

Council Meeting Agenda & Reports

20 January 2026

Our Vision

A City which values its heritage, cultural diversity, sense of place and natural environment.

A progressive City which is prosperous, sustainable and socially cohesive, with a strong community spirit.

City of Norwood Payneham & St Peters
175 The Parade, Norwood SA 5067

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City of
Norwood
Payneham
& St Peters

To all Members of the Council

NOTICE OF MEETING

I wish to advise that pursuant to Section 83 of the *Local Government Act 1999*, the next Ordinary Meeting of the Norwood Payneham & St Peters Council, will be held in the Council Chambers, Norwood Town Hall, 175 The Parade, Norwood, on:

Tuesday 20 January 2026, commencing at 7:00 pm.

Please advise Tina Zullo on 8366 4545 or email tzullo@npsp.sa.gov.au, if you are unable to attend this meeting or will be late.

Yours faithfully



Mario Barone PSM
CHIEF EXECUTIVE OFFICER

15 January 2026

City of Norwood Payneham & St Peters
175 The Parade, Norwood SA 5067

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PRESENT

Council Members	Mayor Robert Bria Cr Kester Moorhouse Cr Rita Excell Cr Garry Knoblauch Cr Hugh Holfeld Cr John Robinson Cr Kevin Duke Cr Connie Granozio Cr Victoria McFarlane Cr Scott Sims Cr Grant Piggott Cr Sandy Wilkinson Cr John Callisto Cr Christel Mex
Staff	Mario Barone (Chief Executive Officer) Carlos Buzzetti (General Manager, Urban Planning & Environment) Jared Barnes (General Manager, Infrastructure & Major Projects) Lisa Mara (General Manager, Governance & Civic Affairs) Jenny McFeat (Manager, Governance) Allison Kane (Manager, Strategic Communications & Advocacy)

APOLOGIES

- 1 KAURNA ACKNOWLEDGEMENT**
- 2 OPENING PRAYER**
- 3 CONFIRMATION OF MINUTES OF THE COUNCIL MEETING HELD ON DATE**

That the Minutes of the Council Meeting held on 1 December 2025 be taken as read and confirmed.

- 4 MAYOR'S COMMUNICATION**
- 5 DELEGATES COMMUNICATION**
- 6 ELECTED MEMBER DECLARATION OF INTEREST**
- 7 ADJOURNED ITEMS**
 - Nil
- 8 QUESTIONS WITHOUT NOTICE**
- 9 QUESTIONS WITH NOTICE**
 - Nil
- 10 DEPUTATIONS**

10.1 ST PETERS HISTORIC OVERLAY AREA

SPEAKER/S

Ms Kate McDougall

ORGANISATION/GROUP REPRESENTED BY SPEAKER/S

On behalf of Ms Elizabeth Vines

COMMENTS

Ms Kate McDougall has written to the Council requesting that she be permitted to address the Council in relation to the St Peters Historic Area Overlay.

In accordance with the *Local Government (Procedures at Meetings) Regulations 2013*, Ms Kate McDougall has been given approval to address the Council.

10.2 ST PETERS HISTORIC OVERLAY AREA

SPEAKER/S

Dr Meredith Kaesehagen

ORGANISATION/GROUP REPRESENTED BY SPEAKER/S

Not Applicable.

COMMENTS

Dr Meredith Kaesehagen has written to the Council requesting that she be permitted to address the Council in relation to the St Peters Historic Overlay Area.

In accordance with the *Local Government (Procedures at Meetings) Regulations 2013*, Dr Meredith Kaesehagen has been given approval to address the Council.

11 PETITIONS

Nil

12 NOTICES OF MOTION

12.1 TRAFFIC SIGNALS - INTERSECTION OF SHELLEY STREET AND GLYNBURN ROAD, FIRLE

SUBMITTED BY: Mayor Bria
ATTACHMENTS: Nil

Pursuant to Regulation 12(1) of the *Local Government (Procedures at Meetings) Regulations 2013*, the following Notice of Motion has been submitted by Mayor Bria.

NOTICE OF MOTION

That:

Council writes to the Minister for Infrastructure and Transport and the Department for Infrastructure and Transport (DIT) requesting that they consider:

- a) installing traffic signals at intersection of Shelley Street and Glynburn Road, Firle; and*
- b) banning right hand turns from Margaret Street onto Glynburn Road, Firle (heading south) or as a secondary option, adding a central storage area for vehicles in the central median area on Glynburn Road, for vehicles entering Glynburn Road from Margaret Street.*

REASONS IN SUPPORT OF MOTION

Kmart, Firle has one of the busiest carparks of any shopping centres in the eastern suburbs. Access to the centre is relatively easy, which mainly comes off Glynburn Road, providing opportunities for customers to turn left into Shelly Street, Margaret Street and the centre itself (two separate access and egress points).

However, the right-hand turn from both Shelley Street and Margaret Street onto Glynburn Road (heading South), causes long queues, in particular the latter location. With Arthur Street, Tranmere (Campbelltown City Council) almost opposite Margaret Street, making right-hand turns is particularly difficult and is not conducive to a reasonable flow of traffic.

The Council's Manager, Traffic & Integrated Transport is supportive of the Notice of Motion and has previously advocated for these changes with staff from DIT. The Council's support for this motion will strengthen the Council's position in lobbying the State Government to agree to our request.

STAFF COMMENT

A letter, as requested, can be prepared and sent to the Minister for Infrastructure and Transport and the Department for Infrastructure and Transport (DIT).

12.2 PLANNING & DESIGN CODE - HISTORIC AREA OVERLAY - SEVENTH AVENUE AND EIGHTH AVENUE, ST PETERS

SUBMITTED BY: Cr Moorhouse
ATTACHMENTS: Nil

Pursuant to Regulation 12(1) of the *Local Government (Procedures at Meetings) Regulations 2013*, the following Notice of Motion has been submitted by Cr Moorhouse.

NOTICE OF MOTION

1. *That staff investigate and report to the Council on the distribution, age of construction and quality of historic buildings in Seventh and Eighth Avenue, St Peters, along with nearby side streets, that may warrant application of a Historic Area Overlay under the Planning and Design Code. This would refer and build upon earlier heritage surveys and existing knowledge and research on the East Adelaide Investment Company subdivision and houses which are located on Seventh and Eighth Avenue, St Peters.*
2. *As part of these investigations staff hold preliminary discussions with the Department of Housing and Urban Development prior to finalising the report to Council.*
3. *That staff report to Council on the likely timeframes, costings and resource implications of undertaking a Code Amendment for this purpose and of future potential local heritage listings.*

REASONS IN SUPPORT OF MOTION

The existing St Peters Historic Area Overlay currently covers from First Avenue through to Sixth Avenue. This motion seeks to extend that Historic Area Overlay further to also include the parts of Seventh and Eighth Avenue to the south-western side of Stephen Terrace, plus nearby side streets. The suggested approach is that prior to the report to Council being presented, NPSP staff hold preliminary discussions with staff from the Department of Housing and Urban Development to gauge their perspective. This way Department input can be considered prior to any decision on whether to go ahead with the further steps involved in submitting a Code Amendment request, and the bulk of the work only needs to be undertaken if approval is a realistic possibility. However, as this is an extension of the existing Historic Area Overlay, not a new overlay, no new Historic Area Overlay description will need to be written regardless.

The East Adelaide Investment Company (EAIC) built substantial homes in a similar style throughout the avenues of St Peters, and the eleven they built on Seventh and Eighth Avenue are just as deserving of protection as those they built on the other avenues. Once they are gone, they are gone forever. It is important to note the pattern of development adopted by the EAIC. The Company built the homes on alternate allotments and offered the home for sale together with the vacant allotment so that the purchaser could develop an extensive garden, orchard or tennis court. Many of these double allotment properties were later subdivided in the 1930s to 1960s, which explains why there are often later homes in between the EAIC homes.

