

**MINUTES OF THE COUNCIL MEETING OF THE CITY OF TEA TREE GULLY  
HELD ON TUESDAY 8 MARCH 2022 AT 7.00PM 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, R Unger, D Wyld, L Petrie, R Coleman, P Field and S Keane.

**2.2 Apologies**

Nil

**2.3 Leave of Absence**

Cr O Savvas

**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
Mrs D Taglierini	Governance Advisor
Mr J Robbins	Manager Finance & Rating Operations
Mrs R Baines	Team Leader Financial Accounting
Mr S Simpson	Senior Accountant
Mr J Short	Manager Organisational Development
Mr N Grainger	Manager City Development
Mr G D'Aloia	Manager Civil Assets
Mr R Hutchison	Team Leader Park Assets

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

Ms I Cooper	Manager Governance & Policy
Mr J Herd	Environmental Sustainability Coordinator
Mr J Foong	Coordinator Water, Waste & Environment

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

10 Attendees

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

Nil

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

Moved Cr S Keane, Seconded Cr Wyld

That the Minutes of the Council Meeting held on 22 February 2022 be confirmed as a true and accurate record of proceedings.

**Carried Unanimously (1143)**

## **4. Public Forum**

The following people spoke in relation to the management report regarding “Recycling Centre Appeal - 1272 North East Road Tea Tree Gully”

- Mr John Schell
- Ms Rose Morton.

## **5. Deputations**

Mr Gary Rayment spoke in relation to the management report titled “Proposal to undertaken Community Engagement on the potential future development and naming of the Council own land located at 1335A North East Road, Tea Tree Gully”.

## **6. Presentations - Nil**

## **7. Petitions - Nil**

**8. Declaration of Conflicts of Interests**

Mayor Knight indicated he would be declaring a conflict of interest in relation to the management report titled “Update – Mayor Knight Facebook Live Interview”.

**9. Adjourned Business - Nil**

**10. Motions Lying on the Table - Nil**

**11. Committee Reports**

**Service Review Committee - Nil**

**Audit Committee - Nil**

**Governance and Policy Committee - Nil**

**CEO Performance and Remuneration Review Committee - Nil**

**Traffic Management Safety Committee - Nil**

**12. Management Reports**

**Office of the Chief Executive Officer - Nil**

## Assets & Environment

### **12.1 Proposal to undertake Community Engagement on the potential future development and naming of the Council owned land located at 1335A North East Road, Tea Tree Gully (D22/15862)**

Moved Cr Jones, Seconded Cr Lintvelt

That having considered the report titled “Proposal to undertake Community Engagement on the potential future development and naming of the Council owned land located at 1335A North East Road, Tea Tree Gully” and dated 8 March 2022, Council;

1. Endorses community engagement as per the Community Engagement Strategy as set out in Attachment 2 of the abovementioned report
2. Receives a report on the outcomes of this community engagement to be presented to a future Council meeting.

**Carried Unanimously (1144)**

## Organisational Services & Excellence

### **12.2 Quarter Two Budget Review for Financial Year Ending 30 June 2022 (D22/13080)**

*During the moving of the motion,*

- *Cr Jones left the meeting at 7.26pm and re-entered the meeting at 7.28pm.*
- *Cr Jones left the meeting at 7.29pm*

Moved Cr Field, Seconded Cr Unger

That Council adopts the Quarter Two Budget Review for the period 1 July 2021 to 30 June 2022, as detailed in Attachment 1 and Attachment 2 of the report titled “Quarter Two Budget Review for Financial Year End 30 June 2022” and dated 8 March 2022, which reflects a revised operating forecast surplus of \$6.367m.

