS cups and food and drink containers (including lids) came into effect in July 2021 and applies to its 27 member states.

Oxo-degradable plastic products will be prohibited from sale, supply or distribution, as well as from manufacture and production, in South Australia on 1 March 2022. This date has also been included in the legislation since its commencement and was announced by the Government in July 2019.

As defined in the SUP Act, oxo-degradable plastic means a material (however described) made of plastic which includes additives to accelerate the fragmentation of the material into smaller pieces, triggered by ultraviolet radiation or heat exposure, whether or not this is, or may be, followed by partial or complete breakdown of the material by microbial action.

Other Australian states and territories have banned or are intending to ban oxo-degradable plastic products (see Appendix 2). The European Union's ban on all products made of oxo-degradable plastic came into effect in July 2021.

Some produce bags, pet waste bags, bin liners, magazine wraps and even some dry cleaning bags are comprised of oxo-degradable plastic and will be banned.

As identified by APCO (see Appendix 5), the issues associated with fragmentable plastics are: microplastic pollution; difficulty differentiating it from conventional plastics; consumer confusion; potential contamination of mechanical recycling or organics streams; and potential for claims to breach Australian Consumer Law.



Examples of EPS products to be prohibited from March 1, 2022

What are South Australia's next priorities?

The SUP Act requires the Minister to prepare an Annual Report on the operation of the Act. The initial report, due in September 2022, must include information on the consideration of adding the following product classes to the list of prohibited products:

- single-use plastic cups (including coffee cups)
- single-use plastic food containers
- single-use plastic bowls
- single-use plastic plates
- plastic lids of single-use coffee cups
- plastic balloon sticks
- plastic balloon ties
- plastic-stemmed cotton buds
- plastic bags.

The SUP Act provides a framework for adding other products or classes of products to the list of 'prohibited plastic products'. This includes publishing a notice regarding the products, why they have been proposed for addition, information regarding the availability of alternative products and potential exemptions that may be required, followed by public consultation. This discussion paper is fulfilling the notice requirements and inviting submissions in accordance with the framework.

Some classes of products are quite clear-cut but others – notably single-use plastic cups (including coffee cups) and plastic bags – comprise a diverse range of products using a wide variety of plastics in an array of shapes and sizes.

To inform community submissions and comments, further detail is provided over the following pages on each of these product classes. Where relevant, discussion has been narrowed to a product-specific focus to align with approaches in other Australian states and territories.

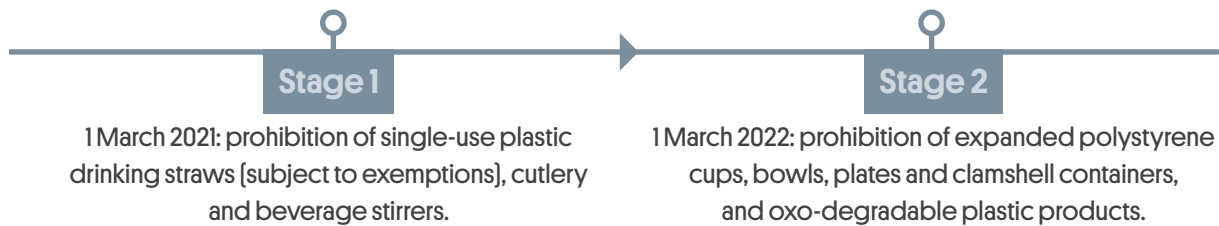
Views are also sought on a range of other plastic products:

- fruit stickers
- plastic confetti
- plastic pizza savers
- plastic soy sauce fish
- plastic beverage plugs
- plastic bread tags
- other EPS consumer food and beverage containers
- EPS trays used for meat, fruit and other items for retail sale.

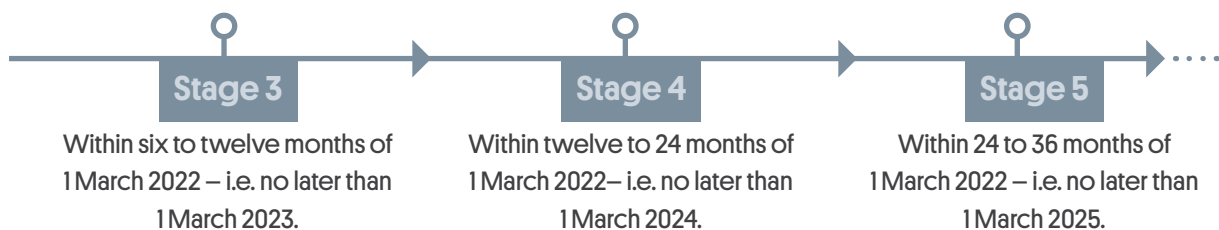


What is the timing?

The first two stages of the legislation are:



This discussion paper proposes to prohibit additional products in stages within a 3 year timeframe as follows:



These timeframes will allow time for businesses and the community to prepare for, and for the necessary communications to be undertaken prior to, the products being prohibited. Similar to the initial staged commencement of the legislation, this staged approach to the phase-out of additional products will provide longer transitional periods where considered necessary.

Fast Facts



Plastics production has surged over the past 50 years, from 15 million tonnes in 1964 to 311 million tonnes in 2014, and is expected to double again over the next 20 years as plastics serve increasingly more applications.



The production of plastics from fossil feedstocks has a significant carbon impact that will become even more significant with the projected surge in the consumption of plastics.



Over 99% of plastics are sourced from chemicals made from fossil fuels.



Currently, packaging represents 26% of the total volume of plastics used globally.



According to UN Environment Programme (UNEP), one million plastic drinking bottles are purchased every minute, while up to five trillion single-use plastic bags are used worldwide every year.



In total, half of all plastic produced is designed to be used only once — and then thrown away.



It is estimated that Australians throw away up to a billion coffee cups per year.

It's estimated that 500 billion disposable coffee cups are produced globally each year.



Without action, the annual flow of plastic into the ocean alone will nearly triple by 2040 to 29 million metric tonnes per year, the equivalent of 50kg of plastic for every metre of coastline worldwide.



Scientists have discovered microplastics near the summit of Mount Everest, the world's tallest mountain, and a plastic shopping bag in the Mariana Trench, the deepest point of the ocean.



At least eight million tonnes of plastics end up in the ocean each year – which is equivalent to dumping the contents of one garbage truck into the ocean per minute.



About 300 million tonnes of plastic waste is produced every year, nearly equivalent to the weight of the entire human population.



It is estimated that there are over 150 million tonnes of plastic in the ocean today.



Plastic marine debris can carry thousands of different types of microbes across marine ecosystems, many of which are invasive species.



If current trends continue, the ocean is expected to contain 1 tonne of plastic for every 3 tonnes of fish by 2025, and by 2050, more plastics than fish by weight.



Humans eat almost 20kg of plastic in their lifetime.

People consume about five grams of plastic every week, equivalent to a credit card.



80% of marine litter is from land based sources.

Products for consideration



Plastic bags

There are many types of plastic bags on the market today. This discussion paper focusses on two particular types: thick supermarket or boutique-style plastic bags; and produce bags [barrier bags] used to contain unpackaged fresh produce.

Supermarket bags

Lightweight plastic bags used at check-outs were banned in South Australia in 2009, leading to a dramatic decrease in the use of such bags and a culture of 'bring-your-own' bags.

The *Plastic Shopping Bags (Waste Avoidance) Act 2008* came into effect on 1 January 2009, with the ban on shopping bags taking effect from 4 May 2009. If heavyweight bags are to be prohibited, work will be undertaken to examine the potential opportunity to streamline legislation by incorporating amended provisions from this Act into the SUP Act.

What are the issues to consider?

Swapping light for heavy

While single-use plastic bags thinner than 35 microns are now banned in most Australian states and territories, many retailers supply heavyweight plastic carry bags – which some regard as defeating the purpose of the legislation.

These thicker bags ostensibly fulfil the same function as the lightweight bags, including product protection and consumer convenience; for high value products, they are also likely to feature branding elements. They typically are made of low density polyethylene (LDPE) plastic.

Estimates suggest around 900 million thicker-style plastic bags are supplied in Australia each year, in which case, South Australia's consumption could be as high as 63 million each year. [See Appendix 5]

Environmental impact

The Australian Marine Conservation Society (AMCS) has identified plastic bags as one of the most lethal killers of marine animals. They float easily in the air and on water, travelling long distances, and pose a huge threat to marine species at every level of the food chain. Estimates are that they take between 20 and 1,000 years to break down, depending on factors such as exposure to sunlight. [See Appendix 5]

Recycling options

The advice for South Australians is that clean household soft plastics, including plastic bags, can be taken to retailer drop-off points at some participating stores. The material can then be processed into plastic products such as furniture or plastic timber.

Although some small-scale soft plastic recycling schemes for kerbside [household] materials have been trialled, this is not currently an option for most of Australia, including South Australia. Soft plastics, including plastic bags, are not recyclable through kerbside recycling. According to APCO, when incorrectly placed in a recycling bin they can get tangled in the machinery in a recycling facility and contaminate other material streams. [See Appendix 5]

Charging for bags

Many retailers have introduced small fees for alternative bags to cover increased costs and further reduce consumption. However, AMCS suggests that these have been too small to drive a sufficient shift in behaviour toward re-use or avoidance.

Are there alternatives?

Alternatives such as paper, cardboard or reusable woven polypropylene bags are readily available and have been adopted by many major retail brands. It would be reasonable for government to underpin these efforts in the event that voluntary industry measures fail to gain timely momentum (see below).

Single-use plastic bags are one of the most consumed items globally and any replacement material has its own environmental impacts. These include water and energy consumption, marine impacts, greenhouse gas emissions and litter.

Using a lifecycle approach, a single-use plastic bag is considered a poor option in terms of litter on land, marine litter and microplastics. However, according to UNEP, these items score well in comparison to some non-plastic alternatives when it comes to other environmental impact categories, such as climate change, acidification, eutrophication, water use and land use. [See Appendix 5]

UNEP concludes that reducing environmental impacts of bags is not just about choosing, banning, recommending or prescribing specific materials or bags, but also about changing consumer behaviour around reuse and littering. The shopping bag that has the least impact on the environment is the bag the consumer has brought from home.

Plastic produce bags

This section refers to bags used in fresh produce settings and usually dispensed on a roll accessible by the consumer. It does not include bags used behind the counter in retail settings as part of the packaging process for products such as bread, seafood, meats, cheeses and olives. These may be considered in the future.

The produce bags in question are usually mono-layer, using one polymer – often polyethylene. The environmental and recycling issues are similar to those for heavyweight plastic carry bags, as discussed in the previous section.

Are there alternatives?

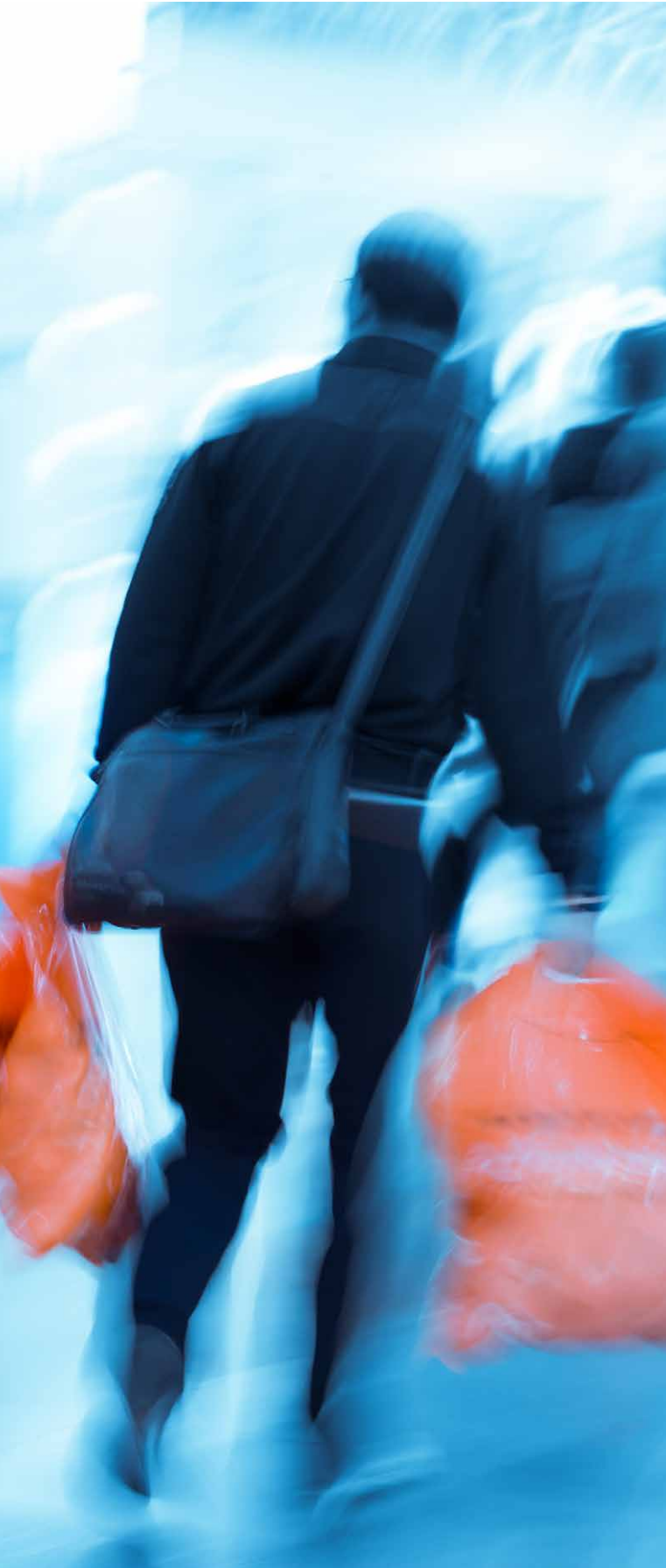
There are alternatives in South Australia linked to the maturity and strength of our organic processing sector. The state government is encouraging the diversion of food waste from households to more beneficial uses, such as composting, through the strategy *Valuing Our Food Waste* (2020-2025).

The approach has been largely based on the use of kitchen caddies and compostable liners, along with education and awareness campaigns. The liners are certified to Australian Standards for compostability (AS4736-2006 and AS5810-2010).

In 2018, the government funded the City of Holdfast Bay to conduct a 12-month trial providing compostable bags for loose fruit and vegetables in two supermarkets. These replaced plastic produce bag rolls and customers were asked to reuse the bags at home to collect food scraps for placement in council collected green organics bins.

The trial resulted in 117% more food being diverted from landfill – the equivalent of 0.48 kilograms more food waste for each household each week. Expanding this figure across the council area would divert an estimated 308 tonnes more food waste from landfill and save tens of thousands of dollars in annual landfill levies alone, as well as, reducing landfill, reducing methane and saving farmers with reduced water and fertiliser needs once the compost is used to improve soils. If similar outcomes were achieved in all metropolitan households, this could divert an estimated 12,500 tonnes more food waste from landfill each year.

Independent of government support or intervention, two large metropolitan supermarkets introduced compostable barrier bags for all fresh produce, meat and bakery areas on an ongoing basis in 2020 and trials have been conducted by other supermarket chains in areas where food waste recycling is available to the majority of households – removing the single-use nature of the bags.



What are other jurisdictions doing?

In July 2017, Commonwealth, state and territory Environment Ministers agreed to work with retailers to explore options to reduce thicker plastic shopping bags, potentially under a voluntary code of practice.

Queensland's Department of Environment and Science was tasked with leading this national project, working with the National Retail Association, APCO and retailers to develop a voluntary sustainable shopping bag code of practice. The code has not yet been released.

Western Australia is planning to ban plastic produce bags by 2022 and heavyweight plastic shopping bags by 2023. Australian Capital Territory is also banning plastic produce bags in July 2022. New South Wales has indicated that it will consider a ban on heavyweight shopping bags along with barrier bags and non-compostable produce bags in three years, subject to a review by 2024.

Plastic bags below 50 microns have been banned in France, except for domestically compostable plastic bags that are at least 50% biobased [60% in 2025].

In New Zealand, retailers can no longer sell or distribute single-use plastic shopping bags made of less than 70 microns to customers for the purpose of carrying or distributing their sold goods.

Our proposal

It is proposed that plastic produce bags, as defined above, be banned in South Australia during Stage 3 [no later than 1 March 2023]. This will allow industry to transition to compostable or other alternatives and for the community to adopt the bring-your-own behaviours for fresh fruit and vegetable bags.

Should voluntary industry approaches not be considered satisfactory, it is proposed that **thicker style plastic carry bags** be banned in South Australia during stage 4 [no later than 1 March 2024]. This timeframe enables industry to voluntarily transition to more sustainable alternatives and will be reviewed in 2023.



Single-use plastic cups

Takeaway cups are a major issue because of their sheer volume.

It is conservatively estimated that Australians throw away a billion coffee cups each year, which equates to more than 190,000 a day in South Australia alone. On average, they are used for less than 13 minutes each, and they often come with a lid and other attachments, such as plugs [see following sections], so the problem is exacerbated and made more complicated. [See Appendix 5]

And that's just coffee. Single-use cups made from or containing plastic are also used for tea, juice, soft drinks, soup and wine.

What are the issues to consider?

Plastic lining

Takeaway cups are usually made of paperboard with a polymer lining (polymer-coated paperboard, or PCPB) to prevent leakage and maintain structural integrity. About 90% of coffee cups are lined with polyethylene (PE) – a plastic made from fossil fuels – and 10% with polylactic acid (PLA), a bioplastic made from plant starches.

However, neither PE nor PLA readily biodegrades in the natural environment. Bioplastics must be sent to a commercial compost facility, otherwise they pose similar environmental risks to traditional plastics, including the formation of microplastic. They could quickly create a new class of persistent pollutants in the marine environment.

In South Australia, most industrial-scale commercial compost operations that provide soil enhancement products to agricultural markets accept compostable packaging, including takeaway cups that are certified to a recognised standard. However, there are few organics bins in public places, so most cups end up in landfill bins, incorrectly in recycling bins, or as litter.

Recycling confusion

There are few recycling bins in public areas for takeaway cups, and even where they exist signage can be inadequate. This often leads to confusion about how to dispose of cups and lids.