Our community is concerned about the ever-increasing loss of our historic homes and expect Council to live up to our stated commitment to heritage. The greenest building is the one that already exists. Renovating, rather than demolishing and rebuilding, avoids landfill waste and reduces carbon emissions tied to new construction. As such, extending the Historic Area Overlay will help the Council meet CityPlan2030 Environmental Sustainability objectives 4.4.3 and 4.5.1. Protecting these homes also benefits our community more broadly by retaining the cultural vitality of the neighbourhood - making it an attractive place to live, play, volunteer and do business. With existing minimum lot size rules, demolitions are invariably replaced, one for one, so this Historic Area Overlay extension is unlikely to have any implications for urban consolidation.

STAFF COMMENT

The Historic Area Overlay has been applied up to and including, Sixth Avenue in St Peters with clear logic. Further to the north-west, towards the River Torrens and into Seventh and Eighth Avenue, the pattern of historic development changes and while there are a number of historic houses through this location, they are not as concentrated as they are in First to Sixth Avenues. In some locations, this means the streetscape is more varied, with a much greater mix of dwellings built from the 1980s onwards. This opportunity has been examined previously (including in 2009 through the Residential Code investigations that were undertaken and again in 2015 in the Residential Development Plan Amendment) and not considered to have the consistency of older housing stock to warrant the application of an Historic Area Overlay (or previously Historic Conservation Zone).

Whilst the Council has a strong commitment to the protection of built heritage, this also needs to be balanced with the demands of other planning policy priorities and strategic investigations. The Council is presently committed to other heritage or historic area Code Amendments and with the conclusion of these processes, there will be a need to focus efforts on responding to the Greater Adelaide Regional Plan, to ensure an appropriate balance of heritage listings and historic area protections, together with housing and growth opportunities.

Staffing is also currently constrained in the policy area, as despite a recruitment process, staff have been unable to fill the Senior Urban Planner role (vacated by the incumbent, who is on maternity leave). The Senior Urban Planner is not due back from maternity leave until June 2026, so any progression of this project would need to either occur after the progression of existing Code Amendments or if it required to be undertaken as a priority, other projects within the Urban Planning & Sustainability portfolio, such as the Heritage Plaques Program, would need to be held in abeyance.

Notwithstanding the above constraints, it is acknowledged that a new investigation of substantial homes constructed by the East Adelaide Investment Company (EAIC), could result in a different outcome to previous investigations. On this basis and notwithstanding the above constraints, the suggested investigations can be undertaken, including preliminary discussions with Department staff, prior to finalising a report back to the Council.

12.3 RESCISSION OF MOTION - SCHEDULE OF COUNCIL MEETINGS FOR 2026

SUBMITTED BY: Cr Sims
ATTACHMENTS: Nil

Pursuant to Regulation 12(1) of the *Local Government (Procedures at Meetings) Regulations 2013*, the following Notice of Motion has been submitted by Cr Sims.

NOTICE OF MOTION

That Part 2 of the Council's decision made at the Council Meeting held on 3 November 2025 and the subsequent decision made at the Council Meeting held on 3 November 2025, regarding Information and Briefing Sessions, (Item 13.8, page 66 of the Minutes), which reads as follows:

2. *That all other Ordinary Meetings of the Council be held on the first Tuesday of each calendar month.*

and

That Information and Briefing Sessions be scheduled on Tuesday evenings during 2026.

be rescinded.

If the above resolution is rescinded, Cr Sims intends to move the following Motion:

1. *That all Ordinary Meetings of the Council, commencing from February 2026, be held on the first Monday of each calendar month, commencing at 7.00pm in the Council Chambers, Norwood Town Hall, 175 The Parade, Norwood.*
2. *That Council meetings that fall on a Public Holiday, be held on the first Tuesday of the month, commencing at 7.00pm in the Council Chambers, Norwood Town Hall, 175 The Parade, Norwood.*
3. *That Information and Briefing Sessions be scheduled on Monday evenings during 2026.*
4. *That the Council requests the Agenda to be issued on the Wednesday prior to the Ordinary meetings, allowing at least three clear business days for Councillors and the Community to have the full agenda.*

REASONS IN SUPPORT OF MOTION

The continuation of Monday evening meetings is, in my view, the most appropriate choice. This established schedule is well-known to the community and facilitates the completion of formal business and workshops early in the week.

A shift to Tuesday could present a conflict, as this day is frequently utilised by various community groups for their own meetings.

I acknowledge the rationale behind the request for a change—to provide Councillors with additional time for Agenda review. This objective can be effectively met by instituting a requirement that the Agenda be circulated on Wednesday.

STAFF COMMENT

Nil

13 STAFF REPORTS

13.1 COMMUNITY LAND MANAGEMENT PLAN AMENDMENT — PAYNEHAM MEMORIAL SWIMMING CENTRE

REPORT AUTHOR: Manager Governance
APPROVED BY: General Manager, Governance & Civic Affairs
ATTACHMENTS: A - C

PURPOSE OF THE REPORT

The purpose of this report is to present the proposed changes to the *Community Land Management Plan — Sporting Facilities* to the Council for adoption.

BACKGROUND

In accordance with the *Local Government Act 1999* (the Act), land that is owned by the Council is considered Community Land, unless it is a road or otherwise excluded by virtue of Section 193(1) of the Act.

The Payneham Memorial Swimming Centre (PMSC) and Norwood Swimming Centre (NSC) are owned and operated by the Council and are considered to be Community Land for the purposes of the Act.

Section 196 of the Act, requires that the Council must have an adopted Management Plan(s) in place for its Community Land and prescribes the requirements that need to be included in this plan.

Section 196(3) of the Act requires that a Community Land Management Plan must:

- (a) *identify the land to which it applies; and*
- (b) *state the purpose for which the land is held by the council; and*
- (c) *state the council's objectives, policies (if any) and proposals for the management of the land; and*
- (d) *state performance targets and how the council proposes to measure its performance against its objectives and performance targets.*

At the Council Meeting held on 1 November 2021, the Council adopted its Community Land Management Plans, including the *Community Land Management Plan - Sporting Facilities* (the CLMP) which includes the PMSC and the NSC.

At that time, however the operations of the PMSC were managed by Council staff and therefore, the CLMP does not make provision for the management of the PMSC by external third parties. It is therefore necessary for the CLMP to be amended to include the provision for any potential external management arrangements that the Council may enter into for the PMSC.

On this basis, the CLPM has been amended to reflect such arrangements.

The proposed changes to the *Community Land Management Plan — Sporting Facilities* are contained within **Attachment A**.

The current *Community Land Management Plan — Sporting Facilities* is contained within **Attachment B** to this report.

STRATEGIC DIRECTIONS

CityPlan 2030 Alignment

Outcome 1: Social Equity

An inclusive, connected, accessible and friendly community.

Objective 1.4: A strong, healthy, resilient and inclusive community.

Strategy 1.4.1: Provide all ages and abilities programs and spaces for sport, recreation and play to support physical and mental wellbeing.

FINANCIAL AND BUDGET IMPLICATIONS

Not Applicable.

RISK MANAGEMENT

Not Applicable.

CONSULTATION

Elected Members

Nil.

Community

Community consultation on the proposed changes to the CLMP has been undertaken as summarised in the Discussion section of this report.

Staff

The preparation of this report has been based on collaboration between the Council's Manager, Governance, General Manager, Community Development and the General Manager, Governance & Civic Affairs.

Other Agencies

Not Applicable.

DISCUSSION

At its meeting held on 25 April 2025, the Council resolved to commence a procurement process for the appointment of an external manager to oversee the operations of the PMSC.

To enable the implementation of the Council's decision to have an external manager in place through a Management Agreement, amendments are required to be made to the Council's *Community Land Management Plan — Sporting Facilities*.

In addition to supporting the implementation of the Council's decision, the opportunity was also taken to remove superfluous information in the CLMP. A summary of the proposed amendments is set out below:

- *Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval* - This paragraph is not required due to separate provisions within the Act; and
- the separate reference to '*Casual Hire (non-exclusive use)*' within the Leasing and Licensing tables throughout has been removed as hiring is a type of licence and covered by the authorised licensing on the land.

Attachment A contains the sections of the CLMP which are proposed to be amended and the proposed changes are highlighted in red.