**Carried Unanimously (1145)**

*Cr Jones was not present for the vote.*

### **12.3 Submission to Remuneration Tribunal of South Australia - Council Chief Executive Officers (CEO) Salaries (D22/10896)**

*During the moving of the motion, Cr Jones re-entered the meeting at 7.30pm.*

Moved Cr Field, Seconded Cr B Keane

That Council, having considered the report titled “Submission to Remuneration Tribunal of South Australia - Council Chief Executive Officers (CEO) Salaries” and dated 8 March 2022, endorses Council’s submission to the Remuneration Tribunal SA (RTSA) and Local Government Association of SA (LGA) as provided in Attachment 2 to the report.

**Carried Unanimously (1146)**

### **12.4 Variations to Delegations Register - Changes to Authorisations and Delegations under the Road Traffic Act 1961 (D22/9746)**

Moved Cr Field, Seconded Cr Coleman

That Council makes the following addition to the authorisations and delegations under the Road Traffic Act 1961:

#### Authorisations and Subdelegation under the Road Traffic Act 1961

- a. In accordance with the Instrument of General Approval and Delegation to Council dated 22 August 2013 from the Minister for Transport and Infrastructure (the ‘Instrument’)(provided in Attachment 1) the Council authorises the following additional officers pursuant to Clause C of the Instrument to endorse Traffic Control Devices for the purposes of the Instrument provided that such person shall take into account the matters specified in Clause C of the Instrument in respect of Traffic Control Devices at Works on Roads:
  - Jonathan Wilby, Civil Projects Coordinator
  - Dennis Kariuki, Projects and Asset Engineer

**Carried Unanimously (1147)**

### **Community & Cultural Development - Nil**

### **13. Notice(s) of Motions - Nil**

## **14. Motions without Notice**

### **14.1 Call for Nominations - Libraries Board of SA**

*Pursuant to sections 73 and 74 of the Local Government Act 1999, Cr Lintvelt declared a material conflict of interest in relation to matter on the basis that she is the nominee and if appointed to the position would receive a pecuniary benefit as a result of an annual allowance. Cr Lintvelt left the meeting and its close vicinity while the matter was being discussed and voted on at 7.36pm.*

Moved Cr Jones, Seconded Cr Wyld

That Council nominates Cr Jessica Lintvelt for the position of board member of the Libraries Board of SA.

**Carried Unanimously (1148)**

*Cr Lintvelt was not present for the vote*

*Cr Jones left the meeting at 7.39pm.*

*Cr Lintvelt re-entered the meeting at 7.39pm.*

## **15. Questions on Notice - Nil**

## **16. Questions without Notice - Nil**

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

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

*Cr Jones re-entered the meeting at 7.40pm.*

## **19. Information Reports**

The following Information reports were received at the meeting:

**19.1 Elected Member Training and Development - Approval of Applications under CEO Delegation - July to December 2021 (D22/12456)**

**19.2 Quarter 2 Financial Year 2021-2022 Strategic Plan 2025 KPI Status Report (D22/13779)**

**19.3 Policies adopted by the Governance and Policy Committee under Delegation - 16 February 2022 (D22/14154)**

**19.4 Australian Local Government Association - National General Assembly 2022 - Call for Motions (D22/14747)**

**19.5 Resilient East Annual Report 2020-2021 and Draft Budget 2022-2023 (D22/14863)**

**19.6 2022 State Election Funding Announcements - Sport and Community Facilities (D22/14917)**

## **20. Status Report on Resolutions**

**20.1 Status Report on Council Resolutions (D22/12524)**

Council received the Status Report on Council Resolutions

## **21. Other Business**

Mayor Knight spoke in relation to the Public Forum speaker Ms Rose Morton and the release of her private information.