Even in commercial settings such as offices, plastic-lined cups are likely to be placed in the incorrect stream where the product can end up as a contaminant through the recycling or composting process. The default bin is often the landfill bin.

It is not currently feasible to recycle takeaway cups through conventional household kerbside bin systems.

Recycling complexity

Conventional recycling facilities generally seek to sort materials into single streams, such as paper, cardboard, glass, plastics and metals, for sale into recycle commodity markets. A product comprising two or more different material types bonded together creates difficulties.

For recycled paper processors, separating the plastic lining from the paper for most standard PE-lined disposable beverage cups is challenging. Recycled paper is processed by pulping the material in a paper mill; when the paperboard fibres remain attached to the plastic, they can't be turned back into paper products, and so become waste destined for landfill.

Longer processing times and alternate screens are required for recycling PCPB packaging due to the polymer laminates and additives. There is currently no dedicated recycling facility in Australia for PCPB, making paper mills the primary market, along with landfill.

Are there alternatives?

Economic and regulatory measures are often introduced by governments to encourage the marketplace to innovate. In the case of single-use plastic cups, these measures are expected to provide the incentive and opportunity that businesses need to develop alternatives.

In addition, reusable bring-your-own “keep cups” are becoming more popular and some retailers and businesses are increasing the options for returnable collection systems.

What are other jurisdictions doing?

Single-use plastic coffee cups and lids will be banned in WA by late 2022. The ACT is considering phasing out coffee cups and lids by 2023.

Earlier this year, France banned several single-use plastic items, including coffee cups. Honolulu has included coffee cups in its ban of plastic foodware items and the Indian state of Kerala has included coffee cups in its ban of the production, sale and use of single-use plastics.

Our proposal

The current proposal is for South Australia to ban single-use plastic cups during stage 4 (no later than 1 March 2024), except where the cup and all attachments (e.g. lids):

- are certified compostable to relevant standards (AS4736-2006, AS5810-2010) and/or are 100% recyclable through widely available services; and
- feature clear and prominent labelling regarding which bin(s) to place them in.

Manufacturers must demonstrate that sustainable systems and labelling are in place to ensure the product is actually fully recycled or composted and that the risk of contamination between product types (e.g. cup and lid) is managed.

This timeframe should allow industry to source non-plastic alternatives (particularly in view of supply timeframes associated with global production and distribution arrangements, including delays due to the pandemic) or to obtain necessary certifications or establish collection and recycling systems for single-use plastic cups.



Plastic lids on single-use cups (including coffee cup lids)

Plastic lids to prevent spilling and enable safe and convenient consumption are common on single-use cups and thus an integral part of the growing disposal problem. In fact, the littering potential of lids is exacerbated by their light weight, which can see these items transported great distances by the wind and also water currents.

Reports also suggest that cup lids account for the high energy production and pollution associated with plastic cups.

What are the issues to consider?

Two types of plastic

Plastic cups and lids are made from different materials (lids are most commonly polypropylene or polystyrene). This means that two different processes are required to recapture and reuse the materials that a single cup set comprises.

The sorting, cleaning and melting associated with converting polypropylene into a reusable plastic is not considered profitable when compared to creating new polypropylene lids from virgin materials. [See Appendix 5]

In addition, lids, like cups, can contaminate other recyclable material.

Consumer confusion

Needing separate disposal and/or recycling pathways for what consumers see as a single product creates both confusion and difficulty. The cup and lid may simply be kept as one.

Polystyrene lids are not recyclable through the kerbside bin system in South Australia. However, due to the misconception that coffee cups and their counterparts can be recycled, lids are often placed in the recycling bin. Polystyrene easily breaks apart into very small pieces, which contaminates the paper and cardboard recycling stream.

Are there alternatives?

Some companies are now manufacturing lids made from polylactic acid [PLA]. These are compostable under certain environmental conditions which can only be found in industrial composting facilities. Littering remains a potential problem. The use of reusable bring-your-own cups also solves this problem.

What are other jurisdictions doing?

WA intends to phase out coffee cups and lids by late 2022. However, the emphasis on lids appears related specifically to coffee cups rather than more broadly.

Plastic lids have been banned in France since January 2021. Initially, there was an exemption for bioplastic lids, but this was later cancelled.

Our proposal

As with single-use cups, our proposal is for a ban on the lids to apply during stage 4 [no later than 1 March 2024], with the same exemptions to apply for certified compostable and/or recyclable products with clear labelling [see page 20].



Single-use plastic food containers, bowls and plates

Single-use plastic food containers, bowls and plates are commonly used for takeaway meals and at social functions in public settings. However, they cannot be easily recycled, even if made from recyclable plastic.

Studies suggest they are often the wrong shape or too light to be correctly sorted by conventional recycling processes, which are designed for items such as bottles and containers (see Appendix 5). As a result, plastic dinnerware often ends up in the paper processing line, contaminating the paper and cardboard products and significantly reducing the quality of recycled paper products.

Food residue, which is common, also hinders successful recycling. This is not an issue for compostable products that are placed in organics bins.

There are also concerns with paper plates and containers which are coated with plastic (polyethylene), primarily to protect food from dye used to colour the paper. This lining can shed microplastics and also contaminate kerbside recycling bins or the organics stream.

Are there alternatives?

Biodegradable and compostable tableware, in particular products made from starch-based biopolymer and wood-based fibre, are emerging as good single-use alternatives. For example, Ikea phased out plastic-coated paper plates and cups in 2020, along with plastic straws, freezer bags, and bin bags.

Other alternative disposable options on the market are products made from palm leaf, paperboard, sugarcane, wood, bamboo and foil. Reusable bring-your-own containers are also becoming popular with some retailers.

What are other jurisdictions doing?

Queensland has already banned single-use plastic plates and bowls, with WA to follow in 2022 and Victoria in 2023. NSW is looking to review these items for phase-out within the next three years.

WA also recognises that there are alternatives to plastic-lined paper plates and has decided to include them in its ban. Queensland won't be addressing plastic-lined paper plates in its ban to avoid banning (predominantly children's) party products, but will revise it in the future. NSW also won't be addressing plastic-lined paper plates but is looking to revisit them in future.

The European Union's ban on plastic plates came into effect in July 2021 and applies to its 27 member states. Earlier this year, Honolulu banned food vendors from providing plasticware, including foam plates and food containers, and will be extending the ban to additional foodware items across all other businesses.

Our proposal

The current proposal is for South Australia to ban single-use plastic containers, bowls and plates during stage 4 (no later than 1 March 2024). Where appropriate, exemptions similar to those for single-use plastic cups (page 20) will be implemented.



Plastic balloon sticks and ties

Balloon sticks and ties are considered separate items from balloons themselves. Comments also are welcome on other balloon accessories, such as grips, plastic clips, cups and ribbons.

Plastic accessories easily detach from balloons and are not biodegradable. According to the UK Department of Environment, Food and Rural Affairs, they are predominantly made from polypropylene and, in a few instances, from bioplastic. [See Appendix 5]

They are small and easily mistaken for food by animals. In a marine environment they can break down into even smaller pieces which are then ingested. All plastic debris can cause entanglement, injury and death to pets and wildlife, and adds to the huge volumes of plastic waste in the environment.

Ribbons also pose a significant threat to wildlife. It is sobering to note a US study which found ribbons made up 44% of balloon-related litter found on remote beaches in Virginia and that 66% of littered balloons still had ribbons attached. [See Appendix 5]

Are there alternatives?

Cardboard balloon holders are available in Australia. Balloon sticks can be made from wood or bamboo.

What are other jurisdictions doing?

No other Australian states or territories have included balloon sticks and ties in their single-use plastics bans. The ACT, the City of Darwin, Queensland and Victoria have anti-littering laws against helium balloon releases which reduce the number of balloon accessories that end up in marine ecosystems.

A European Union ban on plastic balloon sticks came into effect in July this year and applies to its 27 member states. The ban provides a measure of confidence that the market will quickly develop alternatives to plastic balloon sticks, some of which are already available.

Why not balloons?

South Australia's Single-use and Other Plastic Products (Waste Avoidance) Act 2020 prohibits the sale, supply, or distribution of prohibited plastic products. The South Australian Government is not proposing that balloons be prohibited.

Some state and local governments across Australia have introduced bans relating to the release of helium-filled balloons. The legal instruments and enforcement mechanisms relating to these differ between states and territories, although most regard deliberate balloon releases to the open environment as littering.

In South Australia, the *Local Nuisance and Litter Control Act 2016* applies to litter to land and water, including from balloons, and local councils are able to enforce these provisions where appropriate.

Our proposal

The current proposal is for South Australia to ban plastic balloon sticks and ties during stage 3 [no later than 1 March 2023].



Plastic-stemmed cotton buds

Plastic-stemmed cotton buds are often flushed down toilets and, due to their weight and small size, can pass through sewage filtration systems into the marine environment. WWF Australia lists them among the top 10 worst single-use plastics in Australia. [See Appendix 5]

The stems are mostly made of polypropylene, which in the marine environment can accumulate toxic biological and chemical contaminants including *E-coli*, flame retardants, heavy metals and pesticides. When the plastic breaks down, it can also release toxic components, including the chemicals used to dye or coat the plastic.

Seabirds consume cotton buds and cotton bud fragments. These fragments remain trapped in their digestive tract which can inhibit them from eating, resulting in malnutrition and eventual starvation.

Are there alternatives?

There are a number of alternative options in Australia, including bamboo, sugarcane, wood and paper stemmed products. Reusable cotton buds that can be washed are also an alternative.

What are other jurisdictions doing?

NSW has proposed banning plastic cotton bud sticks by 2022, with Victoria and WA to follow in 2023.

Scotland banned plastic stemmed cotton buds in 2019 and legislation which came into force in 2020 makes it illegal to sell or supply plastic cotton buds, straws and drink stirrers in England. A European Union ban came into effect in July 2021 and applies to its 27 member states.

New Zealand has announced it will ban plastic-stemmed cotton buds within its 2022-25 timeframe to phase out a range of single-use plastic products.

Our proposal

The current proposal is for South Australia to ban plastic-stemmed cotton buds during stage 3 [no later than 1 March 2023].

Other products for consideration



Fruit stickers

Stickers are frequently used on unpackaged fruit but are not required by law. They carry Price Look-Up codes, which are used across the world to track inventory and scan prices at point of sale, and some stores also create retailer-assigned codes that indicate whether the fruit is conventionally grown, organic or modified in some way.

These codes don't indicate where the fruit is from or who grew it, although sometimes this information is also on the label. The main concern from Australian farmers is to be able to brand their produce and sell conventionally grown fruit next to organic produce.

However, stickers are frequently made of thin plastic, which creates problems. Most end up as litter or in landfill, or find their way into composting facilities where they become contaminants. Because they are so small they often pass through the screening procedures in composting facilities for stripping out contaminants.

Are there alternatives?

Some industries have voluntarily moved towards non-plastic options. Organic farmers, in particular, are embracing more sustainable options, as their target consumers have been vocal about reducing plastic waste.

What are other jurisdictions doing?

NSW has identified plastic fruit stickers as items to be reviewed three years following the passage of the state's plastic reduction and circular economy legislation which was passed by its Parliament in October 2021. New Zealand has proposed that stickers be phased out by 2023.

In the Indian state of Chhattisgarh, the Chhattisgarh Food and Drugs Administration banned the pasting of stickers on fruit in 2019 due to the adverse health effects and the increased price of the produce.

Our proposal

The current proposal is for plastic fruit stickers to be banned in South Australia during stage 5 (no later than 1 March 2025). This timeframe should allow for a transition to more sustainable alternatives, while still ensuring compliance with any relevant food industry standards, codes or guidelines, and can be monitored in the lead up to this date.

Plastic confetti

Confetti in any form is a littering problem but the threats are exacerbated if it is not compostable. Plastics such as polyethylene terephthalate or metallized poly vinyl chloride are sometimes included in its manufacture.

Due to its small size and negligible weight, plastic confetti can travel large distances, become trapped in vegetation and eventually break down into smaller microplastics. Animals can unknowingly ingest small pieces of plastic.

Are there alternatives?

There are environmentally friendly alternatives made of rice paper, petals, gum leaves and tissue paper.

What are other jurisdictions doing?

No Australian states or territories have banned confetti, but the Town of Victoria Park in WA is considering banning the use of plastic-based confetti on council lands.

As part of its ambition to realise a circular economy, France included confetti in the extensive list of single-use plastic products it banned from January 2021. The Wallonia region in Belgium has banned the release of plastic confetti and streamers, Malta imposed restrictions on the use of plastic confetti at public events and Sweden is considering similar action for outdoor settings.

In the US, Mobile in Alabama banned plastic confetti or serpentine (coloured streamers) in 2019.

Our proposal

The current proposal is to ban plastic confetti in South Australia during stage 3 (no later than 1 March 2023).

Plastic pizza savers

Plastic pizza savers or tables, first patented in the 1980s, are designed to prevent a pizza box from sagging and touching the pizza topping.

While many pizzerias do not use them, they are occasionally used with large orders. However, many consumers are confused about what they achieve and are increasingly expressing their concern on social media about the unnecessary use of plastic items that cannot be easily recycled.

In South Australia, *Which Bin* messaging advises consumers that a clean cardboard pizza box without food goes in the recycling bin, whereas pizza scraps and a dirty pizza box should go in the organics bin. There is a risk that a plastic pizza saver will end up with a dirty pizza box in the organics bin.

Are there alternatives?

The obvious alternative is nothing at all. Some pizzerias have turned to the method of baking a small bread ball into the centre of their pizzas. There are also options to make these from the same material as the pizza box, which would allow them to be placed in the organics bin with food scraps.

What are other jurisdictions doing?

No Australian state or territories have banned plastic pizza savers. In 2019, Malta proposed restrictions on pizza lid supports in catering facilities, but did not ban them.

Our proposal

The current proposal is to ban plastic pizza savers in South Australia during stage 3 (no later than 1 March 2023).



Plastic soy sauce fish

Invented in the 1950s as an alternative to ceramic or glass bottles for providing soy sauce for takeaway sushi, plastic fish have become a symbol of how convenience culture is harming the environment.

They are light and trap air easily, so can float on ocean currents and travel great distances. For many seabirds and marine life, they look like a normal food source, but once ingested can become trapped in the animal's gut.

According to Planet Ark, the problems are three-fold: they are a single-use, two-part containers, meaning significant resources are needed to make them; they are so small that customers are usually given more than one; and, though they are made of a recyclable plastic (polyethylene), their size and design make recycling difficult. [See Appendix 5]

The best chance of successful recycling is if consumers keep the empty fish, clean them out and place the containers and lids inside plastic bottles, such as milk or juice bottles. However, this is time consuming and often not feasible, as the fish are largely used with takeaway meals eaten outside the home.

Are there alternatives?

The best alternative is for customers to ask for the soy sauce to be added directly into the sushi rather than provided as a takeaway item. Foil sachets are an option but they are still single-use and may simply substitute one problem material for another.

Fully compostable alternatives such as certified compostable PLA [a plant based bio-plastic] can be composted in industrial scale compost facilities, but the small product size and limited availability of away-from-home organic collection systems may still lead to this product being discarded as litter.

What are other jurisdictions doing?

No Australian states or territories have banned plastic soy sauce fish and Green Industries SA has found no evidence of specific initiatives overseas.

Our proposal

In view of limited sustainable alternatives, it is not proposed [at this stage] that plastic soy sauce fish be banned. However, these and similar single-use condiment products will be continually reviewed, and industry is encouraged to pursue alternative options and improve education and awareness for consumers on responsible disposal of the product in its current form.



Plastic beverage plugs

Plastic beverage plugs (or splash sticks) are designed to plug the sipper hole in a takeaway beverage lid to protect consumers from leakage or spillage and to stop heat loss, especially in transit. Anecdotal evidence suggests they are used for only a very short time before being discarded.

These items potentially contribute a third material type to a takeaway beverage (cup, lid and plug), creating even more confusion for consumers about how best to dispose of the product once the contents have been consumed.

Are there alternatives?

Not really. The best option in Australia is simply for consumers to decline to use them. In the US, San Francisco recommends that hospitality venues stock alternatives made from natural fibre such as paper, wood or bamboo that can only be available upon customer's request. Some beverage cup lids have a stopper built into them, negating the need for a separate plug, while other businesses are opting to use stickers.

What are other jurisdictions doing?

No Australian states or territories have banned plastic beverage plugs. San Francisco did so in 2019 as part of its new Plastic, Toxics, and Litter Reduction ordinance. [See Appendix 5]

Our proposal

Plastic beverage plugs are likely to be addressed in relation to the actions discussed earlier in this paper in relation to single-use plastic cups and their lids, as any exemptions for these products based on compostability or recyclability must consider their entire composition.

In view of this, the limited alternatives and the safety function they play, it is not proposed at this stage that plastic beverage plugs be specifically banned. This product will be continually reviewed, and industry is encouraged to pursue alternative options and solutions to these products, and to improve education and awareness for consumers on responsible disposal of the product in its current form.

Plastic bread tags

Plastic bread tags come in many shapes, sizes and colours. While they are commonly associated with pre-sliced bread, they are also used with a range of bread products, including wraps, pizza bases and bagels, as well as other types of products, such as rice crackers.

As they are made from polystyrene, they are not recyclable in any form in conventional recovery facilities. There are, however, a number of programs that collect tags or to produce products such as bowls (for charitable purposes). One such South Australian company, Transmutation, is based in Robe.

Are there alternatives?

Tip Top, one of Australia's largest bread producers, has released a recyclable cardboard bread tag which is set to replace plastic tags across all its bread products. The company claims the new tags are as durable as plastic and there will be no extra cost for retailers. [See Appendix 5]

Cardboard tags can be placed in recycling bins, but because they are small it is suggested they be placed inside a larger cardboard carton or envelope to avoid them escaping from recycling machines. Tags made from 100% cardboard can also be easily composted if placed alongside food scraps in the green organics bin.

What are other jurisdictions doing?

No Australian states or territories have banned plastic bread tags and Green Industries SA has found no evidence of specific initiatives overseas.