Section 198 of the Act prescribes the process that the Council must undertake when amending a Community Land Management Plan, which includes a requirement to undertake community consultation. While there is an argument that the proposed changes are likely to have minimal impact on the interests of the community, consultation was nonetheless undertaken from a transparency and best practice perspective.

The consultation on the proposed changes to the CLMP, commenced with the publishing of a Public Notice in *The Advertiser* on Wednesday, 19 November 2025 and consultation concluded at 5:00pm on Wednesday, 10 December 2025. Community members were invited to lodge any comments through the Council's 'Have Your Say' section of the Council website and the document was available to view at the Norwood Town Hall.

No submissions were received during the consultation period.

Draft Management Agreement

Separate from the CLMP requirements but related to the external management of the PMSC, a Management Agreement to facilitate a third party operating the PMSC, is likely to be considered a licence for the purposes of the Act.

Given that such a licence is proposed, the provisions of Section 202(2) of the Act will apply and this will require that prior to a lease or licence over Community Land being approved by the Council, community consultation must be undertaken.

Given the requirement to consult on the proposed changes to the CLMP, it was considered appropriate and more efficient, to consult concurrently on the draft Management Agreement at the same time rather than at a later stage, given that a procurement process is currently underway for an external manager for the PMSC. This pragmatic approach finalises the community consultation requirements associated with the PMSC and its management.

A draft Management Agreement was prepared as a key component of the procurement process that is currently underway for an external manager for the PMSC. While the Council will consider the results of the procurement process at a future Council Meeting, the Request for Tender required the tenderers to confirm adherence to the draft Management Agreement.

While final negotiations with the preferred manager to operate the PMSC may result in some amendments to the Management Agreement, as the draft Management Agreement has formed part of the tender process, both the Council and the community can have assurance that the final Management Agreement will not materially differ from the draft Management Agreement. It is envisaged that the final Management Agreement will only differ in terms of specific commercial information that is agreed to between the parties which will be required to be kept confidential in accordance with Section 90(3) of the Act, to protect the third party's and the Council's commercially sensitive information.

As was the case with the consultation on the proposed amendments to the CLMP, no submissions were received on the draft Management Agreement.

A copy of the *draft Management Agreement for the Payneham Memorial Swimming Centre* is contained in **Attachment C**.

OPTIONS

Nil.

The proposed changes to the CLMP are required to ensure that the Council can enter into an agreement with an external manager to operate the PMSC.

CONCLUSION

Construction of the new Payneham Memorial Swimming Centre is progressing and on track for practical completion in July 2026.

While the procurement process for an external manager to operate the PMSC is currently underway, administrative steps have been progressed to give effect to the Council's decision to enter into an arrangement with a third party for the purpose of managing the operations of the PMSC.

The changes that are proposed to be made to the CLMP will remove superfluous/redundant content and will ensure that the Council's preference for an external manager to oversee operations of the PMSC is consistent with the CLMP.

The information included in this report associated with the draft Management Agreement for the PMSC, is provided for information by way of an update, no decision in respect to the draft Management Agreement, is required at this stage, other than the Council noting that consultation to enable an agreement to be entered into has been undertaken.

RECOMMENDATION

1. *That the outcome of the community consultation undertaken on the proposed changes to the Community Land Management Plan — Sporting Facilities and the draft Management Agreement for the Payneham Memorial Swimming Centre, be received and noted.*
2. *That the proposed changes to the Community Land Management Plan — Sporting Facilities as contained within Attachment A to this report be approved.*
3. *The Council notes that the current Community Land Management Plan — Sporting Facilities, as contained within Attachment B to this report, will be updated with the proposed changes, as contained in Attachment A.*

**Proposed amendments to the
City of Norwood Payneham & St Peters Sporting
Facilities Community Land Management Plan**

November 2025

Introduction

The City of Norwood Payneham & St Peters (the Council) is undertaking consultation with the community on proposed amendments to the Sporting Facilities Community Land Management Plan.

The Payneham Memorial Swimming Centre (PMSC) and Norwood Swimming Centre (NSC) are owned by the Council and considered Community Land for the purposes of the *Local Government Act 1999* (the Act).

Section 196 of the Act requires that the Council must have an adopted management plan in place for its Community Land and prescribes the requirements that need to be included in this plan.

At the Council Meeting held on 1 November 2021, the Council adopted its Community Land Management Plans including the *Sporting Facilities Community Land Management Plan* (the CLMP) which includes the PMSC and the NSC.

Following the Council's decision on 25 April 2025 to commence the procurement process for an external manager for the PMSC, amendments to the CLMP are proposed to ensure such arrangements are clearly articulated in the CLMP.

The proposed amendments are being made at this time to support the implementation of the Council's decision regarding the management of the PMSC. In addition, as it is proposed to amend the CLMP the Council is taking the opportunity to remove superfluous information. The following are examples of such proposed amendments:

- *Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval* - This paragraph is not required due to separate provisions within the Act -
- The separate reference to 'Casual Hire (non-exclusive use) within the Leasing and Licensing tables throughout has been removed as hiring is a type of licence and covered by the authorised licensing on the land.

Section 198 of the Act prescribes the requirements that the Council must follow when amending or revoking a CLMP. While the proposed amendments will not significantly impact the interests of the community, in the interests of transparency the Council is consulting with the community on the proposed changes to the CLMP.

This document contains the proposed changes. Italics is used to show the relevant extract from the CLMP and red font is used to show the proposed change. The current *Sporting Facilities Community Land Management Plan* is contained as an Appendix to this document.

Amendment 1:

In the first 'general' section of the CLMP titled 'Sporting Facilities' and under the heading 'Leasing and Licensing' the following changes are proposed:

Pursuant to Section 202 of the Act, the following leasing and licensing arrangements are authorised for all community land comprising sporting facilities (**unless otherwise stated in this Plan**) in addition to leases and licences authorised for specific community land as set out in this Community Land Management Plan:

Type of Arrangement	Length of Term	Authorised Uses
Leases (exclusive use)	Up to ten years (Five + five)	Buttery Sportsground (Croquet Green and Clubrooms), Trinity Gardens Soldiers' Memorial Reserve (Bowling Green and Clubrooms), Patterson Sportsground (Clubrooms), and Payneham Oval (Clubrooms) may be leased for any use consistent with the Purpose of the Land set out in this Plan. Any lease of Norwood Oval may permit business operations where such operations are directed towards and consistent with the Purpose of the Land set out in this Plan.
	Up to 15 years (five + five + five)	Car parks on any of the land included in this Plan may be used on a commercial basis for the provision of publicly accessible electric vehicle charging stations
	Up to 20 years	Buttery Sportsground (Tennis Courts and Clubrooms), Cruikshank Reserve (Tennis Courts and Clubrooms), John Horrocks Memorial Green, Payneham Oval Tennis Courts, and Trinity Gardens, Soldiers Memorial Reserve (Tennis Courts and Clubrooms) may be leased for any use consistent with the Purpose of the Land set out in this Plan, and in accordance with the Council's Tennis Facilities Policy (as amended from time-to-time).
Licences (non-exclusive use which includes casual hiring)	Up to ten years (Five + five)	Patterson Sportsground (Playing Field) and Payneham Oval (Oval) may be licensed for the authorised term. Any use consistent with the Purpose of the Land set out in this Plan.
Licences (non-exclusive use which includes casual hiring)	Up to ten years	Any use consistent with the Purpose of the Land set out in this Plan.
Licences (non-exclusive use)	Up to 20 years (Ten + ten)	Buttery Sportsground (Tennis Courts) may be licensed for the authorised term. Any use consistent with the Purpose of the Land set out in this Plan.
Licences (non-exclusive use)	six months — one year	Any use consistent with the Purpose of the Land set out in this Plan. Use of the land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval
Casual Hire (non-exclusive use)	Up to six months	

Amendment 2:

In the section on the 'Norwood Swimming Centre' under 'Purpose of the Land' the following changes are proposed:

The purpose for which Norwood Swimming Centre is held is to:

- provide aquatic ~~and~~ recreation, ~~and~~ sporting facilities for the City;
- facilitate the provision of community, health, ~~sport~~, recreational, educational, cultural and tourism facilities, services and activities across the City;
- provide opportunities for informal and formal recreational, community and sporting activities; and
- provide opportunities for social interaction and connection, relaxation and physical activity.

