

**MINUTES OF THE COUNCIL MEETING OF THE CITY OF TEA TREE GULLY
HELD ON TUESDAY 8 FEBRUARY 2022 AT 7.01PM
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, L Jones, O Savvas, R Unger, D Wyld, L Petrie, R Coleman, P Field, K Foreman and S Keane.

Present via Electronic Means (audio-visual link)

Cr J Lintvelt.

2.2 Apologies

Nil

2.3 Leave of Absence

Leave of Absence – Cr Olivia Savvas

Pursuant to sections 73 & 74 of the Local Government Act 1999, Cr Savvas declared a material conflict of interest in relation to the matter on the basis that it directly involves her. Cr Savvas left the meeting and its close vicinity at 7.04pm while the matter was discussed and voted on.

Moved Cr Field, Seconded Cr Jones

That Council grants leave of absence to Cr Olivia Savvas from 10 February 2022 until 25 February 2022.

Leave of the meeting was sought with the consent of the mover and seconder to vary the motion to remove '25 February 2022' and insert '27 February 2022 inclusive'. Leave was granted.

Motion as varied

That Council grants a leave of absence to Cr Olivia Savvas from 10 February 2022 until 27 February 2022 inclusive.

Carried Unanimously (1120)

Cr Savvas was not present for the vote.

Cr Savvas re-entered the meeting at 7.05pm.

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 |
| Ms I Cooper | Manager Governance and Policy |
| Miss M Lay | Governance & Risk Administration Officer |
| Mr N Grainger | Manager City Development |
| Mr G D'Aloia | Manager Civil Assets |
| Mr R Hutchison | Team Leader Parks Assets |
| Mr A Kelly | Group Coordinator Civil & Building Projects |
| Ms I Wilkshire | Manager City Strategy |
| Ms C Gill | Senior Strategy Planner |

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

| | |
|-------------|--|
| Ms F Birch | Manager Recreation and Leisure Services |
| Mr N Dennis | Facility Manager Waterworld Aquatic Centre |

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

1 Attendee

2.6 Record of Media in Physical Attendance

Nil

3. Confirmation of Minutes to the Previous Meeting

Moved Cr Wyld, Seconded Cr B Keane

That the Minutes of the Council Meeting held on 18 January 2022, Special Meeting of Council held on 1 February 2022 and Special Meeting of Council held on 3 February 2022 be confirmed as true and accurate records of proceedings.

Carried Unanimously (1121)

4. Mayor's Report - Nil

5. Public Forum - Nil

6. Deputations - Nil

7. Presentations - Nil

8. Petitions - Nil

9. Declaration of Conflicts of Interests

[Note: Mr John Moyle, Chief Executive Officer, out of an abundance of caution, declared a conflict of interest in relation to the management reports titled:

- *Proposal to close and dispose of a Council road – Redwood Park Shops Road Way*
- *Temporary Carpark at 122 Smart Road, Modbury]*

10. Adjourned Business - Nil

11. Motions Lying on the Table - Nil

12. Committee Reports

Service Review Committee

12.1 Recommendations from the Service Review Committee Meeting held on 2 February 2022

Damage to Infrastructure caused by developers and builders (D22/3136)

Moved Cr Unger, Seconded Cr Field

1. That Council provides a future service for the ongoing condition assessment and follow up of damage to Council infrastructure (subject to

the extent of allocated resources) prior to, during and after construction activities relating to approved developments and permits.

2. That Council through its Governance and Policy Committee develops a suitable policy that reflects the intended approach for Council to mitigate the level of risk to its infrastructure arising from construction activities on public land.

Carried Unanimously (1122)

Audit Committee

12.2 Recommendations from the Audit Committee Meeting held on 24 November 2021

Asset Capitalisation Policy (D21/90006)

Moved Cr Field, Seconded Cr Unger

That the “Asset Capitalisation Policy” as reviewed by the Audit Committee Meeting on 24 November 2021 be adopted.

Carried Unanimously (1123)

Governance and Policy Committee - Nil

CEO Performance and Remuneration Review Committee - Nil

Traffic Management Safety Committee - Nil

13. Management Reports

Office of the Chief Executive Officer - Nil

Assets & Environment

13.1 Outcome of community engagement for the proposed development of a new playground on Tarni Reserve, Fairview Park (D22/5845)

Moved Cr Jones, Seconded Cr Lintvelt

That Council, having considered the report titled “Outcomes of the Community Engagement for the proposed installation of a new playground on Tarni Reserve, Fairview Park”, and dated 8 February 2022, resolves to:

1. Construct a new Multidirectional Basket Swing (Option 1a in the abovementioned report) and associated park improvements at Tarni Reserve, Fairview Park.
2. Amend the Fairview Park - Community Land Management Plan, as described in the report (including Attachment 1) titled “Outcomes of Community Engagement for the inclusion of Playground Equipment on Tarni Reserve, Fairview Park”, and dated 8 February 2022.