Our proposal

As viable alternatives at scale are still emerging, it is not proposed, at this stage, that plastic bread tags be banned. However, this product will be continually reviewed, and industry is encouraged to pursue alternative options and solutions, and improve education and awareness for consumers on responsible disposal of the product in its current form.



Other (EPS) consumer food and beverage containers

EPS plates, cups, bowls and clamshell containers will be banned in South Australia from 1 March 2022.

All states and territories have agreed to phase out all EPS consumer containers by 2025, so South Australia must determine how best to address other EPS products, for example certain EPS ice cream containers.

The 2025 National Packaging Targets set a voluntary industry target for 100% of packaging to be reusable, recyclable or compostable by 2025 and for problematic and unnecessary single-use plastic packaging to be phased out through redesign, innovation or alternative delivery methods. [See Appendix 5]

Are there alternatives?

Potential alternatives to EPS ice cream containers, such as bagasse containers (made from sugarcane) that are refrigerator and freezer safe, are available and options such as reusable (return to store) containers could be considered.

What are other jurisdictions doing?

The ACT's *Plastic Reduction Act* captures EPS ice cream containers, although the ACT Government has prepared a temporary exemption for these items (expiring on 1 July 2022) so it can investigate suitable alternatives and/or alternative arrangements for businesses that use these products. In contrast, Queensland captures these containers as part of its single use plastics legislation. Its ban on EPS food containers and cups commenced on 1 September 2021.

In July 2021, the European Union banned cups and food and drink containers made of expanded polystyrene (including lids). In the US, a number of states and jurisdictions, including Seattle, Washington DC, Portland and San Francisco, have already banned the use of disposable, single-use EPS packaging or containers for food or beverages.

Our proposal

In consideration of the voluntary industry target of 2025, it is proposed that other EPS consumer containers be banned in South Australia during stage 5 (no later than 1 March 2025).

This timeframe does not preclude retailers and suppliers of EPS consumer food and beverage containers to transition within a shorter duration to more sustainable product design and/or alternative product delivery models (e.g. reusable, return to store / take back).





EPS trays used for meat, fruit and other food items for retail sale

This product class includes single-use EPS food packaging and fresh produce packaging for products sold to consumers, but not business-to-business fresh produce boxes used to distribute bulk fresh produce or transport packaging for home delivery service [business-to-home direct deliveries].

A significant problem is that these products are not currently collected through kerbside recycling systems in South Australia or nationally, are not recyclable, and have no end-of-life market. This is exacerbated by a lack of clarity for consumers about how to responsibly dispose of the products. As a result, some ends up in recycling bins as a contaminant.

Are there alternatives?

The Australian Packaging Covenant Organisation [APCO] advises its members that there are many easily accessible alternatives for EPS packaging applications and that those selected should be made from materials that are currently recyclable through kerbside or other established systems. By way of

example, it mentions Coles, which has replaced black foam meat trays with clear recyclable trays made from a combination of recycled and virgin polyethylene terephthalate [PET].

As noted above, the 2025 National Packaging Targets include a voluntary industry target for 100% of packaging to be reusable, recyclable or compostable by 2025 and for problematic and unnecessary single-use plastic packaging to be phased out through redesign, innovation or alternative delivery methods.

What are other jurisdictions doing?

WA aims to phase out polystyrene packaging by the end of 2022, although it is not clear at this time if any exemptions will be provided.

In the US, San Francisco banned EPS food service and packing materials in 2017 in accordance with its *Food Service and Packaging Waste Reduction Ordinance*. Any packaging material or disposable foodware sold or distributed must be accepted as compostable or recyclable in the city's collection program.

Our proposal

In consideration of the voluntary industry target of 2025, it is proposed that EPS trays used for meat, fruit and other food items for retail sale be banned in South Australia during stage 5 [no later than 1 March 2025].

Pre-packaged and attached products

An exemption to the prohibition on single-use plastic straws and cutlery, as well as EPS cups and bowls, is currently in place for pre-packaged and attached products. These are defined as:

- (a) single-use plastic drinking straws or single-use plastic cutlery that form an integral part of a **relevant food or beverage product** (whether attached to or contained in the product) to enable or assist with consumption of the food or beverage.
- (b) EPS cups or EPS bowls that form part of the packaging of a **relevant food or beverage product**.

A “relevant food or beverage product” is defined as: a food or beverage product that is pre-packaged as a single-serve and is ready for immediate consumption or consumption after cooling or heating the food or beverage.

Plastic straws, cutlery and EPS food containers are among the products identified by all Australian Environment Ministers for industry to phase out nationally by 2025, which aligns with the 2025 National Packaging Targets.

Our proposal

Industry is put on notice that the exemption for pre-packaged and attached products in South Australia will be removed no later than 1 March 2025, and preferably sooner when suitable alternatives are implemented at scale by industry.



Appendices

Appendix 1: South Australia's journey

Single-use Plastics Taskforce

A taskforce of business, industry, local government, disability and interest group stakeholders was established to ensure impacts associated with government intervention on single-use plastics are properly considered and to inform the development of legislation.

The Taskforce met for the first time on 12 September 2019. Ten further meetings have since been held.

The Taskforce comprises the following organisations:

- Australian Food and Grocery Council
- Australian Hotels Association [SA]
- Australian Packaging Covenant Organisation
- Australian Retailers Association
- Conservation Council SA
- Disability Elders of All Ages
- Environment Protection Authority
- Green Industries SA
- JFA Purple Orange
- KESAB *environmental solutions*
- Local Government Association of South Australia
- National Retail Association
- Restaurant and Catering Industry Association
- SA Independent Retailers
- Waste Management Resource Recovery Association
- Woolworths Group

Plastic free SA

A plastic-free precincts program (now Plastic Free SA) was established to inform the wider phase-out of single-use items; identifying opportunities, challenges and barriers associated with transitioning away from single-use plastic products to reusable, recyclable or compostable alternatives, as well as inform support requirements for participating businesses.

Following a tender process, the Boomerang Alliance was engaged on 11 July 2019, to deliver the program, which rolled out in two phases and commenced on-ground operations in September 2019. The following precincts are participating in the program.

First phase:

- Adelaide Central Markets and Arcade
- Jetty Road, Brighton
- The Parade, Norwood
- SA Surf Life Saving Clubs

Second phase:

- Adelaide Zoo
- Adelaide Airport
- Flinders Medical Centre café and gift shop
- Normanville (regional location)
- SA Aquatic and Leisure Centre, Marion
- SA Museum
- Sturt Football Club
- Uraidla (Adelaide Hills)

Other:

- Adelaide Oval Stadium Management Authority
- Rundle Mall Management Authority
- Glenthorne National Park – sporting facilities
- Port Lincoln – plastic free beaches

Through this program, more than two million single-use plastic items were eliminated up to August 2021.

Table 1: Plastic items eliminated.

Item	No. eliminated
Water bottles	28,791
Straws	152,896
Coffee cups	908,685
Coffee cup lids	168,146
T/A containers/lids	332,328
Cups	277,495
Cutlery	118,435
Bags	12,113
Plates & bowls	70,618
TOTAL	2,069,507

The program will continue, and in late 2021 was opened up to any engaged business that is seeking to transition away from single-use plastics.

Communications and awareness

A broad education and awareness campaign was developed to support South Australia's approach to the single-use plastic ban from 1 March 2021. Campaign elements included the Replace the Waste education campaign (www.replacethewaste.sa.gov.au); brochures in multiple languages; a Facebook page for direct community engagement, facebook.com/ReplaceTheWaste, free point-of-sale information for retailers, hospitality and businesses; training videos; electronic direct mail advisories; monitored dedicated email (sup@sa.gov.au) and operation of a free call business help line.

As part of the Government's commitment to increasing public awareness on the issue of single-use plastics it supported the Adelaide Festival of the Arts to bring internationally renowned New York Artist Robin Frohart's interactive exhibition called

The Plastic Bag Store to South Australia to highlight the harm single-use plastic has on our environment. A school art exhibition inspired by the installation in partnership with the Adelaide Festival, Adelaide City Library and Rundle Mall Management Authority [RMMA] also was organised.

Ongoing communications activities continue with business and industry to ensure that single-use plastic straws remain accessible for medical and disabilities needs consistent with the intent of the exemption provisions.

Stakeholder awareness

In November 2020, the National Retail Association [NRA] was contracted to deliver an intensive engagement program across South Australia to educate retailers, especially small or culturally diverse businesses, about the single-use plastics ban due to come into effect on 1 March 2021. This included establishing and managing a free call hotline, alongside engagement with retailers in both metropolitan and regional areas. The NRA visited 105 sites, 86 metropolitan and 20 regional, and during those visits spoke with 1032 retailers. It also fielded 49 telephone enquiries.

A new Act to drive change

Following a consultation process on a draft Bill, the *Single-use and Other Plastic Products (Waste Avoidance) Act 2020* (SUP Act) was passed by the South Australian Parliament on 9 September 2020. The legislation commenced on 1 March 2021, restricting and prohibiting the sale, supply or distribution of single-use plastic drinking straws, cutlery and beverage stirrers.

Regulations to support implementation and facilitate exemptions under the legislation were implemented from 1 March 2021, including an exemption to maintain access to single-use plastic drinking straws for people who rely on them due to disability or medical requirements. In addition, regulations currently exempt attached items (e.g. straws attached to fruit boxes) from the definition of a prohibited plastic product under the Act. It is expected that the exemption for attached products will be reviewed and may be repealed when non-plastic alternatives become more readily available [refer earlier discussion]. A temporary exemption was also implemented for single-use plastic spoons used for clinical purposes, based on feedback from the healthcare sector that it requires additional time to transition to suitable alternatives. The temporary exemption expires on 1 March 2022.

On 1 March 2022, the prohibition will be extended to include EPS cups, bowls, plates and clamshell containers and oxo-degradable plastic products.

As a legislative instrument, the SUP Act was specifically drafted to serve an on-going purpose and provide a means to phase out single-use and other plastic products. Those products specifically listed under section 6 of the Act will be phased out, and the Act also provides a means to consider products listed under section 14(2), or other products not yet listed, subject to meeting certain requirements set out in section 6(2), including public consultation.

Section 14 of the SUP Act requires the Minister to prepare an Annual Report on the operation of the Act with the initial report under this section to include information on the consideration of adding specified products to the list of prohibited plastic products. This discussion paper is intended to help inform that report, due in Sept 2022.

Appendix 2: Australian developments

A new Commonwealth Act

In December 2020, the Australian Government's *Recycling and Waste Reduction Act 2020* became law. The new legislation implements the 2020 commitment of the Australian government – through the former Council of Australian Governments [COAG] – to ban the export of waste glass, plastics, tyres and paper.

The commitment to ban the export of certain waste materials featured as a target in the Australian Government's *National Waste Policy Action Plan 2019*, which includes actions designed to drive change in industry, businesses, governments and the community to turn waste into a reusable commodity.

The regulation of waste plastic commenced on 1 July 2021 and was implemented through the Recycling and Waste Reduction [Export – Waste Plastic] Rules 2021 which were made by the Commonwealth Minister for the Environment on 21 May 2021. These new rules banned the export of mixed plastic waste and regulated the export of sorted single polymer or resin plastic waste and processed engineered fuels. From 1 July 2022, sorted single polymer or resin plastic waste will also need to be processed [i.e. into flakes or pellets].

The National Plastics Plan

In 2021 the Australian Government released its National Plastic Plan [NPP] and committed to tackling the plastic challenge on five fronts:

- working with industry to fast-track the phase-out of particularly problematic plastic materials
- stopping the export of unprocessed plastic waste and promoting product stewardship through the *Recycling and Waste Reduction Act 2020*
- unprecedented investments to turbo-charge Australia's plastic recycling capacity
- research to make Australia a global leader in plastic recycling and reprocessing
- community education to help consumers make informed decisions and recycle correctly

Under the NPP, the Australian Government has committed to work with industry to phase out polymer types in certain applications and consider regulatory action, should industry phase out not be achieved:

- Phase out plastic packaging products with additive fragmentable technology that do not meet relevant compostable standards [AS4736-2006, AS5810-2010 and EN13432] [July 2022]
- Phase out EPS from loose packaging fill and moulded packaging in consumer packaging [July 2022], and EPS consumer food and beverage containers [December 2022]
- Phase out PVC packaging labels [December 2022]

At a meeting of federal, state and territory environment ministers on 15 April 2021, eight “problematic and unnecessary” plastic product types were identified for industry to phase out nationally by 2025 (or sooner in some cases) under the National Waste Policy Action Plan, although this is understood to be a voluntary target. These are lightweight plastic bags; plastic products misleadingly termed as ‘degradable’; plastic straws; plastic utensils and stirrers; EPS consumer food containers (e.g. cups and clamshells); EPS consumer goods packaging (loose fill and moulded); and microbeads in personal health care products.

Australian Packaging Covenant Organisation (APCO)

The industry-led Australian Packaging Covenant Organisation (APCO) is tasked with achieving the following national packaging targets by 2025:

- 100% of packaging to be reusable, recyclable or compostable
- 70% of plastic packaging recycled or composted
- 30% average recycled content across all packaging
- Phase out problematic and unnecessary single-use plastic packaging through redesign, innovation or alternative delivery methods

In 2020, APCO worked closely with the Ellen MacArthur Foundation and WRAP UK to develop ANZPAC. The ANZPAC Plastics Pact (ANZPAC) is a collaborative solution that brings together key players behind a shared vision of a circular economy for plastic, in which it never becomes waste or pollution.

Engaging with Australia, New Zealand and the Pacific Islands, ANZPAC is the first Plastics Pact in the Oceania region and the second regional Plastics Pact to become part of the Ellen MacArthur Foundation’s global Plastics Pact network. With Pacts in Africa, Europe, North America and South America, this network is a globally aligned response to plastic waste and pollution.

Research institutions and others

CSIRO is developing The Ending Plastic Waste Mission, which aims to drive Australia’s circular economy and create systemic change through data science, materials and manufacturing, recycling processes and whole of life, circular solutions to reduce plastic pollution entering the environment.

Griffith University is seeking to establish a Plastic Waste Cooperative Research Centre (<https://www.plasticwastecrc.com/>) under the Commonwealth’s CRC program. It would identify new technologies, products, services and industries that can emerge from taking on a circular economy approach.

Business and industry

For business and industry, phasing out single-use and other plastic products and transitioning to alternatives may result in short-term operational costs as they adjust to product bans. To be effective, the legislation relies on industry-wide collaboration, cooperation and consensus.

A survey conducted following the implementation of the first phase of the SUP legislation aimed at reducing single-use plastic products in South Australia found that 77% of respondents support the legislation, with only 6% against it.

Although there is still some way to go, there are numerous examples of businesses signalling their intention to shift toward more sustainable packaging options and it will be important that those signals translate into direct and observable action at the point of purchase for consumers. In some instances this will require re-designing existing packaging and in others completely new packaging design solutions will be needed.

PRODUCTS	BAN										RESTRICTION			
	EU-wide	Countrywide (further to EU, if member)				Countrywide			Statewide	Citywide	Statewide			
	27 member states ³	France ³	Italy ³	England ¹	Scotland ¹	Canada ²	New Zealand ³	Washington ¹	San Francisco ³	Honolulu ²				
2021 SA Ban	Straws (exemptions apply)	2021	2021	2021	2020			2022*	2021*	2022*		2019	2021*	
	Beverage stirrers	2021	2021	2021	2020			2022*	2021*	2022*		2019	2021*	
	Cutlery	2021	2021	2021				2022*	2021*	2022*		2019	2021*	
2022 SA Phase-out	Expanded polystyrene cups	2021	2021	2021				2022*		2022*		2024*	2017	2021*
	Expanded polystyrene bowls	2021	2021	2021				2022*				2024*	2017	2021*
	Expanded polystyrene plates	2021	2021	2021				2022*				2024*	2017	2021*
	Expanded polystyrene clamshell containers	2021	2021	2021				2022*		2022*		2024*	2017	
	Oxo-degradable plastic	2021	2021	2021				2022*		2022*				
	Oxo-degradable plastic carrier bags	2021	2021	2021				2022*		2022*				
Section 14.2 Products	Single-use plastic cups (inc coffee cups)		2021											
	Single-use plastic food containers		2025*											2021*
	Single-use plastic bowls									2023*				
	Single-use plastic plates	2021	2020	2021				2022*	2021*	2023*				
	Plastic lids for coffee cups													
	Plastic balloon sticks	2021	2021	2021				2022*						
	Plastic balloon ties													
	Plastic-stemmed cotton buds	2021	2020	2021	2020			2019			2022*			
	Thick plastic shopping bags													
	Barrier bags		2017	2018							2023*			
	Fruit stickers										2023*			
	Toothpicks												2019	
	Beverage plugs												2019	
	Beverage six-pack rings									2021*				
	Plastic cocktail sticks												2019	
	Expanded polystyrene consumer food and beverage containers (other)	2021	2021	2021							2022*			
	PVC meat tray										2022*			
	PVC fruit and veg packaging										2025*			
	Plastic confetti		2021											
	Packaging around fresh fruit and vegetables [when packaged produce weighs < 1.5 kg]		2021											
	Plastic-lined paper plates		2021											
	Steak picks		2021											
	Plastic tea bags		2022*											
	Plastic toys (as part of children's menu)		2022*											
	Food packaging from hard to recycle plastic									2021*				
	EPS packing peanuts												2017	
	EPS meat trays												2019	
EPS packaging void fill											2023*			

Note: **Dates in bold** are already banned
 *indicates items that are proposed for phase-out and have not yet been included in any legislation

The EU countries are: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden. These 27 member union states have a combined population (in 2020) of 447.2 million

- 1 Bioplastics (including polylactic acid [PLA]) still permitted
- 2 Yet to be announced if bioplastics are permitted
- 3 Bioplastics (including polylactic acid [PLA]) not permitted

PRODUCTS	BAN								PARTIAL BAN		
	Statewide				Statewide				Territory-wide		
	SA	NSW ⁴	QLD ³	TAS	VIC ⁴	WA ²	ACT ¹	NT	Events on council land City of Darwin ¹	Council-wide City of Hobart ³	
2021 SA Ban	Straws (exemptions apply)	2021	2022*	2021		2023*	2022*	2022*		2019	2021
	Beverage stirrers	2021	2022*	2021		2023*	2022*	2021		2019	
	Cutlery	2021	2022*	2021		2023*	2022*	2021		2019	2021
2022 SA Phase-out	Expanded polystyrene cups	2022	2022*	2021		2023*	2021*	2021			
	Expanded polystyrene bowls	2022	2022*	2021		2023*		2021			
	Expanded polystyrene plates	2022	2022*	2021		2023*		2021			
	Expanded polystyrene clamshell containers	2022	2022*	2021		2023*		2021			
	Oxo-degradable plastic	2022	2024*				2022*	2022*			
Section 14.2 Products	Single-use plastic cups		2024*				2021*			2019	2021
	Single-use plastic food containers										
	Single-use plastic bowls		2024*	2021			2021*			2019	2021
	Single-use plastic plates		2024*	2021		2023*	2021*			2019	2021
	Plastic lids for coffee cups						2022*			2019	2021
	Plastic balloon sticks										2021
	Plastic balloon ties										
	Plastic-stem cotton buds		2022*			2023*	2022*	2021*			
	Thick plastic bags		2024*				2021*				
	Fruit stickers		2024*								
	Single-use coffee cups						2022*			2019	2021
	Barrier bags		2024*				2022*	2021*			
	Takeaway Food Service Items	Expanded polystyrene consumer food and beverage containers (other)		2022*	2021			2021*	2021		
Plastic lids for cups (ex. Coffee)			2024*							2019	
Plastic lids for bowls			2024*								
Plastic-lined noodle boxes											2021
Plastic-lined paper plates							2021*				
Sandwich wedges (packaged in-store)											2021
Sauce sachets											2021
Plastic takeaway containers										2019	2021
Polystyrene packaging						2022*					
Helium balloon releases					2021	2022*			2019		

Note: **Dates in bold** are already banned

*indicates items that are proposed for phase-out and have not yet been included in any legislation

- 1 Legislation currently prohibits compostable plastic (including polylactic acid [PLA]), however, exemptions may apply for some of the products.
- 2 Compostable plastic permitted, but must adhere to Australian composting standard AS 4736 (industrial composting).
- 3 Compostable plastic permitted but must adhere to Australian composting standards AS 4736 and AS 5810 (home composting).
- 4 Yet to be announced whether compostable plastic items will be permitted or not.