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

### **22.1 Recycling Centre Appeal - 1272 North East Road, Tea Tree Gully (D22/14019)**

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

*During the seconding of the motion, Cr Jones left the meeting at 7.42pm and re-entered the meeting during the debate at 7.44pm.*

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 (except staff on duty and Council's Lawyer) be excluded from the meeting to enable discussion on the report titled "Recycling Centre Appeal - 1272 North East Road, Tea Tree Gully" and dated 8 March 2022.
2. That the Council is satisfied that pursuant to section 90(3)(b)(i), (b)(ii) and (h) of the Act, the information be received, discussed or considered in relation to this item is:
  - Information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; AND
  - information the disclosure of which would, on balance, be contrary to the public interest.
    - o on the basis that that the public release of this information would have the potential to impact the capacity for Council to negotiate an arrangement that is in the best interest of Council, AND.
  - legal advice .
    - o on the basis that the public release of this information would impact Council's position.
3. That 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 the public release of this information would compromise Council's ability to obtain the best outcome for Council and the community.

**Carried Unanimously (1149)**

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

Mr J Moyle, Mr R McMahon, Mr T Harfield, Ms C Neil, Ms I Cooper, Mrs D Taglierini, Mr N Grainger, Mr J Robbins and Council's Lawyer Mr A Migel.



## **22.1 Recycling Centre Appeal - 1272 North East Road, Tea Tree Gully (D22/14019)**

Moved Cr Jones, Seconded Cr Lintvelt

That Council's Chief Executive Officer be authorised to have a traffic survey undertaken by MFY Traffic consultants and refer the matter back to Council with a view to Council re-evaluating its position to resolve the matter by way of an agreement on additional conditions at the conclusion of the traffic survey referred to in the abovementioned report should it be deemed appropriate.

*Leave of the meeting was sought with the consent of the mover and seconder to vary the motion to:*

- *remove the wording after Council "with a view to Council re-evaluating its position to resolve the matter by way of an agreement on additional conditions at the conclusion of the traffic survey referred to in the abovementioned report should it be deemed appropriate"*
- *Replace it with "for further consideration."*

*Leave was granted.*

### **Motion as varied**

That Council's Chief Executive Officer be authorised to have a traffic survey undertaken by MFY Traffic consultants and refer the matter back to Council for further consideration.

**Carried Unanimously (1150)**

## **Retention of confidential documents:**

Moved Cr Field, Seconded Cr Foreman

1. That having considered the agenda item titled “Recycling Centre Appeal - 1272 North East Road, Tea Tree Gully” and dated 8 March 2022 in confidence under section 90(2) & (3)(b)(i), (b)(ii) and (h) and Section 91(7) of the Local Government Act 1999:
  - information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; AND
  - information the disclosure of which would, on balance, be contrary to the public interest; AND
  - legal advice

the Council pursuant to section 91(7) of the Act orders that the report, attachments and minutes relevant to this item be retained in confidence the matter has been dealt with in the ERD court or an agreement between the two parties has been entered into and that this order be reviewed every 12 months at a minimum (if the confidentiality period is longer than 12 months in duration) or until the Council resolves otherwise, whichever occurs first.
2. That the Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91 (7) of the Local Government Act 1999 subject to the Chief Executive Officer consulting with the Mayor and reporting to the Elected Members of the revocation.

**Carried Unanimously (1151)**

## **22.2 Sale of Land for Non Payment of Council Rates (D22/15160)**

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

*During the seconding of the motion, Cr Jones left the meeting at 8.16pm.*

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 (except staff on duty and Council's Lawyers) be excluded from the meeting to enable discussion on the report titled "Sale of Land for Non Payment of Council Rates" and dated 8 March 2022.
2. That the 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 is:
  - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead) .
    - o on the basis that it relates to personal financial affairs of rate payers and is inappropriate to put pending private financials in the public domain prior to it being finalised
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 it could impact the financial position of the relevant ratepayer.

**Carried Unanimously (1152)**

*Cr Jones was not present for the vote.*

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

Mr J Moyle, Mr R McMahon, Mr T Harfield, Ms C Neil, Ms I Cooper, Mrs D Taglierini, Mr J Robbins and Council's Lawyers Mr D Mazzachi and Mr L Smith.