Carried Unanimously (1124)

13.2 Accredited Accessible Adult Change Facility (D22/6759)

Moved Cr Coleman, Seconded Cr Rankine

That Council, having considered the report titled “Accredited Accessible Adult Change Facility” and dated 8 February 2022 considers an amount of \$120,000 to be considered in the draft Annual Business Plan for 2022-23 for the construction of an Accredited Accessible Adult Change Facility to be located in Council’s Civic Park outside playground toilet facilities near the carpark area as set out as Option 2 in this report and Attachment 1.

Formal Motion

Moved Cr Petrie, Seconded Cr Field

That the matter be adjourned and a report be presented to Council at its next meeting on 22 February 2022.

Carried Unanimously (1125)

13.3 Proposal to close and dispose of a Council road - Redwood Park Shops Road Way (D21/88749)

Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Wyld declared an actual conflict of interest in relation to the matter on the basis of his personal obligation to comply with the Development Assessment Panel's Member's Code of Conduct, which arises by virtue under the Planning, Development and Infrastructure Act 2016. Participation in this item would be at odds with his obligations under that code. Cr Wyld left the meeting and its close vicinity at 7.50pm while the matter was discussed and voted on.

Moved Cr Petrie, Seconded Cr S Keane

That Council, noting Section 120(1) (b) of the Local Government Act states that:

"1. The Chief Executive Officer of a Council who has an interest in a matter in relation to which he or she is required or authorised to act in the course of the official duties –

.....

(b) Must not, unless the Council otherwise determines during a Council meeting that is open to the public, act in relation to the matter."

Authorises the Chief Executive Officer to implement any decisions that may arise from the meeting in relation to this matter unless otherwise resolved.

Carried Unanimously (1126)

Cr Wyld was not present for the vote.

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

Moved Cr Petrie, Seconded Cr S Keane

1. That having considered the report titled "Proposal to Close and Dispose Portion of Council Road – Redwood Park Shops Road Way" and dated 8 February 2022, Council approves the closure of the "Unknown Road" extending from Milne Road to Argyll Crescent at the rear of the shops at 548-560 Milne Road, Redwood Park - Identified as Allotment 286 in Deposited Plan 6767, and the disposal of the subject road to the Applicant to amalgamate it with Allotment 266, Certificate of Title Volume 5230 Folio 205 in Deposited Plan 6767 as per the Final Plan in Attachment 6 of the abovementioned report.
2. That the Applicant be authorised to finalise the Road Process Order using the provisions of the *Roads (Opening & Closing) Act 1991*.

3. That all costs associated with this initiative are to be met by the Applicant, including the purchase of the land for a sum of \$68,000 (exclusive of GST).
4. That the Mayor and Chief Executive Officer be authorised to sign and seal all relevant documents to implement this decision.

Carried Unanimously (1127)

Cr Wyld was not present for the vote.

Cr Wyld re-entered the meeting at 7.54pm.

Organisational Services & Excellence - Nil

Community & Cultural Development

13.4 Temporary Carpark at 122 Smart Road, Modbury (D22/6816)

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

Moved Cr Unger, Seconded Cr B Keane

1. That Council authorises the person occupying the position of Director Community & Cultural Development (or person(s) 'acting' in the position) as Council's nominated delegate to write, on behalf of Council, to the State Commission Assessment Panel and the applicant (Department for Infrastructure and Transport) indicating that Council supports the concept of the construction of a temporary carpark at Allotment 105 Smart Road Modbury as set out in the report titled "Temporary Carpark at 122 Smart Road Modbury" – Development Application Number "070/V038/21" and dated 8 February 2022.
2. That Council's written response to the State Commission Assessment Panel also include additional comments consistent with the matters set out in Attachment 2 of the report titled "Temporary Carpark at 122 Smart Road Modbury – Development Application Number "070/V038/21" and dated 8 January 2022.
3. That Council's nominated delegate negotiate and enter into any agreements or documentation necessary to facilitate the construction of a

temporary carpark at Allotment 105 Smart Road Modbury as set out in the report titled “Temporary Carpark at 122 Smart Road Modbury” – Development Application Number” 070/V038/21” and dated 8 February 2022.