Amendment 3:

In the section on the 'Norwood Swimming Centre' under 'Management of the Land' the following changes are proposed:

Leasing and Licensing

Pursuant to Section 202 of the Act, the following leasing and licensing arrangements are authorised for the Community Land comprising Norwood Swimming Centre:

Type of Arrangement	Length of Term	Authorised Uses
Leases (exclusive use)	Up to 10 years Nil	Any use consistent with the Purpose of the Land set out in this Plan. Not Applicable.
Licences (non-exclusive use which includes casual hiring)	Up to 10 years Six months — one year	Only the kiosk may be licensed. Any use consistent with the Purpose of the Land set out in this Plan including the provision of food, beverage and retail services ancillary to those uses over any and all of the land. Operating and managing aquatic, recreational and fitness facilities located on the land. Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.
Casual Hire (non-exclusive use)	Up to six months	The grassed area adjacent to the swimming pool may be hired. Any use consistent with the Purpose of the Land set out in this Plan. Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.

Amendment 4:

In the section on the '**Payneham Memorial Swimming Centre**' under '**Purpose of the Land**' the following changes are proposed:

'Purpose of the Land'

The purpose for which Payneham Memorial Swimming Centre is held is:

- to provide aquatic **and** recreation, **fitness and sporting** facilities for the City;
- to facilitate the provision of community, health, **fitness, sport**, recreational, educational, cultural and tourism facilities, services and activities across the City;
- to provide opportunities for informal and formal recreational, **fitness**, community and sporting activities; and
- to provide opportunities for social interaction and connection, relaxation and physical activity.

Amendment 5:

In the section on the '**Payneham Memorial Swimming Centre**' under '**Management of the Land**' the following changes are proposed:

Leasing and Licensing

Pursuant to Section 202 of the Act, the following leasing and licensing arrangements are authorised for the Community Land comprising Payneham Memorial Swimming Centre:

Type of Arrangement	Length of Term	Authorised Uses
Leases (exclusive use)	Up to 10 years (Five + five + five)	Car parks on any of the land included in this Plan may be used on a commercial basis for the provision of publicly accessible electric vehicle charging stations. Any use consistent with the Purpose of the Land set out in this Plan.
Licences (non-exclusive use which includes casual hiring)	Up to 10 years Six months—one year	Only the clubrooms/office and kiosk may be licensed. Any use consistent with the Purpose of the Land set out in this Plan including the provision of food, beverage and retail services ancillary to those uses over any and all of the land. Operating and managing aquatic, recreational and fitness facilities located on the land. Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short term basis (up to the maximum term length), subject to approval.
Casual Hire (non-exclusive use)	Up to six (6) months	The grassed area adjacent to the swimming pool may be hired. Any use consistent with the Purpose of the Land set out in this Plan. Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short term basis (up to the maximum term length), subject to approval.

Amendment 6:

In the section on the '**Payneham Memorial Swimming Centre**' under '**History of the Land**' the following changes are proposed to the last paragraph:

Under the Strategy, the focus is to build on the traditional programs and services of the Swimming Centre, while encouraging greater family and child usage through adding more leisure water, play and fun water features. Subject to a Masterplan process, the existing pool facilities and amenities at the Payneham Memorial Swimming Centre will be refurbished and upgraded, and **it is proposed that new recreational aquatic and fitness facilities will be established (including, eg, an interactive Water Play Park and inflatable obstacle course)**. As a result, it is hoped that the Centre will become a water based recreational, **fitness and leisure** destination for the Eastern Region, rather than just a swimming pool.



Sporting Facilities

Community Land Management Plan

Updated May 2022



City of
Norwood
Payneham
& St Peters



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Adoption and Review

The Sporting Facilities Community Land Management Plan was adopted by the Council on 1 June 2020.

The Council will review this Plan within three years of the adoption date, or otherwise as required from time-to-time.

*Cover: Payneham Oval Tennis Courts
Right: Syd Jones Reserve*



Sporting Facilities

This Community Land Management Plan has been prepared pursuant to Section 196 of the *Local Government Act 1999* (the Act).

Background

The City of Norwood Payneham & St Peters has a diversity of sporting facilities — ten in total located throughout the City — ranging from large ovals to neighbourhood tennis courts.

Norwood Oval, Payneham Oval and Patterson Sportsground, are the City's largest sportsgrounds and are used under lease and licence arrangements by local football, cricket, lacrosse and baseball clubs. Norwood Oval is classified as State Open Space in the Council's Open Space Strategy (the only public open space with this classification in the City), while Payneham Oval and Patterson Sportsground are classified as Regional Open Space. Further information on the two ovals is provided later in this Plan.

There are seven tennis court facilities throughout the City. Five of these are dedicated club facilities that range in classification from Local to District and Regional Open Space. In some locations, several different sporting clubs (e.g. tennis, croquet and bowling) have co-located at the one site. The Council also has two swimming centres, namely the Norwood Swimming Centre and the Payneham Memorial Swimming Centre, which are available for general public and club use.

What land does this include?

An excerpt from the Council's Community Land Register listing all sporting facilities is contained within **Appendix A**.

Cruikshank Reserve and St Peters River Park are classified both as reserves and as sporting facilities. As such, the provisions of both Community Land Management Plans will apply to that land.