Appendix 5: References in text

BACKGROUND AND CONTEXT

Page 8 – The plastic problem

- I. United Nations Sustainable Development Goals [2021]. The 17 Goals. <https://sdgs.un.org/goals>.

Page 10 – National and international responses

- II. Intergovernmental Panel on Climate Change [2021]. Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. <https://www.ipcc.ch/assessment-report/ar6>.
- III. Centre for Environmental International Law [2021]. Fossils Fuels and Plastic. <https://www.ciel.org/issue/fossil-fuels-plastic/>. Accessed 04 August 2021.

Page 11 – South Australia's second stage

- IV. Australian Packaging Covenant Organisation. [2020]. Action Plan for Problematic and Unnecessary Single-Use Plastic Packaging. Page 30. <https://documents.packagingcovenant.org.au/public-documents/Action%20Plan%20for%20Problematic%20and%20Unnecessary%20Single-Use%20Plastic%20Packaging>. Accessed 16 August 2021.
- V. Australian Packaging Covenant Organisation. [2020]. Action Plan for Problematic and Unnecessary Single-Use Plastic Packaging. Page 26. <https://documents.packagingcovenant.org.au/public-documents/Action%20Plan%20for%20Problematic%20and%20Unnecessary%20Single-Use%20Plastic%20Packaging>. Accessed 16 August 2021.

FAST FACTS

Page 14



Image 1:

World Economic Forum, Ellen MacArthur Foundation and McKinsey & Company [2016] The New Plastics Economy – rethinking the future of plastics. Page 17. <https://ellenmacarthurfoundation.org/the-new-plastics-economy-rethinking-the-future-of-plastics>. Accessed 20 August 2021.



Image 2:

World Economic Forum, Ellen MacArthur Foundation and McKinsey & Company [2016] The New Plastics Economy – rethinking the future of plastics. <https://ellenmacarthurfoundation.org/the-new-plastics-economy-rethinking-the-future-of-plastics>. Accessed 20 August 2021.



Image 3:

Centre for Environmental International Law [2021]. Fossils Fuels and Plastic. <https://www.ciel.org/issue/fossil-fuels-plastic/>. Accessed 04 August 2021.



Image 4:

World Economic Forum, Ellen MacArthur Foundation and McKinsey & Company [2016]. The New Plastics Economy – rethinking the future of plastics. Page 17. <https://ellenmacarthurfoundation.org/the-new-plastics-economy-rethinking-the-future-of-plastics>. Accessed 18 August 2021.



Image 5:

United Nations Environment Programme [2018] Banning single-use plastic - lessons and experiences from countries. <https://www.unep.org/interactive/beat-plastic-pollution/>. Accessed 20 August 2021.



Image 6:

United Nations Environment Programme [2018] Banning single-use plastic - lessons and experiences from countries <https://www.unep.org/interactive/beat-plastic-pollution/>. Accessed 20 August 2021.



Image 7:

- i. Whyte, S. [2016]. Takeaway coffee cups piling up in landfill as Australia’s caffeine habit soars. <https://www.abc.net.au/news/2016-02-03/takeaway-coffee-cups-piling-up-in-landfill/7136926>. Accessed 20 August 2021.
- ii. Earth Day [2018]. Fact Sheet: how much disposable plastic we use. <https://www.earthday.org/fact-sheet-how-much-disposable-plastic-we-use/>. Accessed 04 August 2021.



Image 8:

The Pew Charitable Trusts [2020]. Breaking the plastic wave: top findings for preventing plastic pollution. <https://www.pewtrusts.org/en/research-and-analysis/articles/2020/07/23/breaking-the-plastic-wave-top-findings>. Accessed 04 August 2021.



Image 9:

- i. Gibbens, S. [2019]. Plastic Bag Found at the Bottom of World’s Deepest Ocean Trench. *National Geographic* <https://www.nationalgeographic.org/article/plastic-bag-found-bottom-worlds-deepest-ocean-trench/> Accessed 10 August 2021.
- ii. Napper, I. E., Davies, B. F. R., Clifford, H., Elmore, A. C., Gajurel, A. P., Thompson, R. C. [2020]. Reaching new heights in plastic pollution—preliminary findings of microplastics on Mount Everest. *One Earth*, 3: 621-630. <https://www.sciencedirect.com/science/article/pii/S2590332220305509>. Accessed 10 August 2021.



Image 10:

Pennington, J. [2016] Every minute, one garbage truck of plastic is dumped into our oceans. This has to stop. <https://www.weforum.org/agenda/2016/10/every-minute-one-garbage-truck-of-plastic-is-dumped-into-our-oceans/> Accessed 20 August 2021.



Image 11:

UN Environment Programme [2018] Banning single-use plastic: lessons and experiences from countries <https://www.unep.org/interactive/beat-plastic-pollution/> Accessed 20 August 2021.



Image 12:

The Pew Charitable Trusts [2021], Breaking the plastic wave - a comprehensive assessment of pathways towards stopping ocean plastic pollution. Page 17. https://www.pewtrusts.org/-/media/assets/2020/10/breakingtheplasticwave_mainreport.pdf. Accessed 04 August 2021.



Image 13:

Zettler, E. R., Mincer, T. J., Amaral-Zettler, L. A. [2013]. Life in the “Plastisphere”: Microbial Communities on Plastic Marine Debris, *Environmental Science and Technology*, 47(13): 7137-7146. https://pubs.acs.org/doi/abs/10.1021/es401288x?casa_token=H4gactWgtuAAAAA:2ohNbelT0QvC2NkSBHRIVXkmKJrir6DytlIEZV9x932IE7hNpiMdvfmTf94eeQu2Af_5KTeK-9nCq. Accessed 20 August 2021.



Image 14:

World Economic Forum, Ellen MacArthur Foundation and McKinsey & Company [2016]. The New Plastics Economy – rethinking the future of plastics. Page 17. <https://ellenmacarthurfoundation.org/the-new-plastics-economy-rethinking-the-future-of-plastics>. Accessed 18 August 2021.



Image 15:

- i. WWF [2019] Plastic ingestion by humans could equate to eating a credit card a week. https://www.panda.org/discover/our_focus/markets/?348375/Plastic-ingestion-by-humans-could-equate-to-eating-a-credit-card-a-week, Accessed 20 August 2021.
- ii. WWF [2019] Plastic ingestion by humans could equate to eating a credit card a week. https://www.panda.org/discover/our_focus/markets/?348375/Plastic-ingestion-by-humans-could-equate-to-eating-a-credit-card-a-week, Accessed 20 August 2021.



Image 16:

Sherrington, C. [2016]. Plastics in the Marine Environment. <https://www.eunomia.co.uk/reports-tools/plastics-in-the-marine-environment/>. Accessed 20 August 2021.

PRODUCTS FOR CONSIDERATION

Page 17 – Plastic bags

- VI. **Text:** Estimates suggest around 900 million thicker-style plastic bags are supplied in Australia each year, in which case South Australia's consumption could be as high as 63 million each year. Australian Packaging Covenant Organisation [2018]. Heavy-weight plastic bags - retail sector consultation final report. Page 5. Accessed 20 August 2021.
- VII. CuCow, S. [2020]. Which everyday plastic products are the most harmful to ocean wildlife? <https://www.marineconservation.org.au/10-of-the-most-dangerous-plastic-products-polluting-our-oceans/>. Accessed 10 August 2021.
- VIII. Australian Packaging Covenant Organisation [2019]. Soft Plastic Packaging Working Group 2018. Page 15. <https://documents.packagingcovenant.org.au/public-documents/Soft%20Plastic%202018%20Working%20Group%20Key%20Findings>. Accessed 20 August 2021.

Page 18 – Plastic bags

- IX. United Nations Environment Programme [2020]. Single-use plastic bags and their alternatives - recommendations from life cycle assessments. Page 57 <https://wedocs.unep.org/xmlui/bitstream/handle/20.500.11822/31932/SUPB.pdf?sequence=1&isAllowed=y>. Accessed 04 August 2021.

Page 20 – Single-use plastic cups

- X. Whyte, S. [2016]. Takeaway coffee cups piling up in landfill as Australia's caffeine habit soars. <https://www.abc.net.au/news/2016-02-03/takeaway-coffee-cups-piling-up-in-landfill/7136926>. Accessed 20 August 2021.

Page 22 – Plastic lids on single-use cups (including coffee cup lids)

- XI. Helmer, J. [2019]. The massive impact of your takeout coffee cup. *Food Print* <https://foodprint.org/blog/environmental-impact-coffee-cup/>. Accessed 20 August 2021.

Page 23 – Single-use plastic food containers, bowls and plates

- XII. Triantafillopoulos, N. and Koukoulas, A.A. [2020]. The future of single-use paper coffee cups: Current progress and outlook. *BioResources*, 15(3): 7260-7287. https://ojs.cnr.ncsu.edu/index.php/BioRes/article/view/BioRes_15_3_Review_Triantafillopoulos_Single_Use_Paper_Cups. Accessed 20 August 2021.

Page 24 – Plastic balloon sticks and ties

- XIII. UK Department for Environment, Food & Rural Affairs [2018]. A preliminary assessment of the economic impacts of a potential ban on plastic cutlery, plastic plates and plastic balloon sticks. <http://sciencesearch.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=20144>. Accessed 04 August 2021.
- XIV. Trapani, C.; O'Hara, K. & Register, K. [2018]. Balloon Litter on Virginia's Remote Beaches: Results of Monitoring from 2013 through 2017. *Clean Virginia Waterways*, Longwood University. www.longwood.edu/cleanva/images/BalloonLitteronVAsRemoteBeaches8-2018Reportforweb.pdf. Accessed 04 August.

Page 25 – Plastic-stemmed cotton buds

- XV. Better Buds [2020]. The Problem. <https://www.betterbuds.org.au/the-problem> Accessed 08 August 2021.
- XVI. WWF [2021] 10 worst single-use plastics and eco-friendly alternatives. <https://www.wwf.org.au/news/blogs/10-worst-single-use-plastics-and-eco-friendly-alternatives#gs.i3rz83> Accessed 04 August 2021.

OTHER PRODUCTS FOR CONSIDERATION

Page 29 – Soy Sauce Fish

- XVII. Catterall, E. [2019] Everyday enviro with Elise - the fishy business of soy sauce. *Planet Ark*. <https://planetark.org/newsroom/archive/5019>. Accessed 08 August 2021.

Page 30 – Plastic beverage plugs

- XVIII. San Francisco Department of the Environment [2020]. New ordinance tackles plastic waste and litter, makes dining in San Francisco more eco-friendly. <https://sfenvironment.org/news/update/the-plastic-and-litter-reduction-ordinance-will-eliminate-sources-of-litter-while-making-the-san-francisco-dining-experience-more>. Accessed 05 August 2021.

Page 31 – Bread Tags

- XIX. Skantzos, K. [2020]. Tip Top changes sliced white bread with recyclable cardboard bread tags. <https://www.news.com.au/finance/business/retail/tip-top-rolls-out-recyclable-cardboard-bread-tags/news-story/333aed4fa397737745b6e0c81dd68581>. Accessed 06 August 2021.

Page 32 – Other EPS consumer food and beverage containers

- XX. Department of Agriculture, Water and the Environment [2021]. 2025 National Packaging Targets <https://www.awe.gov.au/environment/protection/waste/plastics-and-packaging/packaging-covenant>. Accessed 20 August 2021.





Item No: 15.4
Subject: **EVENTS UPDATE**
Date: 25 January 2022
Written By: Manager, City Activation
General Manager: Community and Business, Ms M Lock

SUMMARY

The purpose of this report is to provide a brief summary on the 2021-2022 events season, the impact of COVID-19 on the program and the realignment of existing budget to continue to deliver events into summer and autumn.

RECOMMENDATION

That Council:

- 1. note the report; and**
 - 2. endorse the reinvestment of \$165,000 of the remaining 2021/2022 events budget into new event and activation opportunities, as outlined in the report.**
-

STRATEGIC PLAN

This proposal achieves the intent of the Wellbeing focus area, by creating vibrancy and encouraging people to connect with each other.

COUNCIL POLICY

Not Applicable.

STATUTORY PROVISIONS

Not Applicable.

BACKGROUND

COVID-19 restrictions continue to have an impact on the events calendar for the City of Holdfast Bay and associated budgets within City Activation. With many of these changes resulting in net savings for some events due to being cancelled or scaled back, or increased for other events, which

require additional COVID compliance measures due to SA Health advice in order to deliver events in a COVID safe way. Quarterly reviews provide an opportunity to assess the existing program, including budgets, and adjust accordingly; through this process the event budgets have been extensively reviewed and reforecast to the end of Q2 2021/2022. The Events team have developed, and continue to develop event proposals with the focus on community events which can be managed within rapidly changing restrictions.

REPORT

As like the 2020-2021 event season, savings from event cancellations have been reinvested into smaller COVID-safe community events such as the Rendezvous Markets (five events scheduled across the year), Community Outdoor cinema (two events), and the Brighton Oval Gala day. Currently, the net result of changes to the events program, when taking into account revenue forecasts from existing hire and license agreements, is an overall saving of \$225,000 across all events budgets. The majority of this saving is from the New Year's Eve budget, which included a carry forward of \$100,000 from 2020/2021.

It is recommended that \$165,000 of these funds be reinvested into significant activations scheduled for late summer and early autumn subject to SA Health approval in line with Covid directions at the time, with an objective to return a focus on tourism development and economic recovery.

The following events proposed (subject to SA Health Approval) are:

Glenelg Equinox Festival, cost \$100,000

(plus \$40,000 contribution from Jetty Road Mainstreet Committee – total event cost \$140,000)

Dates: 18-20 March 2022

Expected attendance: 80,000

The weekend of the three beach concerts (Castaway, By the C and Summersalt) creates an opportunity to position Glenelg as SA's must-visit hub of dining, music, fashion and entertainment for an entire weekend. A relaxed, beachside destination can be presented as an attractive alternative to the CBD-oriented Adelaide Festival and Fringe, which by this time will be coming to a close. The expansion of retail and hospitality footprints onto Jetty Road also provides an economic recovery opportunity for businesses who were required to operate under strict capacity restrictions during the peak Christmas period.

The Glenelg Equinox festival adapts and extends the popular street party format, with Jetty Road west of Partridge Street and selected side streets being closed from early afternoon Friday 18 March until late evening of Saturday 20 March (total road closure duration around 60 hours). This will enable operators to pop up on Jetty Road for an extended period, increasing the capacity for return on their investment.

The schedule of activations would be broadly as follows:

- Friday 18 March, 4pm – 10pm: relaxed evening vibes with open air bars and dining complemented by roving entertainment.

- Saturday 19 March, 12pm – 11pm: an activation developed in partnership with the organisers of the Adelaide Beer and BBQ festival, centred on Chapel Plaza and including craft brewery stalls, BBQ and live music.
- Saturday 20 March, 12pm – 10pm: family focused entertainment and activities including fashion parades and retail pop ups similar in design and format to the Glenelg Ice Cream festival held successfully in October 2021.

The Events team will work closely with the Jetty Road Development team and local businesses to develop pop ups and activations that will stimulate economic activity in the precinct and promote vibrancy.

The details of the event will be refined in response to prevailing COVID conditions, with consultation and subject to SA Health approval.

Pro Hustle 3x3 Basketball, cost \$ 15,000

(plus \$15,000 contribution from Jetty Road Mainstreet Committee and \$15,000 support being sought from South Australian Tourism Commission (SATC) – total event cost \$45,000)

Date: April 2022 date TBA

Expected attendance: 10,000

3x3 Basketball is a three a side basketball format played with a single backboard in a half-court set up. Long played in streets and gyms across the world, 3x3 basketball debuted as an Olympic sport at the 2020 Tokyo games and claims to be the largest urban team sport in the world. In Australia, NBL 3x3 hustle is delivered via a partnership between Basketball Australia and the National Basketball League (NBL). A series of elite tournaments called Pro Hustles are hosted in iconic locations around the country each year.

