

**MINUTES  
OF THE COUNCIL MEETING OF THE CITY OF TEA TREE GULLY HELD ON  
TUESDAY 14 SEPTEMBER 2021 AT 7.04PM IN THE COUNCIL CHAMBERS, 571  
MONTAGUE ROAD, MODBURY**

**1. Opening Prayer and Welcome**

The Mayor read the Opening Prayer and Acknowledgement of Country Statement.

**2. Attendance Record:**

**2.1 Present**

His Worship Mayor K Knight, Crs B Rankine, B Keane, J Lintvelt, L Jones, O Savvas, R Unger, D Wyld, L Petrie, R Coleman, P Field and S Keane.

**2.2 Apologies**

Nil

**2.3 Leave of Absence**

Nil

**2.4 Record of Officers in Physical Attendance onsite**

Mr J Moyle	Chief Executive Officer
Mr R McMahon	Director Organisation Services & Excellence
Mrs C Neil	Director Community & Cultural Development
Mr T Harfield	Director Assets & Environment
Miss M Lay	Governance & Risk Administration Officer
Ms I Wilkshire	Manager City Strategy
Mr D Jury	Strategic Initiatives Facilitator
Ms C Gill	Senior Strategy Planner
Mr R Hutchison	Team Leader Park Assets
Mr J Robbins	Manager Finance & Rating Operations
Ms R Baines	Team Leader Financial Accounting

**Record of Officers in Attendance via Electronic Means (audio-visual link)**

Nil

## **2.5 Record of Number of Persons in the Public Gallery – Physical Attendance**

7 Attendees

## **2.6 Record of Media in Physical Attendance**

Nil

## **3. Confirmation of Minutes to the Previous Meeting**

Moved Cr S Keane, Seconded Cr Field

That the Minutes of the Council Meeting held on 24 August 2021 be confirmed as a true and accurate record of proceedings.

**Carried Unanimously (970)**

## **4. Mayor's Report - Nil**

## **5. Public Forum**

The following people spoke in relation to the management report titled 'Stage 1 Community Engagement Outcomes Report – Potential sale of Portion Mowbray Reserve':

- Mr Stephen Stubbs
- Mr Andrew Fischer

## **6. Deputations - Nil**

## **7. Presentations - Nil**

## **8. Petitions - Nil**

## **9. Declaration of Conflicts of Interests**

Cr Petrie declared a conflict of interest in the management report titled 'Australia Day Council of South Australia – Voting of Board Members 2021'.

**10. Adjourned Business - Nil****11. Motions Lying on the Table - Nil**

*The Mayor sought leave of the meeting to bring forward the management report titled 'Stage 1 Community Engagement Outcomes Report – Potential sale of Portion Mowbray Reserve. Leave was granted.*

**11.1 Stage 1 Community Engagement Outcomes Report - Potential sale of Portion Mowbray Reserve (D21/64727)**

Moved Cr Jones, Seconded Cr Lintvelt

- a) Note the feedback from the community in the Outcomes of Engagement as detailed in Attachment 2 of the report titled “Stage 1 Community Engagement Outcomes Report – Potential sale of portion Mowbray Reserve” and dated 14 September 2021.
- b) Not proceed with the proposed sale of portion of this reserve.
- c) Inform all respondents to Stage 1 community engagement for Mowbray Reserve of Council’s decision.

**Carried Unanimously (971)**

**12. Committee Reports**

**Service Review Committee - Nil**

**Audit Committee**

**12.1 Recommendations from the Audit Committee Meeting held on 7 September 2021****Audited Financial Statements 2020-2021 (D21/62038)**

Moved Cr Field, Seconded Cr Unger

That Council receives the audited financial statements for financial year ending 30 June 2021 as presented to the Audit Committee on 7 September 2021.