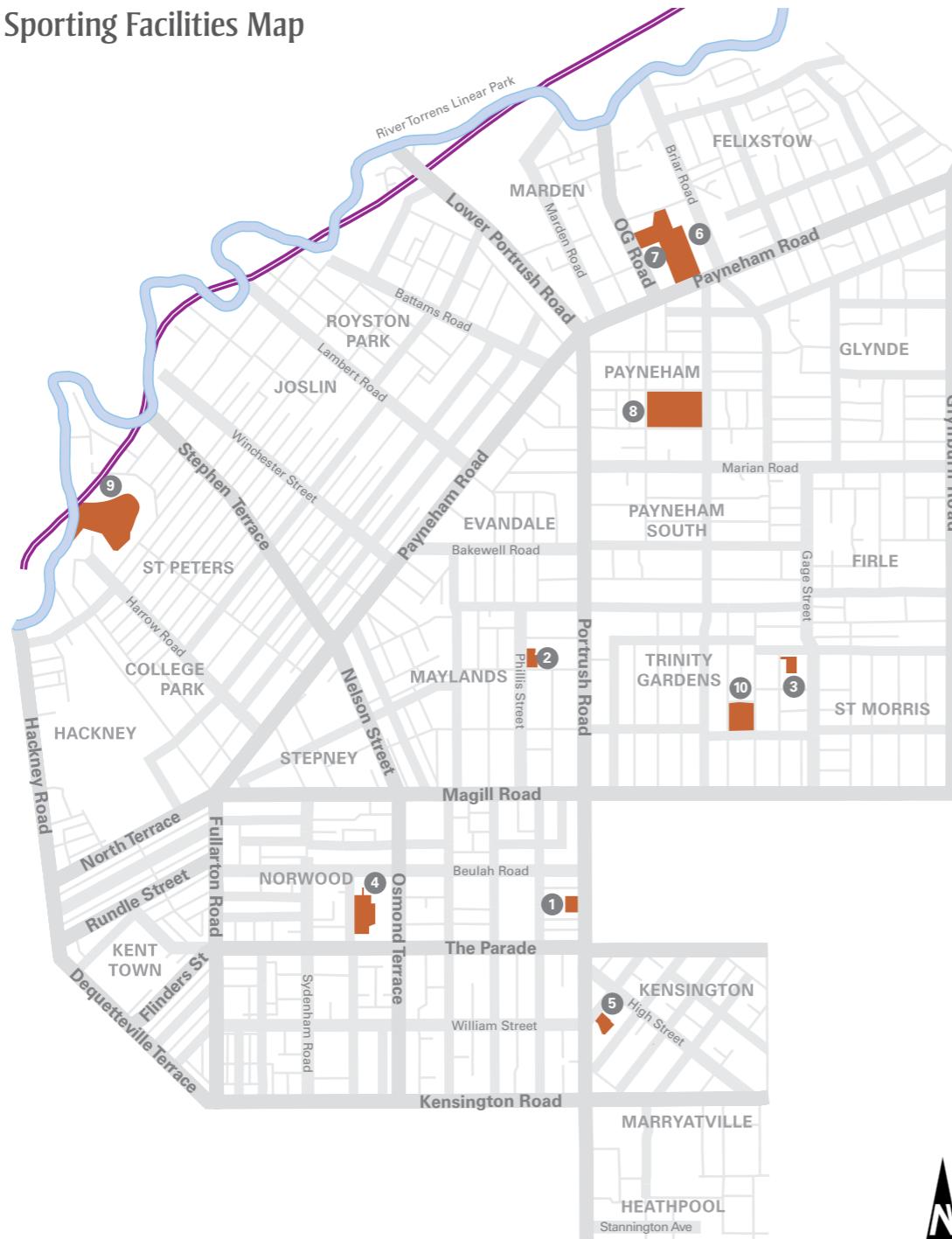
Description

Sporting facilities comprise both indoor and outdoor sporting facilities that are used primarily for formal and organised sporting activities by various sporting groups and clubs.

Outdoor facilities may include ovals, sportsgrounds, tennis courts, bowling greens, swimming pools and cricket pitches (e.g. Norwood Oval, Patterson Sportsground, and the Norwood and Payneham Memorial Swimming Centres). Indoor facilities may include indoor courts and activity spaces (e.g. the Payneham Youth Centre).

Larger sporting facilities often include clubrooms, community buildings and grandstands in addition to outdoor facilities, and are often utilised by a number of different sporting clubs and community groups. Some sporting facilities are open for use by the general public or under casual hire arrangements, while others are managed under lease and/or licence arrangements with groups that have exclusive use of the site.

Sporting Facilities Map



Legend

1	Buttery Sportsground
2	Cruikshank Reserve
3	John Horrocks Memorial Green
4	Norwood Oval
5	Norwood Swimming Centre
6	Patterson Sportsground
7	Payneham Memorial Swimming Centre
8	Payneham Oval
9	St Peters River Park
10	Trinity Gardens Soldiers' Memorial Reserve

Purpose of the Land

In general terms, Community Land comprising sporting facilities is held by the Council for one or more of the following purposes:

- provide public open space and a range of sporting facilities for the use, enjoyment and benefit of the community;
- facilitate the provision of community, health, recreational, educational, cultural and tourism facilities, services and activities across the City;
- provide opportunities for informal and formal recreational, community and sporting activities;
- provide opportunities for social interaction and connection, relaxation and physical activity; and
- protect and enhance the lifestyle, amenity and 'sense of place' in the City.

Key Management Objectives

The Council will seek to manage all Community Land in accordance with all applicable legislative requirements and all relevant Council policies, strategies and management plans (including the Council's Strategic Management Plan *CityPlan 2030*), as introduced or amended from time-to-time.

In addition, the Council will seek to manage all Community Land in accordance with the following key management objectives to:

- protect, enhance and expand public open space;
- maintain the quality and usability of open space over time;
- provide a range of services and facilities that benefit the City and cater to a variety of community needs (for ratepayers, residents and visitors);
- provide convenient and accessible public spaces for people of all ages, backgrounds and abilities;
- permit a broad range of land uses and activities in appropriate locations to promote dynamic community life within the City;
- protect and enhance the natural environment and promote sustainable and efficient management practices; and
- identify and pursue opportunities for more efficient, equitable and innovative use of Council land and facilities, taking into account changing community needs over time.

A Management Strategies table that contains the Council's specific objectives, strategies, performance targets and measures for management of sporting facilities (as required by Section 196(3) of the Act) is contained within **Appendix B**.

The categories included in the Management Strategies table apply only to the extent that they are relevant to each parcel of land (for instance, for those sporting facilities that do not contain tennis courts, the management objectives, strategies and targets relating to tennis courts will not apply).

Strategic Management Proposals

The Council intends to undertake the following proposals for the sporting facilities listed below (and otherwise in accordance with the Council's *2018–2028 Long-Term Financial Plan*):

Sporting Facility	Management Proposal	Objective
Butterly Sportsground	Masterplan* and Construction**	Reconstruction of tennis courts and associated infrastructure
Norwood Oval	Construction	Development of new clubrooms and members' facilities, and upgrade of facilities in the Western Stand
Norwood Swimming Centre	Masterplan and Construction	Upgrade of existing facilities and establishment of recreational facilities
Patterson Sportsground	Masterplan	High-level vision for the upgrade of existing facilities
Payneham Memorial Swimming Centre	Masterplan and Construction	Upgrade of existing facilities and establishment of aquatic and recreational facilities
Payneham Oval	Construction	Reconstruction of tennis courts and associated infrastructure
	Construction	Establishment of new unisex change room facilities

*A Masterplan or Concept Plan is a long-term plan which sets out at a conceptual level the proposed vision for the Council facility. It includes future development and redevelopment proposals.

**Construction refers to the physical delivery of the concept outlined in the Masterplan or Concept Plan.

Trusts, Dedications and Other Restrictions

Where community land is subject to a trust, dedication, reservation or other restriction that controls the use or management of that land, this information is included in the Community Land Register in **Appendix A**.



Leasing and Licensing

Pursuant to Section 202 of the Act, the following leasing and licensing arrangements are authorised for all community land comprising sporting facilities (unless otherwise stated in this Plan):

Type of Arrangement	Length of Term	Authorised Uses
Leases (exclusive use)	Up to ten years (Five + five)	Buttery Sportsground (Croquet Green and Clubrooms), Trinity Gardens Soldiers' Memorial Reserve (Bowling Green and Clubrooms), Patterson Sportsground (Clubrooms) and Payneham Oval (Clubrooms) may be leased for any use consistent with the Purpose of the Land set out in this Plan. Any lease of Norwood Oval may permit business operations where such operations are directed towards and consistent with the Purpose of the Land set out in this Plan.
	Up to 15 years (Five + five + five)	Car parks on any of the land included in this Plan may be used on a commercial basis for the provision of publicly accessible electric vehicle charging stations.
	Up to 20 years	Buttery Sportsground (Tennis Courts and Clubrooms), Cruikshank Reserve (Tennis Courts and Clubrooms), John Horrocks Memorial Green, Payneham Oval Tennis Courts, and Trinity Gardens, Soldiers Memorial Reserve (Tennis Courts and Clubrooms) may be leased for any use consistent with the Purpose of the Land set out in this Plan, and in accordance with the Council's <i>Tennis Facilities Policy</i> (as amended from time-to-time).
Licences (non-exclusive use)	Up to ten years (Five + five)	Patterson Sportsground (Playing Field) and Payneham Oval (Oval) may be licensed for the authorised term. Any use consistent with the Purpose of the Land set out in this Plan.
Licences (non-exclusive use)	Up to 20 years (Ten + ten)	Buttery Sportsground (Tennis Courts) may be licensed for the authorised term. Any use consistent with the Purpose of the Land set out in this Plan.
Licences (non-exclusive use)	six months – one year	Any use consistent with the Purpose of the Land set out in this Plan.
Casual Hire (non-exclusive use)	Up to six months	Use of the land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.

Notes:

- All existing leases, licences and casual hire arrangements in place with respect to community land comprising parks and reserves at the time of adoption of this plan, are taken to be authorised for the purposes of this plan.
- Where a lease or licence is proposed to be granted for a term of more than five years, or where a use of community land outside the authorised uses is proposed, this will be at the Council's discretion in all respects, and the Council is required to comply with its public consultation policy pursuant to Section 202(3) of the Act.
- The Council can approve the use of Community Land for a business purpose in accordance with the provisions of this Community Land Management Plan, pursuant to Section 200 of the Act.