Carried (1128)

14. Notice(s) of Motions - Nil

15. Motions without Notice

15.1 Access and Inclusion Committee Report - Council Meeting - 22 February 2022 (Cr Lyn Petrie)

Moved Cr Petrie, Seconded Cr Coleman

That consultation be carried out with the Access and Inclusion Committee stakeholders and a further report regarding ‘Accredited Accessible Adult Change Facility’ be returned to Council at its next meeting.

Carried Unanimously (1129)

16. Questions on Notice - Nil

17. Questions without Notice - Nil

18. Council Delegates and Activities Report - Nil

19. Information Reports

The following Information reports were received at the meeting:

19.1 Update on Council's ongoing commitment to Reconciliation (D22/4304)

19.2 Road rehabilitation and resurfacing by the Department for Infrastructure and Transport (DIT) (D22/6659)

**19.3 Conclusion of Road Closure and disposal of Portion of Council Road Reserve
- 1197 Lower North East Road, Highbury (D22/7339)**

**19.4 Waterworld Aquatic Centre - Life Saving South Australia Pool Safety
Assessment (D21/104678)**

20. Status Report on Resolutions

20.1 Status Report on Council Resolutions (D22/3292)

Council received the Status Report on Council Resolutions.

21. Other Business

21.1 Mayor Knight Facebook Live Interview

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 8.17pm.

Deputy Mayor Jones took the chair as Presiding Member at 8.18pm.

Cr Savvas left the meeting at 8.19pm and did not return for the remainder of the meeting.

Moved Cr Petrie, Seconded Cr Foreman

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 Mayor Knight Facebook Live Interview.
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
 - 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 (1130)

Formal Motion

Moved Cr S Keane, Seconded Cr Coleman

That the matter be adjourned until after consideration of the next business item titled 'Waterworld – Entrance Turnstiles and Foyer Works – Funding Approval' while staff are present to answer any questions, and that the matter resume after the next item of business has been concluded.

Carried Unanimously (1131)

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

22.1. Waterworld - Entrance Turnstiles and Foyer Works - Funding approval (D22/6794)

Recommendation for Moving into Camera

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) be excluded from the meeting to

enable discussion on the Waterworld - Entrance Turnstiles and Foyer Works - Funding approval.

2. That the Council is satisfied that pursuant to section 90(3)(k) of the Act, the information be received, discussed or considered in relation to this item is:
 - tenders for the supply of goods, the provision of services or the carrying out of works .
 - o This report contains references to a procurement process and financial details that are not suitable for public knowledge.

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 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 this report contains references to a procurement process and financial details that are not suitable for public knowledge.

Carried Unanimously (1132)

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, Miss M Lay, Mr A Kelly, Mr G G'Aloia and Ms F Birch.

22.1 Waterworld - Entrance Turnstiles and Foyer Works - Funding approval (D22/6794)

Moved Cr Petrie, Seconded Cr Wyld

That having considered the report titled "Waterworld – Entrance Turnstiles and Foyer Works – Funding Approval" and dated 8 February 2022, Council reallocates funds from the 2021-22 Financial Year Budget to the project "Waterworld – Entrance Turnstiles and Foyer Works from the following projects to allow for the Waterworld project to proceed with construction:

| | |
|--|---------------|
| Projects | |
| Recreation Centre Point of Sale System Upgrade | \$50,000 |
| DAIP Building Upgrades | \$70,000 |
| AMP Renewals – Recreational (GGRC Skylight Installation) | \$25,000 |
| Total Budget Reallocated | \$145,000 |

Carried Unanimously (1133)

Retention of confidential documents:

Moved Cr Wyld, Seconded Cr Foreman

1. That having considered the agenda item titled Waterworld – Entrance Turnstiles and Foyer Works – Funding Approval and dated 08 February 2022 in confidence under section 90(2) & (3)(k) and Section 91(7) of the Local Government Act 1999:

- tenders for the supply of goods, the provision of services or the carrying out of works

the Council pursuant to section 91(7) of the Act orders that the report relevant to this item be retained in confidence until appointment of the successful contractor, and acceptance from the contractor to commence the project 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 (1134)

23. Other Business**23.1 Adjourned Business - Mayor Knight Facebook Live Interview****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 and Miss M Lay.

[Note: A document titled 'Mayor Knight Facebook Live Interview – Preliminary Advice' and dated 8 February 2022, prepared by Norman Waterhouse Lawyers was tabled at the meeting]

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. Cr Field dealt with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted on at 8.38pm.