Tournaments are fast-paced, with Men's and Women's teams playing 10 minute games in 15 minute timeslots incorporating DJs and additional entertainment. Pro Hustle Basketball is growing in popularity and is an opportunity to fill a gap in sporting-focused events left by the City-Bay and the Tour Down Under not proceeding in 2021/2022.

The \$45,000 event cost will cover a professional status single day tournament as well as live streaming, entertainment, prize money and marketing. Should the funding request from SATC be unsuccessful, a smaller-scaled event could still be held for \$30,000.

This event will be planned with consultation and approval from SA Health to ensure the COVID requirements at the time are met.

Glenelg Seafood Festival, cost \$50,000

(plus \$50,000 contribution from Jetty Road Mainstreet Committee – total event cost \$100,000)

Date: May 2022 date TBA

Expected attendance: 30,000

A curated specialty food and beverage festival that brings together fresh, high quality produce with artisanal makers and creative chefs. The one-day event will combine the signature elements of a Jetty Road, Glenelg street party with activations on the foreshore, incorporating marquees and fire pits to make this an all-weather event suitable for the autumnal season.

This event will be planned with consultation and approval from SA Health to ensure the COVID requirements at the time are met.

BUDGET

Reinvestment of \$165,000 of the existing events budget into new community event and activation opportunities as outlined above, leaving \$60,000 to be returned to general revenue.

LIFE CYCLE COSTS

Not applicable

Item No: 15.5

Subject: **SEACLIFF PLAZA PROJECT UPDATE**

Date: 25 January 2022

Written By: Project Manager, Public Realm and Urban Design

General Manager: Strategy and Corporate, Ms P Jackson

SUMMARY

The Seacliff Plaza Project has been funded in the 2021/22 Budget to deliver a design for the Seacliff Foreshore and deliver stage 1 construction, which includes a new amenities building.

The project was initiated to address the issues of services and amenities non-compliance with Australian standards, rectify non-compliant disability access, amenities and provisions and replace the amenities building facilities that reached the end of their useful life in 2019.

Following Council Workshops in November 2021 on the draft concepts plans and in January 2022 regarding the Stage 1 Consultation proposal, this report presents the draft community consultation package for approval and to commence public consultation on Seacliff Plaza Stage 1 on 1 February 2022 for 21 days.

RECOMMENDATION

That Council:

- 1. approves the Stage 1 Seacliff Plaza Community Consultation Pack Images attached in this report; and**
 - 2. approve administration to undertake consultation activities identified in this report.**
-

STRATEGIC PLAN

This proposal supports the vision and focus areas of the Strategic Plan by creating accessible places, green buildings and healthy spaces that encourage active transport options and movement. It also contributes the Wellbeing 2030s aspiration by ensuring “our beaches and Council-controlled public areas are accessible and inclusive”, the Innovation 2030s aspiration by enabling “the Kaurna people’s cultural and spiritual relationship to the area is honoured in meaningful, collaboratively agreed ways”, and the Sustainability Objectives: “become a carbon-

neutral council by 2030”, and “prioritise sustainable and active transport (such as walking and cycling) across the city, including by reclaiming streets for play and nature and improving walkability to support healthy ageing.”

COUNCIL POLICY

Not Applicable.

STATUTORY PROVISION

Not Applicable.

BACKGROUND

Councils’ Asset Management Plans identified that the toilet facilities at Seacliff Beach had reached the end of their useful life. Further assessment on the Seacliff Toilets and the surrounding infrastructure determined:

- The toilet facilities had reached the end of their useful life in 2019;
- The building structure itself had more than 25 years of useful life remaining. However, the building was non-compliant from accessibility perspective and disconnected from the existing north south footpath carriageway and presented safety issues;
- The surrounding foot paths had adequate life, but were non-compliant with Australian Standards and created pedestrian and cyclist conflicts;
- The concrete seawall had developed concrete cancer and were obstructed by the boardwalk, which prevented appropriate maintenance;
- The boardwalk also created conflicts with the Seacliff Surf lifesaving club by channelling pedestrians and cyclist across their activity deck and access area;
- The boardwalk also prevented direct beach access from the car park and foot paths;
- The ramp to access the beach for people with a disability was not DDA compliant; and
- Maintenance costs could be reduced if the ramps were built with a solid base to address the changing sand levels and tidal movements.

In preparation for the toilet replacement a budget was approved in 2017 to demolish the toilet and prepare a design. However, due to the installation of the boardwalk and surf lifesaving tower and to address the existing narrow footpaths and a new plaza master plan was commissioned to guide future infrastructure.

Post the installation of the boardwalk and the Surf lifesaving tower the toilet reached the end of its useful life. In the 2019/20 Council Budget, funding was secured to renew the toilet building with construction to follow in the 2020/21 budget. The budget was built on a like for like replacement which was not sufficient to address the issues of services, safety, Australian Standards and DDA compliance. Further analysis and design work was undertaken but the existing site conditions and compliance with Australian Standards and Disability Discrimination Act prevented a similar design being achieved. The remaining funds were carried forward into the 2021/22 budget.

In October 2020, a Motion on Notice (C271020/2087) for Seacliff Plaza was raised by Councillor Lindop (Report No: 346/20) and unanimously carried which requested the Seacliff Master Plan be updated the below items and brought back to Council for consideration in time for the 2021/22 budget:

- greening the centre of the roundabout;
- coastal garden or lawn adjacent of the plaza area adjacent to the roundabout;
- new low sign with “Seacliff Beach” and dual Kurna naming;
- steps down from the plaza area to the beach for access and seating;
- disability car parking;
- improvements to pedestrian crossing points between eastern and western sides of the Esplanade;
- planter boxes or other plantings to green, cool and soften the area; and
- a way to include reference to the historical old breakwater rotunda.

A budget of \$1.07M was approved in the 2021/22 Annual Business Plan to undertake this work and additional funding was to be sort from the state to support the capital delivery of stage 1 construction as Council funding would only cover the cost of the Plaza design and building a new toilet block but it would not achieve compliant or disability friendly access or services.

It was important to ensure that the Stage 1 design, seamlessly integrated with existing infrastructure, levels and the future vision of the Seacliff Masterplan. To achieve this, a full plaza design needed to be completed to understand the exact boundary lines the Stage 1 construction scope could be drawn without compromising the longer term vision or creating future redundant work or issues. In completing the full plaza design the project has mitigated both existing and future integration issues.

A State Government grant application was prepared, addressing the short fall of funding enabling the Stage 1 construction scope to increase and deliver an environmentally friendly building, disability compliant facilities and access to both the amenities area and the beach. The funding submission was successful and resulted in a grant approval of \$1,000,000.

After assessing the increasing community needs and the State Government’s interest in investing in the area, the design scope evolved to include an upgrade of the facilities, increasing service levels, meeting DDA compliance, access and inclusion compliance while using Crime Prevention Through Environmental Design (CPTED) principals to align and integrate with the exiting Seacliff Masterplan.

The Seacliff Plaza redevelopment was scoped to focus on the area located between Wheatland Street and the commencement of the Norfolk Island Pines to the north of the existing toilets building. It will retain the northern and southern boardwalk but the remove the central section of the boardwalk.

The redevelopment in this area has been scoped to achieve the following community and place outcomes:

- Replacing aging assets and assets that have reach the end of their useful life;

- Upgrading assets that are non-compliant with Australian Standards and or the Disability Discrimination Act (DDA);
- Create a fully compliant DDA accessibility and amenities hub;
- Remove narrow foot paths that create pinch points for pedestrians, cyclists and surf lifesaving activities;
- Create a greened community spaces that can be activated for day and night time activities;
- Draw on historical architecture of the area to create direct beach access and uncover the heritage sea walls;
- Celebrate the Kaurna history through integrated artwork;
- Reduce opportunities for antisocial behaviour and increase a sense of safety through the use of CPTED principles, lighting and CCTV coverage; and
- Create a multi-use pedestrian prioritised place.

To achieve the desired design outcomes, the design needed to be flexible and able to be delivered in multiple stages as additional funding becomes available. Stage 1 needed to address the immediate issues of the toilet building and creating compliant access for people with a disability without causing significant re-work in future stages due to the difference in site levels and integration points.

Given the site levels, complexities and that the existing toilet building location needed to be raised to meet newly designed foot path levels and widths, the entire plaza design was required to be completed to appropriately inform the stage 1 construction activities. This approach would significantly reduce the risk of integration issues, the cost of rework in future stages and ensure the finished design would be seamless and well designed.

The Stage 1 construction scope was finalised and now proposed to include:

- A new amenities building featuring;
- DDA compliant toilet and shower, five unisex toilets, a parent room, change area and lockers
- Solar panels and water harvesting facilities;
- Outdoor hand washing facilities;
- Compliant DDA access from the car parking to the amenities building and beach;
- New DDA compliant beach access;
- Improved and separate All Terrain Vehicle (ATV) beach access for life saving services;
- Greening and water sensitive urban design gardens;
- A sculptural multi head artistic outdoor shower; and
- DDA compliant circulation space around the amenities area.

Attached to this report is a copy of the community consultation pack that will be circulated as part of the consultation collateral.

Refer Attachment 1

A summary of the project's history, scope development and draft Stage 1 Concept Design was presented to Council at a workshop on 18 January 2022 for consideration and final feedback prior to this report being submitted. The project is now seeking approval to proceed to public

consultation. Post the approval of the recommendations in this council report, public consultation will commence on 1 February 2022 for 21 days.

REPORT

The proposed community consultation on the Seacliff Plaza will include consulting on Stage 1 of the concept design.

Due to recent Covid-19 precautions and restrictions on public gatherings, to limit face to face interactions, the consultation activities will include:

- Face to face meetings by exception and on request only in lieu of the originally proposed public onsite drop in sessions;
- Group or one on one meetings with the community via Zoom, Microsoft Teams or phone;
- Online engagement tools through Councils website; and
- Letterbox drops for residents and businesses within 200 metres of the scope boundary and within the scope area.

Consultation activities will be promotion through:

- Call to action corflute signs with renders of the Stage 1 Construction. They will be located on site, near the toilets at the Seacliff Foreshore;
- The City of Holdfast Bay social media platforms;
- Newsfeeds and City of Holdfast Bay corporate engagement sites;
- Notifications to residents, businesses, community groups and organisations nearby; and
- Notifications to relevant State Government Agencies.

The consultation will include presenting the concept design for Stage 1 and the proposed construction timing. The community consultation pack images is attached to this report. The community will be asked to provide general feedback on these items.

Refer Attachment 1

Following the consultation, the feedback will be collated and summarised in a consultation report and submitted to the Council with recommendations to address feedback that impacts on the scope, time or budget of the project.

A further summarised consultation report will be produced to notify the community of the results and close out the consultation activities. This report will be made available on Council's corporate engagement pages.

The design presented in this report meets the budget, addresses all the key issues identified with the current facilities, services, access and scope of work. The design has been produced deliver the outcomes with in Councils budget and the grant funding.

Stage 1 is a stand-alone project and integrates with the existing levels and infrastructure. This stage will not trigger the need for a second stage. If a second stage is funded, there is only a small amount of kerbing in front of the new toilet building that will be removed to create the plaza as

the design will enable future stages to be built with limited rework and unnecessary redesign and construction cost to address integrations issues.

The quality design, meets universal design standards, DDA compliance, Australian Standards, CPTED principals and reduces its carbon foot print through environmentally considered design features.

Water Sensitive Urban Design features, water harvesting and solar generated electricity is likely to see a reduction in the increased cost of service provisions and will reduce the carbon foot print of the building.

Removing the sand from the exposed seawalls will be required seasonally however this is likely to be offset by the upgraded disability access and ATV ramps being built with solid bases. The solid bases enable machines to be used instead of manual digging equipment and reduce time and costs of these activities.

During the Stage 1 construction, alternative toilet facilities will need to be provided and access along the western foot path directly in front of the toilets and some parking will be obstructed.

Initial soil contamination reports indicate there is no requirement for an exhaustive or generous contamination budget for Stage 1.

BUDGET

A budget was approved as part of the 2021/22 Annual Business Plan of \$1,070,000. Additional State Government Grant funding was received of \$1,000,000.00. The Stage 1 construction cost estimate is \$1,951,000. No further funding is required to finalise the existing design and deliver Stage 1.

LIFE CYCLE COSTS

Actual costs to be determined post the completion of the detailed design.

Attachment 1



SEACLIFF PLAZA DRAFT CONCEPT STAGE 1 CONSTRUCTION COMMUNITY CONSULTATION PACKAGE

KAURNA COUNTRY



CITY OF HOLDFAST BAY
JANUARY 2022

STAGE 1 AMENITIES BUILDING & SURROUNDING AREA RENDER



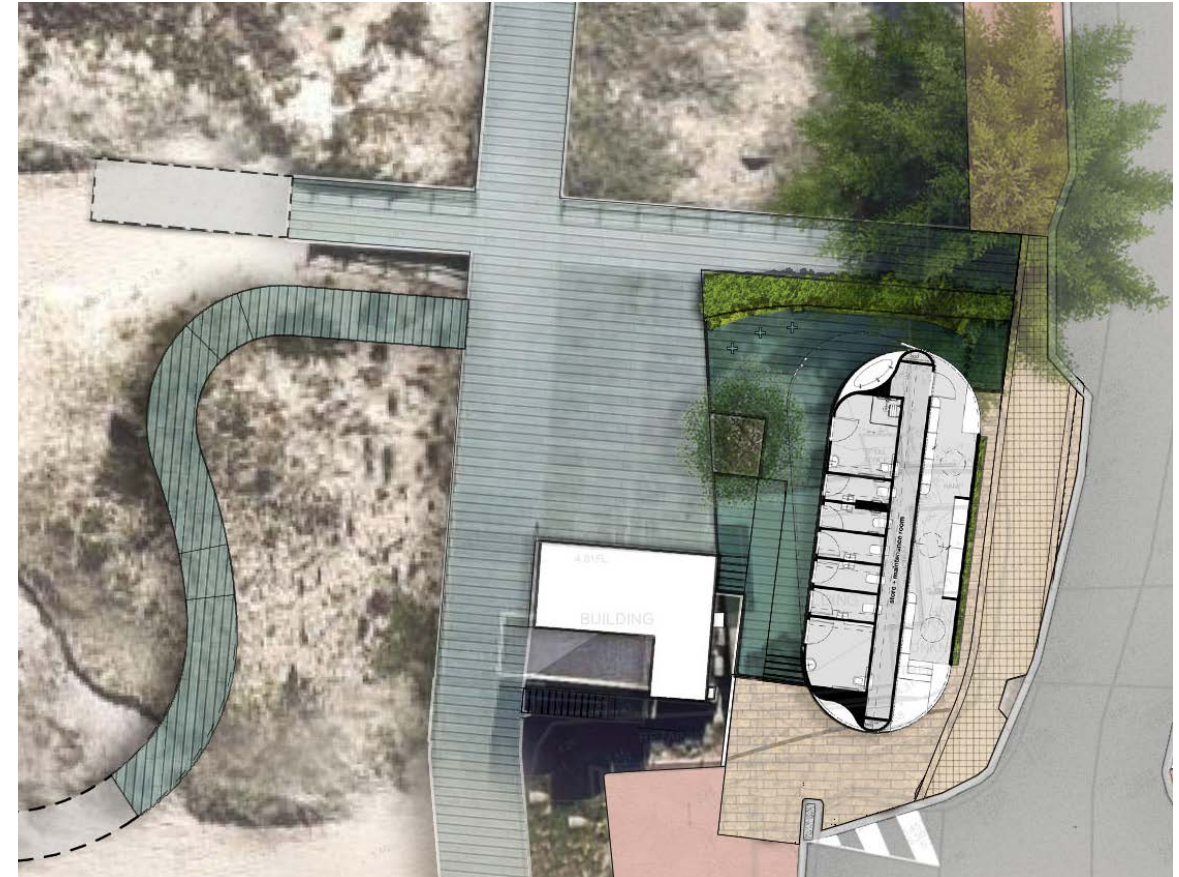
STAGE 1 CONSTRUCTION SCOPE - EXISTING CONDITIONS AND KEY CHANGES

EXISTING CONDITIONS & KEY ISSUES



- No Disability Discrimination Act (DDA) compliant facilities
- Toilet location and positions present safety issues
- Low level services
- Awkward and non-compliant access to facilities and paths
- Narrow footpaths create pedestrian and cycling conflicts
- Unattractive and underutilised space
- Sparse greening

NEW DESIGN & KEY CHANGES



- Compliant DDA toilet, shower, circulation space and beach access
- 5x unisex toilets to meet predicted service levels
- Parent room
- Change area with lockers (to address theft issues raised by SAPOL)
- Amenities building water harvesting and water sensitive urban design garden features
- Solar panels to reduce energy consumption of the amenities building
- Direct emergency access and all terrain vehicle access for surf lifesaving activities
- Sculptural outdoor showers with night time features
- Widened foot paths