Norwood Oval



Norwood Oval is the Council's premier sporting facility comprising approximately 28,943 square metres and the only sporting facility in the City classified as State Open Space under the Council's *Open Space Strategy*. It is held by the Council for the purpose of playing and practising Australian Rules Football and other spectator sports, along with community events.

Norwood Oval is an iconic landmark that has been used for a variety of sporting and community events over its history — including football, baseball, soccer, rugby union, boxing, tennis, cricket, lacrosse, lawn bowls, car rallies, cultural festivals and entertainment events. The Oval has been the primary home ground of the Norwood Football Club ('the Redlegs') in the South Australian National Football League (SANFL) since 1901 and used by the Adelaide Crows in the AFL Women's League (AFLW) since 2017.

Following a major redevelopment completed in September 2020, Norwood Oval includes the following facilities:

- State-level grass oval
- Sir Edwin T Smith Pavilion (including home team change rooms, gymnasium, public amenities, offices and merchandise outlet)
- Members' facilities (including function centre, Premier's Bar, public amenities and kitchen)
- Western Stand (including Mayor's Parlour, unisex away change rooms)
- Cooper's Hill viewing area
- Brick ticket office on the promenade
- Car park

The Oval is located adjacent to the Memorial Gardens on The Parade, which commemorate the sacrifice and service of Australian men and women who served during World War II. The oval shares a common boundary with Norwood Primary School on Osmond Terrace and maintains an entrance off Beulah Road.

For more information about Norwood Oval, see the Community Land Register excerpt contained within **Appendix A**.



Purpose of the Land

The purpose for which Norwood Oval is held is to:

- provide an oval for the playing / practising of Australian Rules Football and other spectator sports;
- facilitate the provision of community, health, recreational, educational, cultural and tourism facilities, services and activities in the City;
- provide opportunities for informal and formal recreational, community and sporting activities;
- provide opportunities for social interaction and connection, relaxation and physical activity; and
- protect and enhance the lifestyle, amenity and 'sense of place' in the City.

Management of the Land

Please refer to the Management Strategies table contained within **Appendix B** for the Council's specific objectives, strategies, performance targets and measures for the management of sporting facilities including Norwood Oval.

Trusts, Dedications and Other Restrictions

The Norwood Oval land to the north of Allotments 10 and 11 in Deposited Plan 31103, is to be perpetually held by the Council 'upon trust that the said land be used and maintained as and for a place of open air games and recreation in like manner as the said land has been heretofore used' (see Indenture Agreement dated 16 October 1905).

Leasing and Licensing

Pursuant to Section 202 of the Act, the following leasing and licensing arrangements are authorised for the Community Land comprising Norwood Oval:

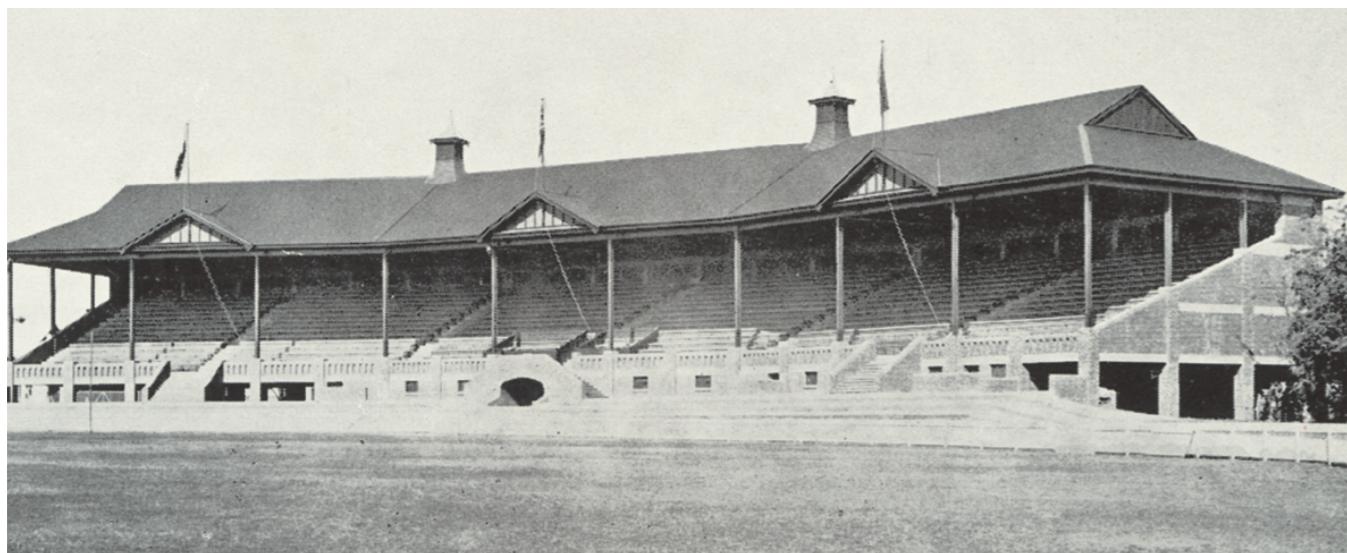
Type of Arrangement	Length of Term	Authorised Uses
Leases (exclusive use)	Up to ten years (Five + five)	<p>Any use consistent with the Purpose of the Land set out in this Plan.</p> <p>Any lease of Norwood Oval may permit business operations where such operations are directed towards and consistent with the Purpose of the Land set out in this Plan.</p>
Licences (non-exclusive use)	Up to one year	<p>Any use consistent with the Purpose of the Land set out in this Plan.</p> <p>Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.</p>
Casual Hire (non-exclusive use)	Up to four days	<p>Any use consistent with the Purpose of the Land set out in this Plan.</p> <p>Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.</p> <p>Use of the Wolfblass Community Centre for a business purpose must be in accordance with the conditions of the Development Approval for the building.</p>

Notes:

- All existing leases, licences and casual hire arrangements in place with respect to Norwood Oval at the time of adoption of this Plan, are taken to be authorised for the purposes of this Plan.
- Where a lease or licence is proposed to be granted for a term of more than five years, or where a use of Community Land outside the Authorised Uses is proposed, this will be at the Council's discretion in all respects, and the Council is required to comply with its public consultation policy pursuant to Section 202(3) of the Act.
- The Council can approve the use of Community Land for a business purpose in accordance with the provisions of this Community Land Management Plan, pursuant to Section 200 of the Act.

History of the Land

The land that comprises Norwood Oval was originally owned by William and Hannah Clarke, who established a house, vineyard and garden on the site in 1850. In 1896, the land was purchased by Mr Thomas Verco and was leased to the East Torrens Recreation Ground Company Limited for development as a shared recreational ground. The land was used primarily by the Norwood Football Club and the East Torrens Cricket Club.



In 1900, the vines were removed, the oval was formed and change rooms were constructed. The first football match was played on the oval on Saturday 4 May 1901 between the Norwood and Sturt Football Clubs. The Norwood Football Club was established in 1878 and is one of the oldest teams in the South Australian National Football League. In 1902, the Norwood Football Club relocated its training and club rooms to Norwood Oval, and a permanent grandstand was built on the north-western side of the oval (later converted in 1937 into a hall for use by the Returned Services League (RSL)).

In 1905, the principal shareholders of the East Torrens Recreation Ground Company (Sir Edwin Thomas Smith, John Darling, James Hall, Arthur Edmund Shepherd, William Oswald Whitridge and Arthur William Piper)

transferred the lease agreement to the Corporation of the Town of Kensington & Norwood. The right to purchase the freehold title to the recreation ground was guaranteed, but the transfer of the lease to the Council was made upon trust that the land would be used and maintained as a place for open air games and recreation.

The land was subsequently purchased by Sir Edwin T Smith, and in 1910, he transferred the freehold title to the land to the Council as a gift upon the same trusts as mentioned above. In 1929, the Sir Edwin T Smith Pavilion was built at the southern end of the oval and it was acclaimed as one of the best appointed pavilions in Australia at that time.