## **22.2 Sale of Land for Non Payment of Council Rates (D22/15160)**

*During the debate, Cr Jones re-entered the meeting at 8.18pm.*

Moved Cr Field, Seconded Cr S Keane

That, pursuant to Section 184 of the Local Government Act 1999, Council proceeds with the sale of land option provided for in the Act for Council to recover its long-term rate debts against the following assessment numbers:

- 23931
- 84687
- 146985
- 412505

**Carried Unanimously (1153)**

### **Retention of confidential documents:**

Moved Cr S Keane, Seconded Cr Coleman

1. That having considered the agenda item titled “Sale of Land for Non Payment of Council Rates” and dated 8 March 2022 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 any person (living or dead)

the Council pursuant to section 91(7) of the Act orders that the report relevant to this item be retained in confidence until the debts have been settled or settlement of the properties has occurred and that this order be reviewed every 12 months at a minimum (if the confidentiality period is longer than 12 months in duration) or until the Council resolves otherwise, whichever occurs first.

2. That Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91 (7) of the Local Government Act 1999 subject to the Chief Executive Officer consulting with the Mayor and reporting to the Elected Members of the revocation.

**Carried Unanimously (1154)**

## **22.3 Funding support for Cities of Mitcham and Unley litigation (D22/15809)**

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

Moved Cr Lintvelt, Seconded Cr Unger

1. That pursuant to Section 90(2) of the Local Government Act 1999, the Council orders that the public (except staff on duty and Council's Lawyers) be excluded from the meeting to enable discussion on the report titled "Funding support for Cities of Mitcham and Unley litigation" and dated 8 March 2022.
2. That the Council is satisfied that pursuant to section 90(3)(i) of the Act, the information be received, discussed or considered in relation to this item is:
  - information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council .
    - o on the basis that legal negotiations may arise which relate to multiple parties including other councils.
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 the report relates to multiple parties including other councils, and disclosure of such information is not for Council to release.

**Carried Unanimously (1155)**

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

Mr J Moyle, Mr R McMahon, Mr T Harfield, Ms C Neil, Ms I Cooper, Mrs D Taglierini and Council's Lawyers Mr D Mazzachi and Mr L Smith.

### **22.3 Funding support for Cities of Mitcham and Unley litigation (D22/15809)**

*After the moving of the motion, pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Field declared a perceived conflict of interest in relation to the matter on the basis that he provides his employment provides has a contract with local regional councils to provide advice relating to similar matters. Cr Field dealt with this matter in a transparent and accountable way by leave of the meeting and left the meeting and its close vicinity at 8.40pm.*

Moved Cr Wyld, Seconded Cr Unger

That having considered the report titled “Funding Support for Cities of Mitcham and Unley Litigation” and dated 8 March 2022, Council supports the request to provide funding support in the amount of \$9,266.33.

**Carried (2)**

*Cr Field was not present for the vote.*

### **Retention of confidential documents:**

*During the seconding of the motion, Cr S Keane left the meeting at 8.42pm.*

Moved Cr S Keane, Seconded Cr Foreman

1. That having considered the agenda item titled “Funding support for Cities of Mitcham and Unley litigation” and dated 8 March 2022 in confidence under section 90(2) & (3)(i) and Section 91(7) of the Local Government Act 1999:
  - information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council

the Council pursuant to section 91(7) of the Act orders that the report and attachments relevant to this item be retained in confidence until 8 March 2023 and that this order be reviewed every 12 months at a minimum (if the confidentiality period is longer than 12 months in duration) or until the Council resolves otherwise, whichever occurs first.

2. That the Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91 (7) of the Local Government Act 1999 subject to the Chief Executive Officer consulting with the Mayor and reporting to the Elected Members of the revocation.