**Carried Unanimously (972)**

**Governance and Policy Committee - Nil**

**CEO Performance and Remuneration Review Committee - Confidential item**

**Traffic Management Safety Committee - Nil**

### **13. Management Reports**

#### **Office of the Chief Executive Officer**

##### **13.1 Community Engagement Outcomes - Dernancourt Memorial Proposal (D21/65110)**

*During the moving of the motion, Cr Jones left the meeting at 7.40pm.*

Moved Cr Coleman, Seconded Cr Field

That Council, having considered the report titled “Community Engagement Outcomes - Dernancourt Memorial Proposal” dated 14 September 2021, resolves to:

- a) Support the principle of construction of a brick wall style memorial as detailed in the community engagement outcomes report provided in Attachment 1 of the abovementioned report.
- b) Request the Council’s Chief Executive Officer to seek grant funding for the installation of the memorial and if required, to include a budget allocation from a future Council budget to supplement the grant application.
- c) Amend the Dernancourt/Highbury (River Torrens Linear Park) Community Land Management Plan to include a future memorial structure.

**Carried Unanimously (973)**

*Cr Jones was not present for the vote.*

*Cr Jones re-entered the meeting at 7.48pm.*

##### **13.2 Local Design Review Code Amendment - Public Consultation Response (D21/66991)**

*During the discussion, Cr Field left the meeting at 7.56pm and re-entered the meeting at 7.57pm.*

Moved Cr Wyld, Seconded Cr B Keane

1. That Council having considered the report titled “Local Design Review Code Amendment – Public Consultation Response” dated 14 September 2021, endorses the matters set out in Section 2.4 of the report as its formal submission to the State Planning Commission and Office for Design and Architecture South Australia in response to the public consultation on the Local Design Review Code Consultation.
2. That Council resolves that it does not intend to register an interest in participating in a Local Design Review Scheme at this point in time but reserves our options to do so in the future if the Scheme is refined to better suit the local context, and the line of sight between the Scheme’s Principles of Good Design and the Planning and Design Code is better understood.

**Carried Unanimously (974)**

**Assets & Environment** - Nil

## **Organisational Services & Excellence**

### **13.3 Local Government Reform Feedback - Casual Vacancy Election and Behavioural Management Framework (D21/60007)**

Feedback sought on Casual Vacancy Elections – Count back method

Moved Cr Wyld, Seconded Cr Lintvelt

That having considered the report titled “Local Government Reform Feedback - Casual Vacancy Election and Behavioural Management Framework” and dated 14 September 2021, Council provides the feedback to the Local Government Association and Office of Local Government that its preference for the Casual Vacancy Elections is to retain the current practice of leaving a vacancy unfilled in an election year, followed by the ‘preferred candidate’ count back method.

*Leave of the meeting was sought with the consent of the mover and seconder to vary the motion to remove ‘is to retain the current practice of leaving a vacancy unfilled in an election year, followed by the ‘preferred candidate’ count back method’, and replace it with ‘is to be the ‘preferred candidate’ count back method. Leave was granted.*

Motion as varied

That having considered the report titled “Local Government Reform Feedback - Casual Vacancy Election and Behavioural Management Framework” and dated

14 September 2021, Council provides the feedback to the Local Government Association and Office of Local Government that its preference for the Casual Vacancy Elections is to be the 'preferred candidate' count back method.

**Carried Unanimously (975)**

Feedback on Timing for commencement of Behavioural Management Framework

Moved Cr Field, Seconded Cr Savvas

That having considered the report titled "Local Government Reform Feedback - Casual Vacancy Election and Behavioural Management Framework" and dated 14 September 2021, Council provides the feedback to the Local Government Association and Office of Local Government that Option 2 is the preferred which entails the Framework to be commence after the November 2022 local government periodic elections.