In 1928, the Council also negotiated a transfer of the land comprising the original Osmond Terrace entrance to the oval to the Education Department (today the location of Norwood Primary School), in return for a strip of land on the eastern boundary of the oval in order to widen the oval by 30 feet. This agreement also granted the scholars of the then Norwood Central School free use of the oval in perpetuity for the purposes of a sports field and recreation ground at agreed times of use.

In the 1950s, Norwood Oval became the first suburban oval to erect light towers, which led to it becoming a key venue for night football and other sports, including baseball throughout the 1950s–1970s. The Centenary Pavilion was built in 1953 to accommodate an increase in spectators and was named in honour of the centenary of the City of Kensington & Norwood. In 1963, the Pavilion was extended northwards and named after William Essery Jnr, former Mayor and longstanding Norwood Football Club patron. In 1968, the Redlegs Club was officially opened in the adjacent Woods Street, with all social and administrative activities of the Football Club transferred to the new premises.

The South Australian Baseball Team was also a tenant of the oval from 1951 to 1988. During this time, the oval hosted the Claxton Shield competition on six occasions. In 1989, the Australian Baseball League was formed, with the Adelaide Giants team playing all home games at Norwood Oval. Following the collapse of the ABL in 1999, the Claxton Shield was revived in 2003, with baseball games returning to Norwood Oval in 2009.

A record crowd at the oval was set in 1971 when 20,280 spectators arrived to watch a SANFL match between Norwood and their rivals, Port Adelaide. In 1972, after 71 years, the East Torrens Cricket Club ceased using the oval, with removal of the cricket square to improve the Oval as a

football venue. In 1973, the oval hosted the first ever SANFL Elimination Final, with home team Norwood defeating Port Adelaide. The first national night series of football games was held in 1976, with televised matches attracting even more spectators to the oval.

The Norwood Football Club took over grounds management at the oval in 1987 under a ten year lease from the City of Kensington & Norwood. A further long-term lease was granted to the Club in 1997, for use of the oval for the playing of AFL matches and training, and for any other sporting, social or cultural purposes approved by the Council.

From 2010, the oval was the home ground of the Adelaide Bite team in the new Australian Baseball League, who used the oval until 2016.

In 2005, the oval was named Coopers Stadium upon request of the Norwood Football Club, as Coopers Brewery was a major sponsor of the Club.

Works were undertaken to upgrade the oval facilities in 2011, and in 2015, discussions commenced between the City of Norwood Payneham & St Peters and the Norwood Football Club regarding the construction of a new multi-purpose community facility and clubrooms between the Sir Edwin T Smith Pavilion and the Centenary Pavilion.

The Council partnered with the Norwood Football Club to deliver the project, which included new members' facilities within the newly named 'Wolf Blass Community Centre', following a significant donation to the Club from winemaker and Club benefactor, Wolf Blass, towards the project. In particular, the upgrade included a new 180-seat capacity function centre and the Premier's Bar, together with upgrades to change rooms and amenities, including new unisex away change rooms to accommodate the growing AFL Women's League.

The redevelopment has substantially improved the quality and diversity of the facilities at Norwood Oval and will meet the needs and expectations of current and future players and officials, particularly as female participation in football continues to grow.

In 2017, the Adelaide Crows women's team played a game at Norwood Oval in the inaugural season of the AFL Women's League (AFLW), following which they made the oval their primary home ground, playing all three home games at the Oval in the 2018 season.

Payneham Oval



Payneham Oval is a well-utilised and high-quality sporting oval within the City of Norwood Payneham & St Peters, comprising approximately 29,138 square metres. It is classified as Regional Open Space in the Council's *Open Space Strategy* and is regularly used by local football and cricket clubs for practice and games, as well as being available for general public use.

Like Norwood Oval, Payneham Oval has played an important role as public open space for the local community since its creation, and has hosted a variety of sporting and community events over the years, including football, cricket, cycling, trotting and tennis.

Payneham Oval is the only oval within the City which has a cricket pitch suitable for hosting Adelaide Turf Cricket Association games and A1 Premier Grand Finals.

Payneham Oval also includes the adjacent tennis courts and playground, bringing the total area of this Community Land to approximately 40,442 square metres. The tennis courts are well-utilised by local clubs and are also available for general public hire, while the playground is a popular destination for both locals and visitors, developed as one of five innovative playgrounds throughout the City under the Council's *Playground Strategy*.

The oval includes the following facilities:

- Regional-level grass oval
- Practice cricket pitch enclosure
- Clubrooms (including access lift, accessible toilets and unisex change rooms)
- Six tennis courts
- Play equipment
- Basketball ring
- Public toilets, barbecue and seating
- Car park

For more information about Payneham Oval, see the Community Land Register excerpt contained within **Appendix A**.



Purpose of the Land

The purpose for which this land is held is to:

- provide an oval for the playing/practising of spectator sports;
- provide public open space for the use, enjoyment and benefit of the community;
- facilitate the provision of community, health, recreational, educational, cultural and tourism facilities, services and activities in the City;
- provide opportunities for informal and formal recreational, community and sporting activities;
- provide opportunities for social interaction and connection, relaxation and physical activity; and
- protect and enhance the lifestyle, amenity and 'sense of place' in the City.

Management of the Land

Please refer to the Management Strategies table contained within **Appendix B** for the Council's specific objectives, strategies, performance targets and measures for the management of sporting facilities including Payneham Oval.

Leasing and Licensing

Pursuant to Section 202 of the Act, the following leasing and licensing arrangements are authorised for the community land comprising Payneham Oval:

Type of Arrangement	Length of Term	Authorised Uses
Leases (exclusive use)	Up to ten years (Five + five)	The clubrooms may be leased. Any use consistent with the Purpose of the Land set out in this Plan.
	Up to 15 years (Five + five + five)	Car parks at Payneham Oval may be used on a commercial basis for the provision of publicly accessible electric vehicle charging stations.
	Up to 20 years	The Payneham Oval Tennis Courts may be leased. Any use consistent with the Purpose of the Land set out in this Plan, and in accordance with the Council's Tennis Facilities Policy (as amended from time-to-time).
Licences (non-exclusive use)	Six months – one year	Only the clubrooms, oval and tennis courts may be licensed. Any use consistent with the Purpose of the Land set out in this Plan. Use of the land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.
Licences (non-exclusive use)	Up to ten years (Five + five)	The oval may be licensed for the authorised term. Any use consistent with the Purpose of the Land set out in this Plan.
Casual Hire (non-exclusive use)	Up to six months	The clubrooms, oval, tennis courts and grassed area adjacent to the playground may be hired. Any use consistent with the Purpose of the Land set out in this Plan. Use of the land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.

Notes:

- All existing leases, licences and casual hire arrangements in place with respect to Payneham Oval at the time of adoption of this Plan, are taken to be authorised for the purposes of this Plan.
- Where a lease or licence is proposed to be granted for a term of more than five (5) years, or where a use of Community Land outside the Authorised Uses is proposed, this will be at the Council's discretion in all respects, and the Council is required to comply with its public consultation policy pursuant to Section 202(3) of the Act.
- The Council can approve the use of Community Land for a business purpose in accordance with the provisions of this Community Land Management Plan, pursuant to Section 200 of the Act.

History of the Land

In 1838, Samuel Payne subdivided the area of Payneham and set aside four acres of land as a public reserve bordered by James Street and Arthur Street, which would later become Payneham Oval. The first recorded sporting activity to take place on the reserve was a cricket match in 1868. The Payneham Cricket Club was also founded in that year, and from 1875 played many matches at the reserve.



In 1883, the District Council of Payneham was created (the land comprising the reserve was previously under the jurisdiction of the Stepney District Council), and the reserve was placed under the control of three trustees, Henry McRostie, Robert Taylor and Herbert Cook, to oversee its development. Subsequently, the Payneham Reserve Oval Committee was formed and the reserve became home to a number of cricket and football matches.