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 this basis that he was mentioned in the interview. Cr Wyld dealt with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted on at 8.38pm.

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. Cr B Keane dealt with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted on at 8.39pm.

Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Jones declared a perceived conflict of interest in relation to the matter on the basis that he was mentioned in the interview. Cr Jones dealt with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted on at 8.40pm.

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. Cr Unger indicated his intention to deal with the matter in a transparent and accountable way by leaving the meeting while the matter is discussed and voted on.

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 someone closely related to her was mentioned in the interview. Cr B Keane indicated his intention to deal with the matter in a transparent and accountable way by leaving the meeting while the matter is discussed and voted on.

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 the matter could involve an agency or instrumentality of the Crown, the South Australian Civil and Administrative Tribunal, of which she is an assessor. Cr Petrie indicated her intention to deal with the matter in a transparent and accountable way by leaving the meeting while the matter is discussed and voted on.

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) of the Local Government Act 1999 for the item, the following members re-entered the meeting pursuant to section 75A(3) to participate in relation to the matter, to form a quorum for the meeting at 8.41pm:

- *Cr B Keane*
- *Cr Wyld*
- *Cr Field*
- *Cr Jones*

Note: Crs Unger, S Keane and Petrie indicated their intention of also declaring a perceived conflict of interest in relation to the matter and leaving the meeting.

[Note: John Moyle, Chief Executive Officer, also declared a conflict of interest in relation to the matter, noting at the Special Meeting of Council on 3 February 2022 (resolution no. 1114), Council had previously resolved for him to remain in the meeting and to implement any decisions that may arrive from the meeting in relation to this matter (unless otherwise resolved).

Formal Meeting Procedures Suspended at 8.47pm

Moved Cr Field, Seconded Cr Coleman

That Council temporarily suspend the formal meeting procedures to allow free and open discussion on the matter.

Carried Unanimously (1345)

Following the informal discussion the Deputy Mayor determined that the period of suspension should be brought to an end and formal meeting procedures were resumed at 9.46pm.

23.1 Mayor Knight Facebook Live Interview

Moved Cr Petrie, Seconded Cr S Keane

1. That Council notes the legal advice tabled at the meeting titled 'Mayor Knight Facebook Live Interview and dated 8 February 2022, regarding a live interview with Mayor Knight regarding ongoing confidential and sensitive matters of Council, undertaken and published by the Administrator(s) of the community Facebook group "TEA TREE GULLY AREA "WHATS UP" from approximately 2pm on 3 February 2021.
2. That Council instructs the Director Organisational Services & Excellence and/or Manager Governance & Policy to finalise detailed legal advice for potential breaches of:
 - a. Independent Commission Against Corruption Act 2012
 - b. Public Interest Disclosure Act 2016
 - c. Ombudsman Act 1972
 - d. Local Government Act 1999
 - e. Code of Conduct for Council Members
 - f. Social Media

Leave of the meeting was sought with consent of the mover and seconder to vary the motion to include additional wording 'including but not limited to any' in dot point 1 and additional dot points g. and h. under dot point 2. Leave was granted.

Motion as varied

1. That Council notes the legal advice tabled at the meeting titled 'Mayor Knight Facebook Live Interview and dated 8 February 2022, regarding a live interview with Mayor Knight regarding ongoing confidential and sensitive matters of Council, undertaken and published by the Administrator(s) of the community Facebook group "TEA TREE GULLY AREA "WHATS UP" from approximately 2pm on 3 February 2021.

2. That Council instructs the Director Organisational Services & Excellence and/or Manager Governance & Policy to finalise detailed legal advice including but not limited to any potential breaches of:
 - a. Independent Commission Against Corruption Act 2012
 - b. Public Interest Disclosure Act 2016
 - c. Ombudsman Act 1972
 - d. Local Government Act 1999
 - e. Code of Conduct for Council Members
 - f. Social Media law
 - g. Defamation law
 - h. South Australian Equal Opportunity Act 1984

Carried Unanimously (1346)

Retention of confidential documents:

23.1 Mayor Knight Facebook Live Interview

Moved Cr S Keane, Seconded Cr Foreman

1. That having considered the agenda item titled Mayor Knight Facebook Live Interview and dated 8 February 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 and any relevant documents 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 (1137)

23. Date of Next Ordinary Meeting

22 February 2022

The Deputy Mayor declared the meeting closed at 10.09pm.

Confirmed.....
Mayor 22 February 2022