**Carried Unanimously (976)**

**13.4 Council Committee Vacancies and Appointment to External Bodies (D21/65204)**

Moved Cr Wyld, Seconded Cr Petrie

1. That Council is of the view that each of the below listed Council Committees have sufficient Committee membership to be able to adequately carry out their duties and accommodate a vacancy of one elected member and further resolves that the Committees' memberships be each reduced by one elected member.
2. That each Terms of Reference of the below list of Council Committees be amended to reflect this decision,
3. That points 1-3 of this resolution apply to the following Council Committees:
  - a. Governance and Policy Committee
  - b. CEO Performance and Remuneration Review Committee
  - c. Traffic Management Safety Committee
  - d. Service Reviews Committee

*Leave of the meeting was sought with the consent of the mover and seconder to vary the motion to add a new dot point 3 to read 'That the quorum of the Service Reviews Committee be amended to 3 in the Terms of Reference'. Leave was granted.*

Motion as varied

1. That Council is of the view that each of the below listed Council Committees have sufficient Committee membership to be able to adequately carry out their duties and accommodate a vacancy of one elected member and further resolves that the Committees' memberships be each reduced by one elected member.
2. That each Terms of Reference of the below list of Council Committees be amended to reflect this decision,
3. That the quorum of the Service Reviews Committee be amended to 3 in the Terms of Reference
4. That points 1, 2 and 4 of this resolution apply to the following Council Committees:
  - a. Governance and Policy Committee
  - b. CEO Performance and Remuneration Review Committee
  - c. Traffic Management Safety Committee
  - d. Service Reviews Committee

**Carried Unanimously (977)**

**Community & Cultural Development - Nil**

**14. Notice(s) of Motions - Nil**

**15. Motions without Notice - Nil**

**16. Questions on Notice**

**16.1 Questions on Notice - Mr Richard Harvey MP - Mowbray Reserve, Fairview (Cr Jones) (D21/68874)**

The response for the Question on Notice is provided as Attachment 1 to the Minutes.

**17. Questions without Notice**

Cr Petrie asked a question in relation to change tables in male toilets and their associated costs to implement. Mr Thornton Harfield, Director Assets & Environment took the question on notice.

**18. Council Delegates and Activities Report - Nil**

**19. Information Reports**

The following Information reports were received at the meeting:

**19.1 Update on Ridgehaven Reserve Playground Renewal project (D21/65444)**

**19.2 Policies adopted by the Governance and Policy Committee under Delegation - 18 August 2021 (D21/65640)**

**19.3 Digital services and communications (D21/67273)**

**19.4 Council Assessment Panel Membership (D21/68050)**

**20. Status Report on Resolutions**

**20.1 Status Report on Council Resolutions (D21/66235)**

Council received the Status Report on Council Resolutions.

**21. Other Business**

**21.1 Australia Day Council of South Australia - Voting of Board Members 2021 (D21/70252)**

*Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Petrie declared a perceived conflict of interest in relation to the matter on the basis that she is a member of the Australia Day Council of South Australia. Cr Petrie dealt with this matter in a transparent and accountable way by remaining impartial, and considered the item on its merits to make a decision in the public interest.*

Moved Cr Savvas, Seconded Cr Field

That Council does not vote for any representatives for the Australia Day Council of South Australia.

**Carried (978)**



## 22. Section 90(2) Local Government Act 1999 – Confidential Items

### 22.1. Correspondence from Ombudsman in relation to Mayor Knight – Update from Deputy Mayor Jones

#### Recommendation for Moving into Camera

Moved Cr Jones, Seconded Cr Coleman

1. That pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that the public (except staff on duty) be excluded from the meeting to enable discussion on an outstanding Council resolution which the Deputy Mayor has advised that he is required to update the Council.
2. That the Council is satisfied that pursuant to section 90(3) (j)(i) and (j)(ii) of the Act, the information be received, discussed or considered in relation to this item is:
  - information the disclosure of which would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); AND
  - information the disclosure of which would, on balance, be contrary to the public interest .
    - o on the basis that a third party agency has directed Council for this information to not be publicly released.
3. In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in the public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances on the basis that members of the public are not to be included in matters involving third party agencies where this information has been requested to remain in confidence.

**Carried Unanimously (979)**

*Pursuant to sections 75 & 75A of the Local Government Act 1999, Mayor Knight declared an actual conflict of interest in relation to the matter on the basis that he is involved. Mayor Knight left the meeting at 8.44pm and did not return for the remainder of the meeting.*

**The following staff members on duty remained at the meeting for the following item:**

Mr J Moyle, Mr R McMahon and Miss M Lay.