**Carried Unanimously (1157)**

*Crs S Keane and Field were not present for the vote.*

*Cr Field re-entered the meeting at 8.43pm.*

## **22.4 Update - Mayor Knight Facebook Live Interview (D22/15544)**

*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 may be involved in the matter. He dealt with the matter in a transparent and accountable way by leaving the meeting and its close vicinity for the remainder of the meeting. Mayor Knight left the meeting at 8.44pm.*

*Deputy Mayor Jones took the chair as Presiding Member at 8.45pm.*

*Cr S Keane re-entered the meeting at 8.45pm.*

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

Moved Cr Lintvelt, Seconded Cr S Keane

1. That pursuant to Section 90(2) of the Local Government Act 1999, the Council orders that the public (except staff on duty and Council's lawyers) be excluded from the meeting to enable discussion on the report titled "Update - Mayor Knight Facebook Live Interview" and dated 8 March 2022.
2. That the Council is satisfied that pursuant to section 90(3)(a),(e),(h),(j)(i) and (j)(ii) of the Local Government Act 1999, the information be received, discussed or considered in relation to this item is:
  - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); AND
  - matters affecting the security of the council, members or employees of the council, or council property; or the safety of any person; AND
    - o on the basis that information has the potential to impact individuals
  - legal advice
    - o on the basis that disclosure of legal strategy may impact potential next steps
  - 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);

- 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 to matters involving third party agencies where this information has been requested to remain in confidence.

**Carried Unanimously (1158)**

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

Mr R McMahon, Mr T Harfield, Ms C Neil, Ms I Cooper, Mrs D Taglierini and Council's Lawyers Mr D Mazzachi and Mr L Smith.

*[Note: John Moyle, Chief Executive Officer, declared a conflict of interest in relation to the matter and left the meeting.]*



## **22.4 Update - Mayor Knight Facebook Live Interview (D22/15544)**

*Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Wyld declared a perceived conflict of interest in relation to the matter on the basis that he was mentioned in the interview. He indicated that he would deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.*

*Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Unger declared a perceived conflict of interest in relation to the matter on the basis that he was mentioned in the interview. He indicated that he intended to deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.*

*Crs Wyld and Unger left the meeting at 9.03pm.*

*Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Field declared a perceived conflict of interest in relation to the matter on the basis that he was mentioned in the interview. He indicated that he intended to deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.*

*Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr B Keane declared a perceived conflict of interest in relation to the matter on the basis that he was mentioned in the interview. He indicated that he intended to deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.*

*Crs Wyld and Unger re-entered the meeting at 9.05pm*

*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 it indirectly concerns the South Australian Civil and Administrative Tribunal, of which she is an assessor. She indicated that she intended to deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.*

*Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr S Keane declared a perceived conflict of interest in relation to the matter on the basis that her husband was mentioned in the interview. She indicated that she intended to deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.*

*Pursuant to sections 75 & 75A of the Local Government Act 1999, Deputy Mayor Jones declared a perceived conflict of interest in relation to the matter on the basis that he was mentioned in the interview. He indicated that he intended to deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.*

*On the basis that a quorum at the meeting could not be formed due to the number of council members that proposed to exclude themselves from the meeting in order to comply with section 75A(1) for the item, the following members stayed in the meeting pursuant to section 75A(3) to participate in relation to the matter, to form a quorum for the meeting:*

- *Cr Wyld*
- *Cr Unger*
- *Cr Field*
- *Cr B Keane*
- *Cr Petrie*
- *Cr S Keane*
- *Deputy Mayor Jones*

### **Retention of confidential documents:**

Moved Cr Field, Seconded Cr S Keane

1. That having considered the agenda item titled “Update -Mayor Knight Facebook Live Interview” and dated 8 March 2022 in confidence under section 90(2) & (3)(a),(e),(h),(j)(i) and (j)(ii) of the Local Government Act 1999:
  - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); AND
  - matters affecting the security of the council, members or employees of the council, or council property; or the safety of any person; AND
  - legal advice
  - 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);
 the Council pursuant to section 91(7) of the Act orders that the minutes related to this item be retained in confidence until further order of the Council.
  
2. That the Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91(7) of the Local Government Act 1999 subject to the Chief Executive Officer consulting with the Deputy Mayor and reporting to the Elected Members of the revocation.