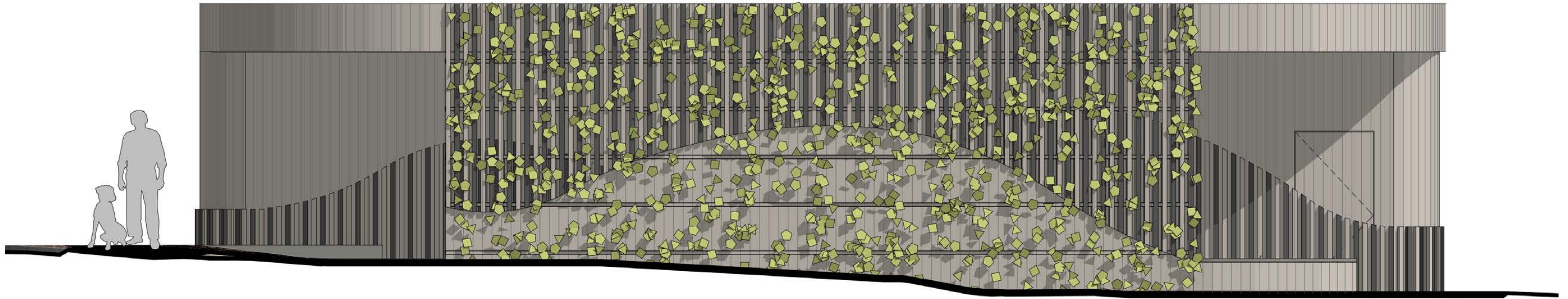
STAGE 1 KEY FEATURES



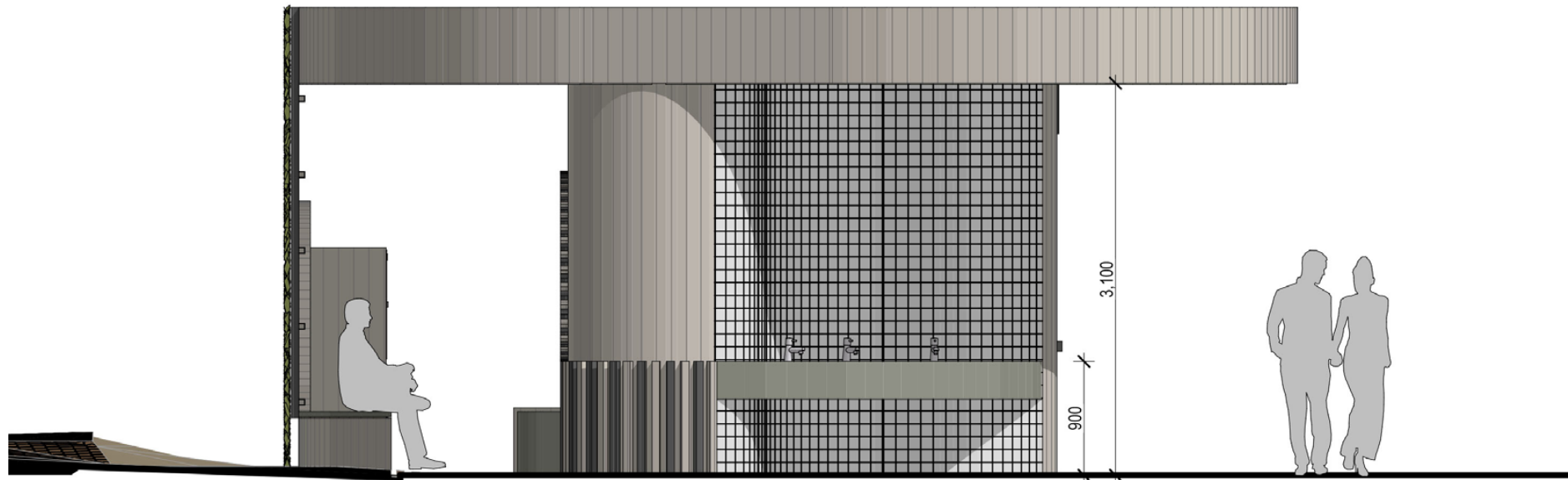
Key

1 Seaclyff Surf Life Saving Club	4 New decking to match existing boardwalk	7 New tree - Banksia integrifolia (Coastal Banksia)	10 FRP DDA compliant beach access ramp	13 Existing kerb to be retained
2 New amenities building	5 Integrated shower sculpture	8 Vertical planting to amenities block facade	11 Concrete DDA compliant beach access ramp - provision for projected future drop in sand level	14 New kerb
3 Existing boardwalk	6 Garden bed	9 DDA compliant access ramp	12 Shared path	15 Chequer plate drain cover to existing stormwater side entry pit

AMENITIES BUILDING - ELEVATIONS



EAST ELEVATION

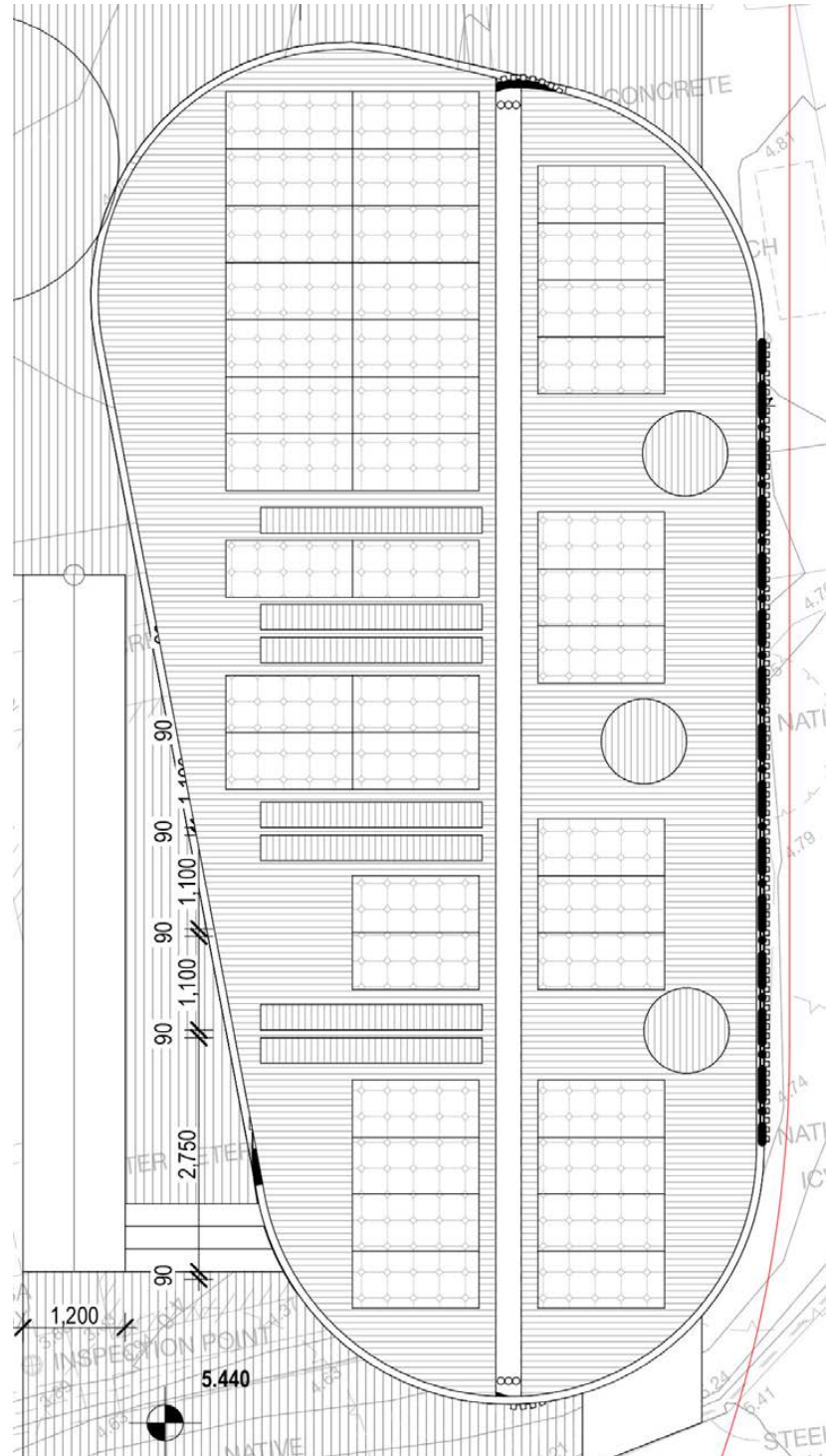


NORTH ELEVATION

AMENITIES BUILDING - PLANS

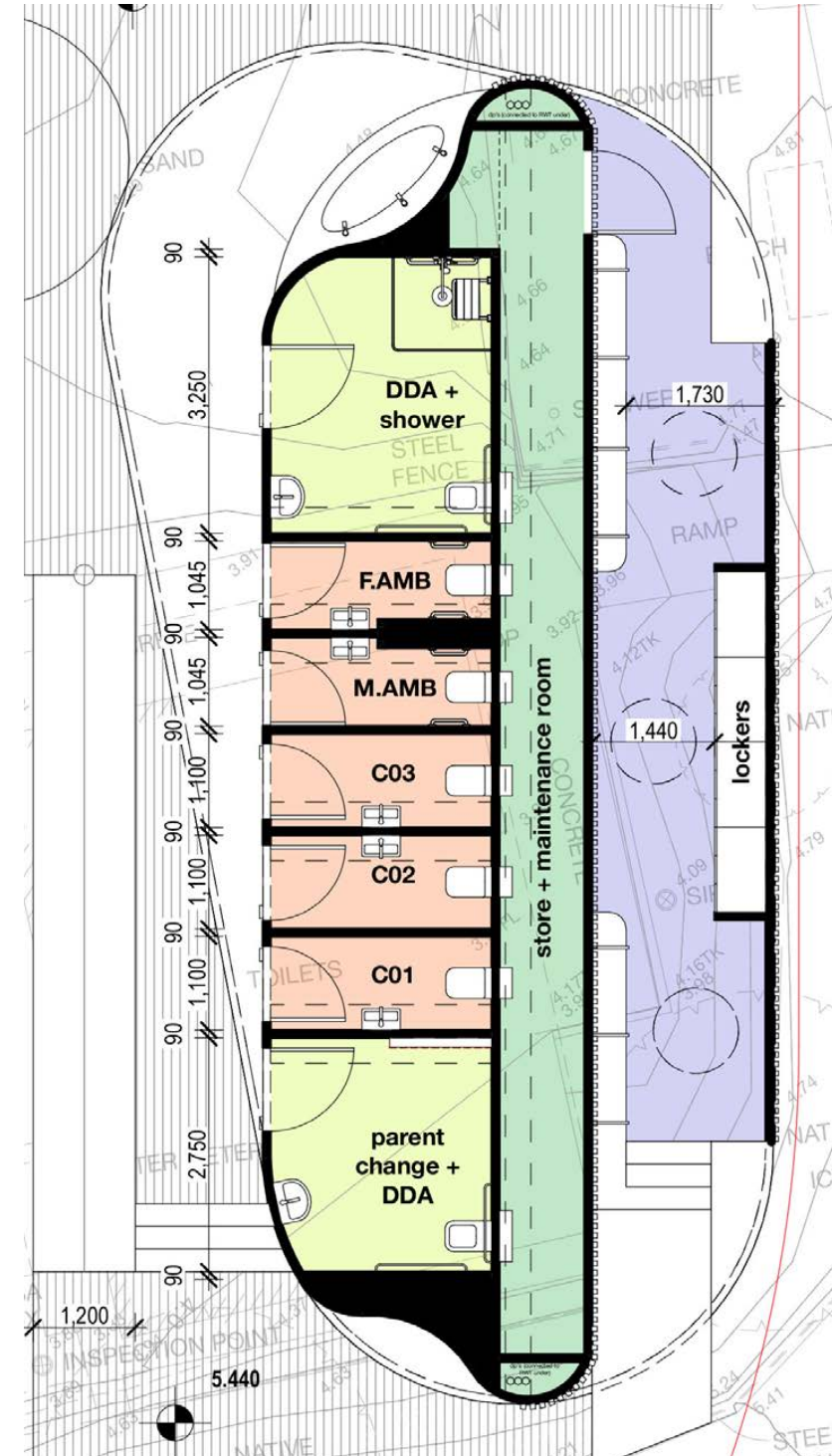
ROOF PLAN

SOLAR AND NATURAL LIGHT FEATURES



FLOOR PLAN

TOILETS, PARENT & CHANGE ROOM, LOCKERS



PROJECT TIMELINE



Item No: 15.6

Subject: **RENAMING HINDMARSH LANE**

Date: 25 January 2022

Written By: General Manager, Community and Business

General Manager: Community and Business, Ms M Lock

SUMMARY

At the Council meeting held on 12 October 2021, a Motion on Notice was endorsed unanimously subject to community consultation, that Hindmarsh Lane be renamed to Bouchee Walk in honour of the late Councillor Mikki Bouchee's 25 years of service to the local community. As a result, Council invited the community to provide feedback across a 21 day period from 25 October until 14 November 2021. Council also investigated the history of Hindmarsh Lane in relation to both European built history and Kaurna cultural heritage by consulting with relevant individuals, community and cultural groups.

This report provides the engagement methodology and engagement outcomes and includes the findings of the investigation.

RECOMMENDATION

That Council

- 1. Note the outcomes of the community engagement consultation; and**
 - 2. Considers the endorsement of its previous motion from the 12 October 2022 meeting, *"That Hindmarsh Lane be renamed Bouchee Walk in honour of the late Councillor Mikki Bouchee's 25 years of service to Local Government"*.**
-

STRATEGIC PLAN

This proposal contributes to the sustainability focus area of the Strategic Plan by celebrating a legacy of long-term public service to the community.

COUNCIL POLICY

Community Consultation and Engagement Policy
Naming of Public Places Policy

STATUTORY PROVISIONS

Local Government Act 1999

BACKGROUND

At the Council meeting held on 12 October 2021, the following Motion was endorsed unanimously *“That Hindmarsh Lane be renamed Bouchee Walk in honour of the late Councillor Mikki Bouchee’s 25 years of service to Local Government, subject to consultation in line with Council policies”*.

Local Government Act

Section 219 of the *Local Government Act 1999* (the Act) gives councils power to assign a name, or change the name, of a road or public place. Under this section of the Act, there is no requirement for public consultation prior to the renaming of a road or public place, however there is requirements for a public notice to be given on the assigning or changing of a name. Under this section of the Act there is a requirement for Councils to have a policy on assigning or changing the name of a road or public place.

Council’s Naming of Public Places Policy states:

- 3.4 *The naming or renaming of a public place, reserve or road shall occur in consultation with the community in accordance with the City of Holdfast Bay’s Community Consultation and Engagement Policy prior to Council deciding to assign a name.*

It was discussed at the Council meeting held on 12 October 2021, the requirement of community consultation is a Council policy obligation, and as such the Council has the ability to make a decision that goes outside of Council policy for justifiable reasons.

As part of the investigation, Administration reviewed European historical and development records which confirmed the following; Governor John Hindmarsh was the first Governor of South Australia, arriving on the HMS Buffalo at Glenelg on 28 December 1836. Governor Hindmarsh read the Proclamation Document under the Old Gum Tree on the same date. No other landmark (monument, plaque, reserve, park or street) is dedicated to Governor Hindmarsh in Holdfast Bay.

Though referred to as Hindmarsh Lane, it is legally and previously known as Hindmarsh Street since 1855. The lane is the last remnants of a service/public street which extended from Jetty Road to Augusta Square mirroring other service streets in the layout of old Glenelg (drawn by Colonel William Light in 1839), including Soul Street to the west. Hindmarsh Street likely serviced properties, including farmland, which fronted Nile Street Glenelg.

On 6 August 1974, the northern section (sections 35,36,37,38 and 39) of Hindmarsh Street were assigned to Coles once it had acquired all the properties on either side of the street, allowing Coles to obtain development approval for the supermarket, leaving the southern section (as it is today) in the ownership of Council. To ensure continued access for properties that were previously accessed by the northern section of Hindmarsh Street but not purchased by Coles for its

supermarket site, the current east-west public lane that links Waterloo Street to Hindmarsh Lane was transferred to the then Town of Glenelg in December 1975, which was also when the current status of Hindmarsh Lane (as a closed road) was settled.

Administration considered the requirement for dual naming of the Lane with a Kurna name and referred to the Naming of Public Places Policy. In addition completed extensive research into understanding any historical obligations that Council may have committed in previous years. The report outlines these finding in further detail and Council's obligations. Furthermore Kurna Nation were consulted and provided feedback on 17 December 2021.

REPORT

Community Consultation & Findings

Community engagement was undertaken from 25 October to 14 November 2021, a total of 21 days aligning with the Community Consultation and Engagement Policy endorsed by Council on 14 July 2020. This report provides the engagement methodology and engagement outcomes.

Refer Attachment 1

The community were invited to provide their views on the Renaming of Hindmarsh Lane by completing a feedback form (online or written submissions) with the following engagement methodology, aligning with the principles of the International Association for Public Participation (IAP2);

The views of the community were collected via:

- Council's website - the council's engagement website (www.yourholdfast.com) provided the opportunity to complete an online survey.
- Email submissions, phone calls and letters.

And promoted through:

- A registered user update - via email to a 5000+ database.
- City of Holdfast Bay's Twitter account every week for the duration of the engagement.
- An A-frame in Hindmarsh Lane
- Posters at the Brighton Civic Centre and libraries
- Facebook post
- News article in Holdfast News
- Newsfeed on the City of Holdfast Bay's council and engagement websites.

One hundred and ten (110) submissions were received online via the YourHoldfast.com survey, responding to the question;

1. Do you support the renaming of Hindmarsh Lane, Glenelg to Bouchee Walk?

(Yes I support the name change/I am unsure if I support the name change/No, I do not support the name change).

2. Comments

The project page was visited 418 times by 377 visitors and the frequently asked questions were read by 35 visitors. Importantly the majority of the website traffic came via Facebook promoting the community engagement.

Both quantitative and qualitative data was analysed from the submissions received recording the following;

- 63 participants (57%) said *Yes, I support the name change.*
- 44 participants (40%) said *No, I do not support the name change.*
- 4 participants (3%) were *Unsure if they support the name change.*

47 qualitative comments were provided from the 63 participants that supported the name change. Community comments agreed that it would be a fitting tribute/gesture to honour the late councillor's service/time to the community.

4 participants who stated they were unsure about the proposal provided comments. Seeking additional information pertaining to the history of the site and questioning if there was any direct association with the councillor and that specific area of the city.

37 comments were made from 44 participants that did not support the name change with three common themes emerging;

- Consideration afforded to Kurna naming of the site.
- Maintaining state and local heritage
- Supportive of name change however Council to seek alternate public places more appropriate to honor the late councillor.

All submissions have been collated, however some of the comments received have been redacted from the public record due to the nature of the comment, with a full copy of submissions provided to Elected Members to consider on the Hub.

Dual Naming / Kurna Naming

Post Council meeting held on 12 October 2021, Administration were informed there was a resolution of Council that places be dual named Kurna and examples provided. A great deal of research has been undertaken to ensure that Administration is understanding of any historical obligations that Council may have to Kurna dual naming, particularly given the relationship Council has with Kurna and the efforts made on developing this relationship.