### **22.1 Correspondence from Ombudsman in relation to Mayor Knight – Update from Deputy Mayor Jones**

Cr Jones provided a verbal update in relation to the matter.

### **22.2. Recommendations from the CEO Performance and Remuneration Review Committee Meeting held on 6 September 2021 (D21/68240)**

#### **Recommendation for Moving into Camera**

*At 9.03pm the confidential session concluded and the meeting returned to an open public meeting. Mayor Knight having left the meeting under the previous matter, did not return for the remainder of the meeting.*

*Deputy Mayor Jones took the chair as Presiding Member at 9.03pm.*

Moved Cr Field, Seconded Cr S Keane

1. That pursuant to Section 90(2) of the Local Government Act, 1999 the Council orders that the public with the exception of staff on duty for governance duties be excluded from the meeting to enable discussion on the Draft CEO Performance and Remuneration Review Outcomes 2020-21.
2. That Council is satisfied that pursuant to section 90(3) a of the Act, the information be received, discussed or considered in relation to this item:
  - relates to information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of the Chief Executive Officer, in that details of his performance and remuneration review will be discussed, which are sensitive and are personal details that should only be known to those who have participated in the review process.
3. In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in the public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances on the basis that details of the CEO's performance and remuneration may be prematurely disclosed before the details of the review have been discussed with the Chief Executive Officer or Council, and could therefore result in the release of inaccurate or misleading information.

**Carried Unanimously (980)**

**The following staff members on duty remained at the meeting for the following item:**

Mr R McMahon and Miss M Lay.

**22.1 Draft CEO Performance and Remuneration Review Outcomes 2020-21 (D21/63337)**

The Confidential Resolution No 981 has been withdrawn from the public minute record in accordance with Resolution No 982.

**Retention of confidential documents:**

Moved Cr S Keane, Seconded Cr Coleman

1. That having considered the agenda item titled Draft CEO Performance and Remuneration Review Outcomes 2020-21 and dated 06 September 2021 in confidence under section 90(2) & (3)(a) and Section 91(7) of the Local Government Act 1999:
  - Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of the Chief Executive Officer, in that details of his performance review and remuneration may be prematurely disclosed before the details of the review have been discussed with the Chief Executive Officer and finalised by Council, and could therefore result in the untimely release of sensitive and or incomplete, inaccurate or misleading information.

Council pursuant to section 91(7) of the Act orders that the report and minutes relevant to this item be retained in confidence and not available for public inspection until:

- The Presiding Member of the CEO Performance and Remuneration Review Committee and CEO has signed any correspondence related to the CEO employment agreement and the Total Employment Cost package (and these signed documents have been provided to the CEO); or
- The CEO Performance and Remuneration Review Committee or Council resolves otherwise, whichever occurs first.

**Carried Unanimously (982)**

**23. Date of Next Ordinary Meeting**

28 September 2021

The Deputy Mayor declared the meeting closed at 9.26pm.

Confirmed.....  
Mayor 28 September 2021

**Attachment 1 – Questions on Notice (Cr Jones)**

**City of Tea Tree Gully**

**COUNCIL**

**14 SEPTEMBER 2021**

**QUESTION ON NOTICE - RESPONSE**

**Questions on Notice - Mr Richard Harvey MP - Mowbray Reserve, Fairview (Cr Jones)  
D21/68874**

**Question:**

*Has the City of Tea Tree Gully Council staff received any correspondence addressed to Tea Tree Gully Councillors relating to Mowbray Reserve, Fairview Park from Mr Richard Harvey MP Member for Newland?*

**Response:**

No. A search of Council's records has shown that no such correspondence exists in Council's records system as at 8 September 2021 and having consulted with key staff in this area, no-one could recall any such correspondence.

**Attachments**

N/A

**Report Authorisers**

Cherie Gill Senior Strategy Planner	8397 7357
Ingrid Wilkshire Manager City Strategy	8397 7292
John Moyle Chief Executive Officer	8397 7201