**Carried Unanimously (1159)**

*[Note: John Moyle, Chief Executive Officer re-entered the meeting before the consideration of the item.]*

### **Chief Executive Officer – Conflict of Interest**

Moved Cr Lintvelt, Seconded Cr Foreman

That the Council:

1. Notes Chief Executive Officer has declared a conflict of interest for the purposes of Section 120(1) of the *Local Government Act 1999* in respect of this matter; and

2. In accordance with Section 120(1)(b) of the *Local Government Act 1999* authorises the Chief Executive Officer to act in relation to the matter (including, but not limited to: remaining present in the Council meetings for the duration of the Council's consideration of this matter and taking any and all actions arising from and incidental to any decision(s) to be made by the Council in respect of the matter) subject to any future decision of the Council to the contrary.

**Carried Unanimously (1160)**

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

Moved Cr S Keane, Seconded Cr Lintvelt

1. That pursuant to Section 90(2) of the Local Government Act 1999, the Council orders that the public (except staff on duty and Council's lawyers) be excluded from the meeting to enable discussion on the report titled "Update - Mayor Knight Facebook Live Interview" and dated 8 March 2022.
2. That the Council is satisfied that pursuant to section 90(3)(a),(e),(h),(j)(i) and (j)(ii) of the Local Government Act 1999, the information be received, discussed or considered in relation to this item is:
  - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); AND
  - matters affecting the security of the council, members or employees of the council, or council property; or the safety of any person; AND
    - o on the basis that information has the potential to impact individuals
  - legal advice
    - o on the basis that disclosure of legal strategy may impact potential next steps
  - 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);
    - 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 to matters involving third party agencies where this information has been requested to remain in confidence.

**Carried Unanimously (1161)**

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

Mr J Moyle, Mr R McMahon, Mr T Harfield, Ms C Neil, Ms I Cooper, Mrs D Taglierini and Council's Lawyers Mr D Mazzachi and Mr L Smith.

## 22.4 Update - Mayor Knight Facebook Live Interview (D22/15544)

*Mr Ryan McMahon, Director Organisational Services and Excellence, Ms Ilona Cooper, Manager Governance and Policy and Council's Lawyers Mr Dale Mazzachi and Mr Lincoln Smith provided a presentation on further advice that had been received on the matter.*

### **Formal Meeting Procedures Suspended at 10.33pm**

Moved Cr Unger, Seconded Cr Field

That Council temporarily suspend the formal meeting procedures to allow free and open discussion on the matter until all questions have been answered.

**Carried Unanimously (1162)**

*Following the informal discussion the Presiding Member determined that the period of suspension should be brought to an end and formal meeting procedures were resumed at 11.25pm.*

Moved Cr Field, Seconded Cr Petrie

That the Council:

1. Notes the report and verbal presentation provided in respect of this matter.

### Independent Commission Against Corruption Act 2012

2. Instructs the Director Organisational Services & Excellence (or person acting in the role), Manager Governance & Policy and/or Mr Ryan McMahon to, on the Council's behalf, in respect of suspected contraventions of the confidentiality provisions of the *Independent Commission(er) Against Corruption Act 2012*:
  - a. make a report to the Independent Commissioner Against Corruption in respect of suspected contraventions arising from the participation by Mayor Knight in a Facebook Live Video chat on 3 February 2022;
  - b. in the event the Independent Commissioner Against Corruption indicates that she is unable to take any action in respect of this matter arising from recent amendments to that Act, make a report to the Office for Public Integrity or Ombudsman (in respect of a suspected contravention of Clause 3.3 of the Code of Conduct for Council Members) and/or South Australia Police (in respect of a suspected contravention of the confidentiality provisions of the *Independent Commission(er) Against Corruption Act 2012*).