On 9 August 2005, the City of Holdfast Bay endorsed the Tappa Iri agreement. The Tappa Iri agreement committed Marion, Onkaparinga, Yankalilla and Holdfast Bay to a program to help the Kurna people toward self-sufficiency. Councils pledged \$100,000 a year in cash and another \$100,000 in in-kind support. The duration of the agreement was 2005-2008. The centrepiece of the accord was the establishment of a Kurna Business Enterprise Centre in Noarlunga. The Tappa Iri agreement had seven objectives, the second being the promotion of Kurna identity, culture

and values. The agreement did not specify the dual naming of places, but did set out to continue the incorporation of Kurna themes and interpretation into the planning and design of council-controlled public works. Given the term of this agreement has expired, the obligations under this agreement are no longer binding, however Council has continued to work with Kurna on a number of the objectives established in the agreement.

As a result of the second objective in this agreement, a Kurna Place Names Project was established. This Project, a joint venture between the Kurna Business Enterprise Centre, the Adelaide University, and the Federal Government, established the Kurna Language Centre at the University. The understanding of this project was that Council would continue to liaise with Kurna to identify significant places and work with Kurna and the Language Centre to identify appropriate name places. While the Tappa Iri agreement was endorsed by Council, this project was not endorsed by resolution.

Through this research, Administration was unable to find a resolution that commits Council to the dual Kurna naming of every road, place or space.

In addition Council's Creative Holdfast Arts and Culture Strategy 2019 – 2024, key strategic theme CELEBRATE states the intent to celebrate Kurna culture and heritage, Objective 3.1.2 Systemise routine Kurna dual naming and signage where possible.

At a meeting held on 17 December 2021 with Kurna, the renaming of Hindmarsh Lane was tabled and Kurna Advisory group provided the following response to dual naming Hindmarsh Lane. Kurna have indicated a preference not to dual name the lane but request that suburb dual naming be referred to the Kurna Warra Pintyanthi language group to assist with Naming of Places into the future. It is preferred that included within the lane signage the Kurna name for the Glenelg area is included.

In summary, this report provides the feedback received during the community engagement consultation process, alignment with Council policies and legislation, findings from historical research undertaken by Administration and liaison with key stakeholders. Administration sees no legislative and policy impediment with Council endorsing its resolution of the 12 October 2021.

BUDGET

Contained within existing project budget Stage 1 Chapel Plaza and Hindmarsh Lane, Jetty Road Master Plan.

LIFE CYCLE COSTS

Not Applicable

Attachment 1



ENGAGEMENT SUMMARY REPORT

PROPOSAL TO RENAME HINDMARSH LANE

Report Completed for the General Manager, Community & Business
Written by the Digital Engagement Partner
November 2021

INTRODUCTION

At the council meeting held on 13 October 2021, a motion was endorsed that subject to community consultation, Hindmarsh Lane be renamed Bouchee Walk in honour of the late Councillor Mikki Bouchee's 25 years of service to the local community. Council sought feedback to assess whether the community were generally supportive of the proposal.

The community were invited to provide their views by completing a feedback form (online or written submissions). This report provides the engagement methodology and engagement outcomes. All submissions have been collated and available in the appendix of this report.

BRIEF DESCRIPTION OF ENGAGEMENT METHODOLOGY

The community engagement was open from 25 October to 14 November 2021, a total of 21 days.

The views of the community were collected via:

- Council's website - the council's engagement website (www.yourholdfast.com) provided the opportunity to complete an online survey.
- Email submissions, phone calls and letters.

And promoted through:

- A registered user update - via email to a 5000+ database.
- City of Holdfast Bay's Twitter account every week for the duration of the engagement.
- An A-frame in Hindmarsh Lane
- Posters at the Brighton Civic Centre and libraries
- Facebook post
- News article in Holdfast News
- Newsfeed on the City of Holdfast Bay's council and engagement websites.

ENGAGEMENT FORMAT

1. Do you support the renaming of Hindmarsh Lane, Glenelg to Bouchee Walk?

(Yes I support the name change/I am unsure if I support the name change/No, I do not support the name change)

2. Comments

DATA ANALYSIS

All data has been independently reviewed by the Digital Engagement Partner.

HOW THE FEEDBACK WAS RECEIVED

- One hundred and ten (110) submissions were received online via the YourHoldfast.com online survey.
- The project page was visited 418 times by 377 visitors
- The FAQs were read by 35 visitors.
- The majority of the website traffic was via Facebook.
- One question was received regarding the origin of the Hindmarsh Lane street name. The response then prompted the participant to change their answer from not sure to no. (*see appendix 2.1*)

- One phone call was received

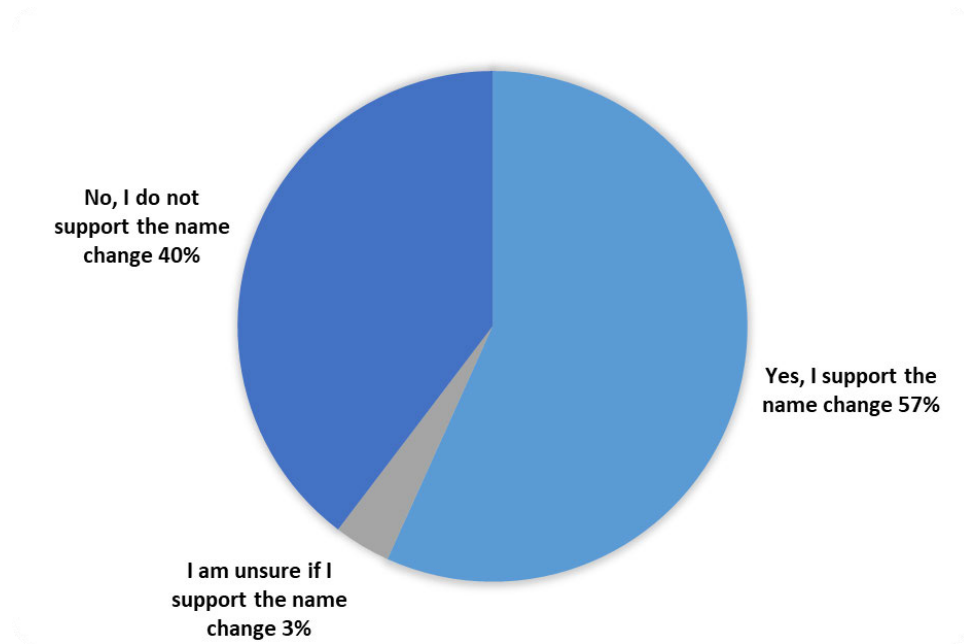
SUBURB

- 97 participants (87%) identified as being from the City of Holdfast Bay
- 14 participants (13%) identified as living outside the City of Holdfast Bay

OUTCOMES

One hundred and eleven (111) submissions were received.

1. Do you support the renaming of Hindmarsh Lane, Glenelg to Bouchee Walk?



- 63 participants (57%) said *Yes, I support the name change.*
- 44 participants (40%) said *No, I do not support the name change.*
- 4 participants (3%) were *Unsure if they support the name change.*

COMMENTS

Of the 111 participants, 90 participants provided comments. These comments have been reviewed for common themes.

The appendix has been sorted into three sections based on how the participants answered question one in the survey, *Do you support the renaming of Hindmarsh Lane, Glenelg to Bouchee Walk?*

- 47 comments were provided from the 63 participants that supported the name change. Their comments agreed that it would be a fitting tribute/gesture to honour the late councillor's service/time to the community.
- 4 participants who stated they were unsure of the proposal provided comments. Their comments included:
 - Wanted to know the origin of the name before submitting a response
 - Were concerned the area focusses on a public toilet
 - Were concerned the name *Bouchee* would lose its meaning over time
 - Questioned if there was any direct association with the councillor and that specific area
- 37 comments were made from the 44 participants that did not support the name change. Four common themes were identified:
 - There was a strong theme there were others in the community more deserving of this honour. Several respondents stated it would be more appropriate to rename the street with an Aboriginal name. Some expressed that naming a public space after a councillor is a self-serving act/ inappropriate.
 - Many comments stressed the need to maintain our state and local heritage.
 - Some respondents stated although they would like to preserve local history of Hindmarsh Lane, they would be happy to choose an alternative site or way to honour the late councillor. Suggestions included an award or a best street/gardening competition.
 - Four comments provided concerns and negative experiences of the late councillor. [\[see appendix 3\]](#)

Other comments included; that the late councillor would not want the laneway renamed as she was a strong advocate for maintaining history, that it would set a precedent, or that it was a waste of rate payers money.

It is recommended that all comments in the appendix be read in full to gain a full comprehension of the community's sentiments.

[See appendix for full submissions](#)

Appendix 1 – online submissions (all comments are written verbatim)

Participants who responded **“Yes, I support the name change**

1. Yes, absolutely. Mikki worked tirelessly for the community of Glenelg for 34 years. I also think there should also be a fun representation of her funky glasses, which represented her personality so well; even if it is just on the street sign. However, I do think a sculpture/representation of her glasses for people to pose in would be very instaworthy, like the heart on the beach. She would absolutely love it.
2. What a beautiful tribute to a very special person.
3. Congratulations, it is a terrific idea to honour a Mikki in this way, someone who truly put herself forward whenever needed by the community and served on council so diligently for so long.
4. Commemorating the otherwise-largely-unsung contributions of long-serving councillors (and other notable contributors among local residents) is something I support strongly. It may serve to prompt questions that can open the eyes of others to the possibilities of service. Besides, IMHO Gov Hindmarsh is more than adequately honoured in the numerous memorials & text-book mentions. Let's not allow our ancient history to obscure our recent past. Thank you for the chance to register an opinion!
5. Mikki played such a big part in the Council for so many years. She was passionate about providing for the elderly citizens
6. Mikki dedicated 25 years of service to the City of Holdfast Bay and was the embodiment of everything there is to love about this place. A true representative of the community who deserves to be honoured with this name change.
7. A great idea. Just get it done.
8. Yes it is a great initiative.
9. Good idea
10. I think this is a wonderful idea and very fitting for a woman who gave 25 years of her life to this city
11. This would be a fantastic way to honour Mikki and her years of service.
12. What a lovely memorial to Mikki.
13. A person serving the community in any capacity for 25 years is able to be recognized in different ways. Using the method of a name change to a local lane, to show appreciation is a well known practice. This shows local residents how much the community recognizes her contribution to local government in the City of Holdfast Bay.
14. I think this would be a lovely gesture to honor the 25 years' service Mikki gave to the council
15. A wonderful way to recognise Mikki's 25 years of service.
16. A lovely idea to honour a hardworking and devoted councillor and also a great opportunity to honour a female.
17. Great recognition for great community service.
18. I think it's a good idea.
19. Mikki deserves a special place to remember her by- she would
Have loved it
20. A wonderful idea. A great lady who cared so much about Holdfast bay
21. I think this is a great way to modernise the area and recognise someone who contributed greatly to the community.
22. A lovely idea to rename this with such a well loved community members memory.

23. Ms Bouchée was an outstanding contributor to the community

24. She loved Holdfast Bay and she gave her all for the people of Holdfast Bay. We should honour her commitment.

25. Mikki was a much loved lady who worked hard for others. She loved the Holdfast Bay area and the people. Nothing was too much trouble for Mikki. She warmly welcomed everyone. Naming the lane after Mikki would be a wonderful tribute.

26. Mikki Bouchee gave a valuable time to community service during her term. The Hindmarsh name s used in many places in the district.

27. Great tribute to the tireless work done by Mikki Bouchee for this community.

Grateful thanks to Mayor Amanda Wilson and the Councillors for proposing this positive recognition not only for Councillor Bouchee but also for those who's work is silent yet needed.

28. She loved Glenelg, listened to the community and was a council member long enough to have something named after her for sure.

29. I believe that as Mikki Bouchee faithfully served the Holdfast Council for over 25 years. It is more than fitting for Hindmarsh Lane to be renamed, to create an enduring memorial to this amazing woman, who contributed so much!

I sincerely hope the right thing is done regarding this!

30. A wonderful gesture. I fully support the proposal. I think Mikki would love it.

31. Great idea to change name to honour a wonderful person

32. She deserves to be acknowledged

33. An appropriate way to acknowledge and honour Mikki Bouchée and her work and passion for the City of Holdfast Bay.

34. Great idea, well deserved

35. Such a wonderful idea to honour a wonderful, generous, community minded person who gave so much to the City of Holdfast Bay. Well done.

36. A wonderful memory for a wonderful lady

37. Thank you for this opportunity. I support the renaming of Hindmarsh Lane to Bouchée Walk in honour of Councillor Mikki Bouchée. This would be a very suitable recognition of her twenty five years service to the Holdfast Community. I sincere hope this proceeds.

38. After giving 25 years of service to the community, the renaming of Hindmarsh Lane to Bouchee Walk, would be a fitting tribute to Councillor Nikki Bouchee.

39. It's well deserved for such a dedicated supporter of the community.

40. Good to honor a person who worked for the common good of Holdfast Bay residents.

41. Mikii bouchée did a lot for community over 25 years. Well deserved.

42. I think this is a lovely way to remember Mikki Bouchee and it is good to see more places in Glenelg named after women.

43. Please honour Mikki. Please. Just do it.

44. A massive contribution to the local community over the last 3 decades should be recognised.

45. A good tribute!

46. A fitting tribute for a local hero.

47. I would love to see the Hindmarsh Lane changed to Bouchée Walk ♥

Appendix 2 – online submissions (all comments are written verbatim)

Participants who responded **I am unsure if I support the name change**

1. It would be more informative if the proposal also included the history of the current name so a perspective of merit etc could be understood before voting *
2. While I'm sure the Councilor was of importance to the Council, I believe we need to start paying respects to the original aboriginal people who lived in the area we now call Glenelg.
I think it would be more appropriate to use a meaningful aboriginal word/name and start educating our Council area about the history of the place.
3. To name the Lane after a long serving councillor might be a good idea, however 'Bouchee' also has the meaning of a 'a small pastry with a sweet or savoury filling'. The meaning behind the referring to the councillor might get lost down the track.
4. Will the street sign have to read Formerly, Hindmarsh Walk??
Is this pathway area pertinent in the life of Nikki BOUCHEE?
What was her link to this path?
It is a thoroughfare from Jetty road to Coles. Is it's main feature toilets?
The greenery covered pergola section is nice enough.
Are any businesses affected to the extent they would have to update their address contact details??
Either way I'm not directly affected.
If notoriety and remembrance is the aim then consider the fixtures before setting this in place.

*The below to comment 2.1. response was provided with the history of the current name of Hindmarsh Lane, and this information was added to the FAQs. After receiving the information, the participant changed their answer from *Unsure* to *No*.

Response to comment 2.1

Hi Project Team

Thanks for the further context information.

On that basis my revised position is to not support the proposal to rename Hindmarsh Lane as it stands

Thank you for your question regarding the origins of the name Hindmarsh Lane. Below is the answer to this question and we have now added this to the FAQs section of the project page.

You are welcome to review your submission by responding to this email now that you have the additional information.

What is the history behind the naming of Hindmarsh Lane?

The street was named after Governor John Hindmarsh was the first Governor of South Australia. No other landmark (monument, plaque, reserve, park, or street) is dedicated to Governor Hindmarsh in Holdfast Bay.

It is noted in the book, *Historic Glenelg* by W Jeans, published in 1979 that the naming of the streets *that "Governor Hindmarsh appears to have been Honoured only in the naming of Hindmarsh Street- not a very important thoroughfare."*

Though referred to as Hindmarsh Lane, it is legally Hindmarsh Street. The lane is the last remnants of a service street that extended from Jetty Road to Augusta Square and has existed since at least 1856. It mirrors other service streets in the layout of old Glenelg (drawn by Colonel William Light in 1839), including Soul Street to the west. Hindmarsh Street likely serviced properties, including farmland, which fronted Nile Street Glenelg.

Hindmarsh Street originally extended from Jetty Road (then Shakespeare Terrace) to the south of Augusta Square. It also likely extended beyond the square on the north toward ANZAC Highway (then Adelaide Road).

By 1929, Coles purchased sections of Hindmarsh Street and built a Coles supermarket. Coles began as a business in Australia in 1914. Coles also likely purchased the Hindmarsh Street land from Council, turning this portion of Hindmarsh Street into car parking. The extension of Hindmarsh Street, to the north of Augusta Square, was also sold off for private ownership.

[FAQs](#)

Thank you once again for your interest in this proposal

The project team

Appendix 3 – online submissions (all comments are written verbatim)

Participants who responded **No, I do not support the name change**

1. It would set a precedent to have a street, road or lane named after all councillors
2. Waste of money, there are residents that have lived in the Glenelg area for 50 plus years, a 25 year working job which she was paid very well, does not justify spending money changing the name
3. There must be a better site to name after aCr who has dedicated so much to the Community !
4. Many people provide service to the community. Why specifically does this warrant a change? Are we going to rename all streets after people that work for 25 years? Most careers span more than 25 years of service.
5. Glenelg's history should be preserved wherever possible. Changing street names to recognise contemporary identities is an insult to our pioneers. There are many other, more appropriate, opportunities for this type of recognition.
6. I thoroughly disapprove of renaming streets etc. People have enough to contend with, confusing the people of Holdfast Bay is not a good thing. Changing names of places that are already in place just leads to confusion.
7. I attended a few Holdfast Bay Council Meetings as an observer. I often found Councillor Bouchee's manner combative and inappropriate - although Councillor Bouchee may well not have appreciated the impact of her actions on others. I do not believe that Councillor Bouchee should be held up as a role model. I believe there are more deserving candidates to be memorialised in this way. Thank you for giving the community the opportunity to comment on the proposal.
8. Councillor Mikki Bouchee will soon be forgotten while Governor Hindmarch is part of the states history and will not be forgotten.

9. whats 25 years in the scheme of things. 25 years is nothing. lets keep our heritage.

10. There are many people who do wonderful things for our community so its difficult to single out one person. If you want to rename it use the indigenous name for Glenelg or similar. Not enough is being done to "close the Gap"

11. If you are looking to update the name this is a perfect opportunity to adapt an Aboriginal name to pay respects to the traditional custodians of the land we are on in Glenelg.

12. Everyone knows what a Lane is but not what a Walk is. Also I disagree that a councilor who has served only 25 years should receive such recognition. There are plenty of people in the community who have volunteered their services for many decades more who do not get any recognition at all.

13. How about a traditional aboriginal name referencing this walkway, far more appropriate and international tourists will love it too; street art depicting the area by local Kurna artists would finish this nicely. You're welcome 😊

14. Although it would be nice for this lady I feel that it should remain the same. The exact pronunciation of the name would also be difficult.

15. Whilst I am aware that Cr Bouchee spent many years serving the community of Glenelg/Holdfast Bay, I don't believe we should be replacing the name Hindmarsh, which is a hugely significant part of our State and local history.

Is there another street, lane, arcade, centre etc. that could be named in her honour instead? Why was Hindmarsh Lane the one suggested to be changed?

16. There are numerous other people that warrant acknowledgement more than Ms Bouche

17. There is a lot more deserving people who have volunteered their time and energy, without getting a wage and not getting recognized for there hard work for the community and Jetty road, and finally who is Mikki Bouchee??

18. I believe we need to honour late Cr Bouchee but not in this manner. Hindmarsh Lane is a historic name for our Council area and this is the first time with the recent lane upgrade that it will truly reflect its importance to our Council area, and indeed have meaning to all South Australians.
Cr Bouchee should be honoured in a manner designed to honour her and not by a current work in progress.

19. [REDACTED]. I do not support this proposal.

20. I am sure Councillor Bouchee was a wonderful person and did some good deeds whilst a councillor. But I think Holdfast Bay Councillors get enough recognition and reward throughout there working life whilst with the council, and the walkway should be named after another deserving strong community contributor who has had far less or no recognition.

21. There are many worthy people in the area after whom we might name streets, but I'm not sure local councillors are amongst the most significant.

Service is both reward and recognition in and of itself. I'm concerned that others who have served for similar tenures might be disappointed to not receive the same recognition.

22. There are many people who have offered many years of service to the holdfastbay community who work outside of the council.

It's not fair the people responsible for naming spaces in our council, are naming them after themselves, the people who work for the council.

I would much prefer to see the space named after a first nations person who was critical to the Aboriginal rights movement in SA.

Or someone who has made significant sacrifices for SA outside of the job they are paid to do.

I am very sorry for the passing of Mr Bouchee but I don't believe this is the right way for his family, friends and colleagues to recognise him.

23. While I value the contributions of Councillor Bouchee, Hindmarsh Lane is the last remaining link to Governor Hindmarsh and our origins from 1836.

24. I believe this is the wrong location to honour the councillor. Governor Hindmarsh is of great historical importance to Glenelg and to remove his name from the only place in Glenelg named in his honour is concerning. More focus should be given to protecting the heritage of our city.

25. Hindmarsh should Stay

26. I think the current name is fine

27. I do not want this area named after a recent councillor & I do not want it named in a language that is not spoken by a majority of rate payers. Hindmarsh Lane is OK. Councillor Bouchée was a polarising figure and evoked some strong negative feelings - it is unnecessarily controversial

28. One of Mikki Bouchee's strongest platforms was around the preservation of the Heritage of Holdfast Bay. I have to feel she herself would have been uncomfortable at usurping Governor Hindmarsh by this name change.

29. Enough money has been spent on the project for very little benefit. Would be expensive waste of money, would rather see council run a balanced budget without incurring extra costs for rate payers.

30. 1. It literally goes against councils new vision statement about 'safeguarding our heritage'
2. I have no doubt Ms.Bouchée (who felt passionately about our history) would be horrified to think we were erasing nearly 200 years of history and relevance to replace it with her name.

Was this proposal made before researching the history?

31. I believe we need to maintain our recognition of SA's first Governor, John Hindmarsh who arrived in Holdfast Bay on 28 December 1836 on the Buffalo.
We all appreciate Mikki Bouchee's contribution to our community, but Mikki could be recognised elsewhere, maybe a plaque at the Council Chambers?

32. Recently I was saddened to learn of the passing of a long standing councilor bouchée.
A person who was often heard and sometimes not always for the best reasons, she was colorful, bullish and frequently misinformed.
Sometimes Idols are created after the event, and I cannot fathom why in this case that Ms Bouchee cannot be left to rest in peace, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

See relevant articles <https://www.adelaidenow.com.au/messenger/car-salesman-peter-eblen-frames-an-apology-from-holdfast-bay-deputy-mayor-mikki-bouchee-over-parking-claims/news-story/aec65a08cf355629e4c261a72505dc5b>

33. Places of note should be named after community members not councillors whose brief it is to serve and not expect a memorial to be erected just because they served, whether it be poorly or well.

34. It is unfortunate that Council has decided to rename Hindmarsh Land after Mikki Bouchee and it would be better if she was left to rest in peace. Having known her for over 20 years I doubt she would have wanted this nor wanted the many of her detractors to have an opportunity to vent their dislike of her.

[REDACTED]

Let her rest in peace

35. I do not believe any public spaces should be named after Councillors. I think this is very self-serving. Community assets should only be named after outstanding residents, current and historical, that you serve in the community. Service to the community should be all the reward that is necessary for a Councillor. There are many worthy people and groups that are recognised through the Council's yearly Awards program from which to select a name, should that be necessary. Many over the last decade have done more extraordinary things.

36. I think it is important that the history of Glenelg is preserved. It seems the street named after Governor Hindmarsh has already been diminished through development. This makes it all the more important that the remaining section, now known as Hindmarsh Lane, is retained. History can be so easily erased. I believe we have a vital role in the preservation of history such as this.

While I understand there will always be new people deserving of recognition for their contribution to our local community and the state more generally this ought not to be at the expense of earlier figures of significance.

I trust a suitable alternative can be found to pay tribute to the work of Councillor Mikki Bouchee.

37. A fellow Dutch friend emailed me from Adelaide and said you won't believe it they want to name a lane that leads to a toilet block after Mikki.

What an insult after all she has done for the community of Glenelg and Holdfast Bay. She gave her all to the council, laboriously reading agendas, attending meeting and out about in the community door knocking and helping people on council matters, often controversially.

Some would think it is poetic justice to name a toilet lane after someone who was often recognised as having verbal diarrhea however in our debates after much excessive talking, she would come to a profound point.

I first meet Mikki as a fellow immigrant in the Glenelg North Migrant hostel. She loved Glenelg.

[REDACTED]

I remember the horror when there was an attempt to build housing in the sea and one of the councillors boasted they had sold sand from the Glenelg North peninsular to build the airport.

Mikki and her parents got involved in the early establishment of the Friends of the Patawalonga group that helped fix the stinky pat.

When I last visited Glenelg, I could not believe how untidy the streetscape looked and what appeared to be a lack of community pride.

In my little village they hold in spring a best window box competition which is fiercely competitive.

Maybe you should consider bringing back in her honour the best street and best garden competition that I vaguely remember you had once.

Item No: 15.7

Subject: **BEHAVIOURAL STANDARDS FOR ELECTED MEMBERS - CONSULTATION**

Date: 25 January 2022

Written By: Corporate Planning Officer

General Manager: Strategy and Corporate, Ms P Jackson

SUMMARY

In accordance with the *Statutes Amendment (Local Government Review) Act 2021*, a new Conduct Management Framework is expected to commence immediately following the local government elections.

The Office of Local Government is currently consulting on the proposed framework and standards for Elected Member Behaviour. There is an opportunity for councils to respond to the engagement until 16 February 2022. This report provides a summary of the proposed standards, and a recommended response.

RECOMMENDATION

That Council request that Administration expresses Council's support for the draft Behaviour Management Standards and Conduct Management Framework, and request further information regarding training for candidates.

STRATEGIC PLAN

This proposal contributes to achieving the objectives and aspirations in the Strategic Plan by ensuring that members of the primary decision-making body act with the highest integrity, for the benefit of the whole community.

COUNCIL POLICY

Code of Conduct for Council members policy
Elected Members code of conduct, complaints and investigations policy
Elected Member training and development policy

STATUTORY PROVISIONS

Local Government Act 1999
Statutes Amendment (Local Government Review) Act 2021

BACKGROUND

The *Statutes Amendment (Local Government Review) Act 2021* introduced a number of new elements related to Elected Member behaviour.

The Office for Local Government is currently undertaking a public consultation on proposed Behavioural Standards.

REPORT

The Behavioural Standards form part of a conduct management framework and are expected to commence immediately following the council elections. Training will be made available for all candidates.

Conduct Management Framework

The conduct management framework sets rules and expectations for council member behaviour and better tools to resolve repeated and serious misbehaviour.

The framework shows different types of conduct ranging from misbehaviour to corruption, and demonstrates examples of each behaviour, which standards/provisions apply and the relevant management body.

Refer Attachment 1

The framework will apply to all council members elected in the November 2022 elections and consists of:

- Behavioural Standards;
- Behavioural Management Policy (Mandatory); and
- Behavioural Support Policy (Optional)

A breach of these Behavioural Standards or a council's Behavioural Support Policy:

- will be dealt with in accordance with the council's Behavioural Management Policy; and
- may be referred to the Behavioural Standards Panel in accordance with section 262Q of the Local Government Act.

The Behavioural Standards Panel is a new function introduced as part of the framework. The Panel will be made up of members independent from the local government sector.

Behavioural Standards

New state-wide standards of expected behaviour and values, known as Behavioural Standards, will be introduced and will replace the current Code of Conduct for Council Members.

The behavioural standards:

- establish the kinds of behaviour all council members must show
- identify the sorts of behaviour that is not acceptable
- outline the actions that must be taken if the standards are breached.

Refer Attachment 2

These Behavioural Standards are in addition to other existing standards of conduct and behaviour that are expected of council members under the Local Government Act or other legislative requirements.

These other existing standards include but are not limited to 'integrity matters' such as:

- managing gifts and benefits
- dealing with conflicts of interest
- taking care with confidential information

The framework outlines how these are defined and how they might be dealt with.

Behavioural Management Policy

In accordance with section 262B of the Local Government Act each council must have a Behavioural Management Policy detailing how they will manage compliance with the Behavioural Standards and the procedures for lodging, assessing, investigating, and dealing with complaints.

The Local Government Association (LGA) will prepare a model Behavioural Management Policy and guidance materials to assist councils with this process. The Minister has agreed the LGA's model policy will initially apply to all councils after the periodic elections. Councils can adopt their own Behavioural Management Policy at any time after this.

Behavioural Support Policy

Though not a prescribed requirement, a Behavioural Support Policy can be adopted by councils to supplement the Behavioural Standards. This policy, amongst other things, may include additional matters relating to behaviour that must be observed by council members.

Councils are required, within six months following a periodic election, to review the policy or decide whether they intend to adopt a Behavioural Support Policy. Such a policy is required to be subject to public engagement.

Training for candidates

Information and training about the new framework and Behavioural Standards is expected to be available for candidates running for local government elections. This will also be included in council member induction programs following the conclusion of the November 2022 council elections.

Other legislative changes

Several other amendments to the Local Government Act will commence at the same time as the Behavioural Management Framework. These are not included in the Standards, but will include changes to:

- conflict of interest provisions;
- integrity provisions;
- powers of the presiding member to enable the removal of a council member from the chamber for 15 minutes;
- register of gifts and benefits; and
- mandatory training for council members.

Analysis

The framework and standards are succinct and not overly prescriptive. They provide a solid basis upon which councils can develop their own culture, in line with the expectations of their communities. The framework allows for these to be prescribed within councils' own policies.

It is therefore recommended that council record their support for the proposed Behavioural Standards and request further information regarding training.

Next Steps

The Code of Conduct will be replaced by the Elected Member Behaviour Policy. In due course, council will need to review the following policies and develop a Behavioural Management Policy:

- Elected Members code of conduct, complaints and investigations policy
- Elected Member training and development policy.

BUDGET

There will be costs associated with delivering training, as well as compliance activities. These costs are unknown at this stage but at this time, are expected to be able to be met within existing budgetary allocations.

LIFE CYCLE COSTS

Ongoing costs are unknown at this time, as they will be dependent on the requirements specified in new policies and procedures and the number and type of incidents that require management.

Attachment 1



Council member conduct management framework

The conduct management framework sets clear rules and expectations for council member behaviour and better tools to resolve repeated and serious misbehaviour.

Type of conduct	Misbehaviour	Serious or repeated misbehaviour	Integrity breaches	Corruption
Examples of behaviour	<p>Disrespectful behaviour</p> <p>Bullying or harassing elected members or staff</p> <p>Providing inaccurate information</p>	<p>Repeated disrespectful behaviour</p> <p>Not cooperating with council's Behavioural Management Policy</p> <p>Behaviour that affects another member or employee's health and safety</p>	<p>Conflict of interest</p> <p>Misuse of confidential information</p> <p>Misuse of credit cards</p>	<p>Bribery</p> <p>Abuse of public office</p>
Standards	<p>Behavioural Standards for Council Members (these apply to all councils)</p> <p>The council's own Behavioural Support Policy</p>	<p>Repeated breaches of Ministerial Behavioural Standards or behavioural support policies</p> <p>Health and safety duties in the <i>Local Government Act 1999</i> (section 75G)</p>	<p>Integrity provisions in the <i>Local Government Act 1999</i></p>	<p><i>Criminal Law Consolidation Act 1935</i></p>
Investigative body	<p>Councils – using their Behavioural Management Policy</p>	<p>Behavioural Standards Panel</p>	<p>Ombudsman SA</p>	<p>Independent Commission for Corruption (via the Office for Public Integrity)</p>



Attachment 2



Proposed Behavioural Standards for Council Members

December 2021

The proposed Behavioural Standards for Council Members have been developed in preparation for the commencement of the Conduct Management Framework as part of the implementation of the *Statutes Amendment (Local Government Review) Act 2021* and associated changes to the *Local Government Act 1999*.

These draft Standards have been prepared in close consultation with the Local Government Association.



The Behavioural Standards are established by the Minister for Planning and Local Government pursuant to section 75E of the *Local Government Act 1999*.

Statement of Intent

Upon election, council members in South Australia undertake to faithfully and impartially fulfil the duties of office in the public interest, to the best of their judgment and abilities and in accordance with the *Local Government Act 1999* (the Act). 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.

These Behavioural Standards set out minimum standards of behaviour that are expected of all council members in the performance of their official functions and duties. The Behavioural Standards are mandatory rules, with which council members must comply.

Mandatory Behavioural Standards

Adherence to the Behavioural Standards is essential to upholding the principles of good governance in councils.

Councils may adopt Behavioural Support Policies which, amongst other things, may include additional matters relating to behaviour that must be observed by council members. A breach of these Behavioural Standards or a council's Behavioural Support Policy:

- will be dealt with in accordance with the council's Behavioural Management Policy; and
- may be referred to the Behavioural Standards Panel in accordance with section 262Q of the Act.

Council members must comply with the provisions of these Behavioural Standards in carrying out their functions as public officials. It is the personal responsibility of Council members to ensure that they are familiar with, and comply with, these Standards at all times.

These Behavioural Standards are in addition to, and do not derogate from, other standards of conduct and behaviour that are expected of council members under the Act, or other legislative requirements. Conduct that constitutes, or is likely to constitute, a

OFFICIAL

breach of the integrity provisions contained in the Act, maladministration, or which is criminal in nature, is dealt with through alternative mechanisms.

These Behavioural Standards are designed to ensure council members act in a manner consistent with community expectations and form the basis of behaviour management for council members.

Constructive and effective relationships between council members, council employees and the community are essential to building and maintaining community trust and successful governance in the local government sector.

Council members must:

General behaviour

- a) Show commitment and discharge duties conscientiously.
- b) Act in a way that generates community trust and confidence in the Council.
- c) 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.
- d) Act in a reasonable, just, respectful and non-discriminatory way.
- e) 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.

Responsibilities as a member of Council

- a) Comply with all applicable Council policies, codes, procedures, guidelines and resolutions.
- b) Take all reasonable steps to provide accurate information to the community and the Council.
- c) Take all reasonable steps to ensure that the community and the Council are not knowingly misled.
- d) 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.
- e) Act in a manner consistent with their roles, as defined in section 59 of the Act.

OFFICIAL

- f) 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.
- g) Use the processes and resources of Council appropriately and in the public interest.

Relationship with fellow Council Members

- a) Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members.
- b) Not bully other Council members.
- c) Not sexually harass other Council members.

Relationship with Council employees

- a) Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council employees.
- b) Not bully Council employees.
- c) Not sexually harass Council employees.

Definitions

For the purposes of these Behavioural Standards, a Council's Behavioural Support Policy (if adopted) and a Council's Behavioural Management Policy, the following definitions apply:

An elected member will **bully** other Council members or Council employees if:

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

- a) repeatedly behaves unreasonably towards another Council member, or employee; and
- b) the behaviour could reasonably be considered to be distressing, victimising, threatening or humiliating.

Note -

If this behaviour adversely affects the health and safety of another council member or council employee, it must be addressed under section 75G of the Act and may be referred to the Behavioural Standards Panel as 'serious misbehaviour' under sections 262E and 262Q of the Act.

An elected member will **sexually harass** other Council members or Council employees if:

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

- a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another Council member, or employee (the person harassed); or
- b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed,

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated, or intimidated.

Note -

If this behaviour adversely affects the health and safety of another council member or council employee, it must be addressed under section 75G of the Act and may

OFFICIAL

be referred to the Behavioural Standards Panel as 'serious misbehaviour' under sections 262E and 262Q of the Act.

Conduct of a sexual nature includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.

Council employees include volunteers, persons gaining work experience and contractors.

The following behaviour **does not** constitute a breach of these Standards:

- robust debate carried out in a **respectful** manner between Council Members; or
- A reasonable direction given by the Presiding Member at a council meeting, council committee meeting or other council-related meeting (such as a working group or an information or briefing session); or
- A reasonable direction carried out by the Council CEO/responsible person pursuant to section 75G of the Act in relation to the behaviour of a Council Member that poses a risk to the health or safety of a council employee.

These are proposed Behavioural Standards developed for public consultation.

More information about the consultation and ways to provide your feedback is available at <https://yoursay.sa.gov.au/behaviour-standards>

You can also contact:

Office of Local Government
(08) 7109 7145
AGD.OfficeofLocalGovernment@sa.gov.au