### Ombudsman Act 1972

3. Instructs the Director Organisational Services & Excellence (or person acting in the role), Manager Governance & Policy and/or Mr Ryan McMahon to, on the Council's behalf, in respect of suspected contraventions of the confidentiality provisions of the *Ombudsman Act 1972*:
  - a. make a report to the Office for Public Integrity and/or the Ombudsman, on the basis that Mayor Knight's conduct in participating in the Facebook Live Video chat on 3 February 2022 may constitute misconduct as a serious and intentional breach of Clause 3.3 of the Code of Conduct for Council Members;
  - b. if the Ombudsman has commenced a fresh (post-*Independent Commissioner Against Corruption (CIPIC Recommendations) Amendment Act 2021*) investigation, report the matter to South Australia Police as a suspected contravention of the *Ombudsman Act 1972*.

### Code of Conduct – repeated and sustained inappropriate behaviour

4. Instructs the Director Organisational Services & Excellence (or person acting in the role), Manager Governance & Policy and/or Mr Ryan McMahon] to, on the Council's behalf, in respect of suspected contraventions of clauses 2.2, 2.3, 2.10, 2.11, 2.14 of the Code of Conduct for Council Members, make a report to the Ombudsman on the basis that Mayor Knight's conduct in participating in the Facebook Live Video chat on 3 February 2022 should be escalated to allegations of misconduct under Part 3 of the Code of Conduct for Council Members as repeated or sustained inappropriate behaviour for the purposes of clause 3.17 of the Code of Conduct for Council Members.

### Code of Conduct – Part 3

5. Instructs the Director Organisational Services & Excellence (or person acting in the role), Manager Governance & Policy and/or Mr Ryan McMahon to, on the Council's behalf, in respect of suspected contraventions of clause 3.3 of the Code of Conduct for Council Members, make a report to the Ombudsman on the basis of Mayor Knight's conduct in participating in the Facebook Live Video chat on 3 February 2022.

Social Media law

6. Instructs the Director Organisational Services & Excellence (or person acting in the role), Manager Governance & Policy and/or Mr Ryan McMahon to, on the Council's behalf, in respect of suspected contraventions of Facebook's Community Standards by the Administrator of the Facebook group 'Tea Tree Gully Area "Whats Up"', that group and Mayor Knight, make a report to Meta (the owners of Facebook), on the basis that Mayor Knight's conduct in participating in the Facebook Live Video chat of 3 February 2022 and the group's publication of that video chat breached those standards.

Other

7. Note that, in taking the steps set out above, the Director Organisational Services & Excellence (or person acting in the role), Manager Governance & Policy and/or Mr Ryan McMahon is authorised to obtain such administrative support or external legal support deemed necessary in order to effectively take the steps and deal with any necessary action arising from the taking of those steps.
8. Instructs the Director Organisational Services & Excellence (or person acting in the role), Manager Governance & Policy and/or Mr Ryan McMahon to report back to Council on a confidential basis, as required, regarding the progress of these matters.

**Carried Unanimously (1163)**



**Retention of confidential documents:**

Moved Cr S Keane, Seconded Cr Lintvelt

1. That having considered the agenda item titled “Update -Mayor Knight Facebook Live Interview” and dated 8 March 2022 in confidence under section 90(2) & (3)(a),(e),(h),(j)(i) and (j)(ii)) of the Local Government Act 1999:
  - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); AND
  - matters affecting the security of the council, members or employees of the council, or council property; or the safety of any person; AND
  - legal advice
  - 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);

the Council pursuant to section 91(7) of the Act orders that the report, minutes and any relevant documents (including presentation) related to this item be retained in confidence until further order of the Council (with the exception of communicating Council resolutions to relevant third parties identified in the resolution).
2. That the Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91(7) of the Local Government Act 1999 subject to the Chief Executive Officer consulting with the Deputy Mayor and reporting to the Elected Members of the revocation.

**Carried Unanimously (1164)**

**24. Date of Next Ordinary Meeting**

22 March 2022

The Presiding Member declared the meeting closed at 11.35pm.

Confirmed.....  
Mayor 22 March 2022