In 1892, 32 trees from the Payneham Nursery were planted on the western boundary of the oval and the Payneham Cricket Club requested permission from the trustees to lay down an asphalt cricket pitch and to erect a shed for the players. Cricket was played on Payneham Reserve throughout the 1890s and into the 1900s. The East Torrens Cricket Association was established in 1898 and in 1904, the Payneham Ramblers joined the Payneham Cricket Club to

become the Payneham United Cricket Club. The Payneham Cricket Club won its first premiership in 1908, and played in 20 grand finals from 1909–1931, winning 13 premierships during that period.

While some football was played at Payneham Reserve from 1882, it was not until 1895 that an organised Payneham football team entered the Eastern Suburban Football Association. The Payneham Football Club was established in 1901, and in 1902, the Club was admitted to the Suburban Football Association. The Norwood Union Football Club (with which it would later merge) was established in 1902. Records also show that members of the Payneham Tennis Club made their first appearance playing tennis games at Payneham Reserve in December 1899.

In 1916, the land comprising Payneham Reserve was handed over to the then Payneham District Council by the trustees. As the Great War progressed, the District Council of Payneham proposed the creation of a Soldiers Memorial Garden and Bandstand at the Reserve — this was completed in 1924. In 1919, the Payneham Cycling and Athletic Club was established and the new Payneham Oval, as it was then called by the Council, would become home to regular competitive cycling. In 1922, additional market garden land to the east of the reserve was purchased to increase its size.

The foundation stone was laid for the Payneham Oval Grandstand in 1927. It was constructed at the north-west corner of the oval and provided seating for more than 250 people. It was considered the pride of the town when opened in 1928. The opening of Payneham Oval heralded a new era for sport and recreation in the district. By 1928, the long-awaited tennis courts were laid on the northern end of the reserve near Arthur Street. The three tennis courts were used by St Aidan's Tennis Club and the Firle Tennis Club. A new grass wicket was established at the oval in 1930, and in 1932, the opening round of the inaugural Adelaide Turf Cricket Association competition was held.

From 1928 to the late 1930s, Payneham Oval became the centre of competitive cycling in Adelaide. In 1929, a crowd of more than 5,000 people attended the Payneham Cycling Track to watch a world record attempt by renowned cyclists, and in 1936, Payneham Oval was chosen to host the selection trials for the Berlin Olympics later that year. However, the Council was also under pressure from the local trotting community to make Payneham Oval home for trotting trials in preparation for competitions at Wayville. The issue caused division in the community and amongst the various groups using Payneham Oval. The cycle track embankment was lowered and covered with shell-grit for trotting.

In 1938, the Payneham RSL sub-branch was formed and held its first meeting in the Soldiers Memorial Bandstand. Subsequent meetings were held in the clubrooms which were part of the grandstand complex. During World War II, the oval was again used for drill exercises and community carnivals to raise funds for the war effort. The Payneham Cycling Club also regained ground at this time, and required a new raised bank near the goalposts on the oval. In 1948, the District Council of Payneham gave the go-ahead for greyhound coursing at the oval, which was controversial in the local community. It lasted until 1954. In 1955, floodlights were erected mainly for football and the track lighting was dispensed with. In 1951, a new playground was erected to the west of the Soldiers Memorial Bandstand at the oval.

Throughout the 1960s–1980s, significant upgrades were undertaken to the buildings and grounds at Payneham Oval — this included the construction of a social room and canteen, new change rooms, a bar and member's lounge, new upstairs clubrooms, along with construction of a new practice area and expansion of the centre wicket area for the cricket club. In 1988–1989, the Payneham Oval Tennis Courts were extended and upgraded, with the Payneham and Veterans Tennis Clubs commencing use of these courts as their home courts.

The Payneham Sports Association was formed in 1976, comprised of the Payneham Cricket Club and the Payneham Football Club. And in 1995–1996, the Payneham Football Club and the Norwood Union Football Club merged to form the Payneham Norwood Union Football Club.

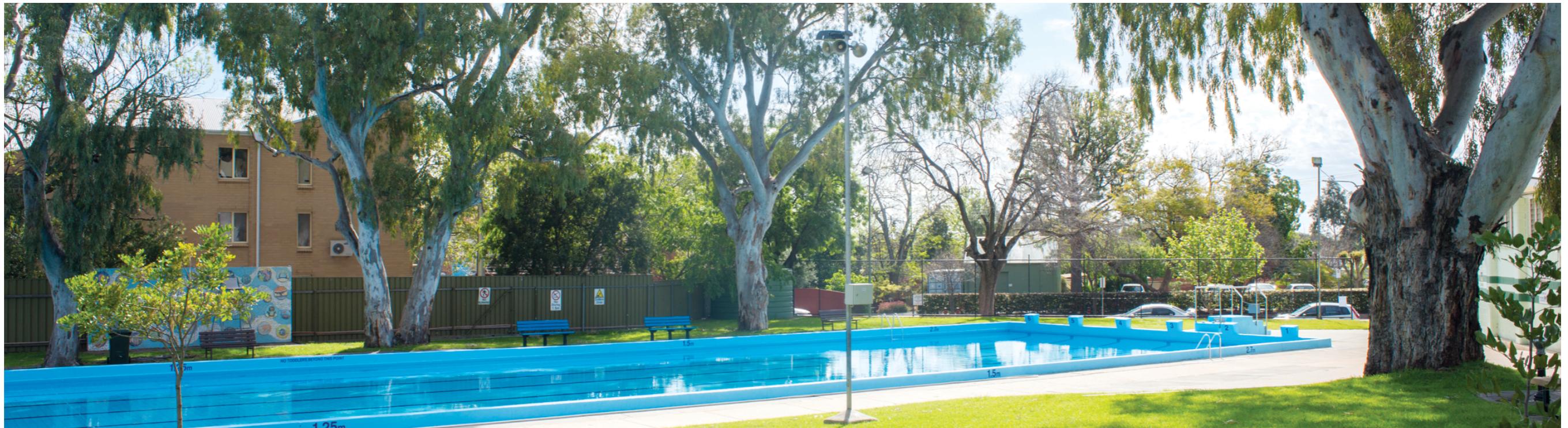
Further upgrades were undertaken to the clubrooms by way of a loan agreement entered into between the Council and the Clubs in 1995–1996. In 2004–2005, a major upgrade of the cricket practice pitch netting occurred.

In 2013, concept plans were prepared by the City of Norwood Payneham & St Peters for the redevelopment of the Payneham Oval Playground. This proposed to upgrade the existing children's play area at the oval, to make it one of five (5) strategically located 'innovative' playgrounds throughout the City pursuant to the Council's Playground Strategy. The Council contributed significant funds to the project, which was completed in 2015.

Upgrading the Payneham Oval clubrooms formed Stage 2 of the redevelopment of the Payneham Oval Complex, with Stage 1 comprising the new playground completed in August 2015. The upgrade of the clubrooms included upgrades to the existing building and the installation of an access lift, accessible toilets, new unisex change rooms, new air conditioning, improved lighting and solar panels. The clubrooms upgrade was completed over 2019–2020.

In 2020–2021, the tennis facilities at Payneham Oval were upgraded, including the construction of six new tennis courts, lighting, seating and a court booking system for public use. The upgrade will provide modern playing facilities for the community and the East Adelaide Payneham Tennis Club for the next 20 years.

Norwood Swimming Centre



Located just off The Parade, Norwood, the Norwood Swimming Centre is a classic Australian local pool that has provided generations of residents with fun-filled memories since its opening in 1957.

Built over Second Creek and surrounded by ancient River Red Gums, the Norwood Swimming Centre is highly valued by the local community for its unique character and the natural environment which surrounds it.

On average, the Centre attracts between 35,000–40,000 patrons during the swimming season each year. Although located on a small site, the Centre caters for lap swimming, swimming lessons, school carnivals, water safety programs and general recreational swimming and fitness.

Norwood Swimming Centre includes the following facilities:

- 50 metre swimming pool
- Shaded learners/toddler pool
- Change rooms and bathroom facilities
- Barbeques and kiosk

For more information about the Norwood Swimming Centre, see the Community Land Register excerpt contained within **Appendix A**.

Purpose of the Land

The purpose for which Norwood Swimming Centre is held is to:

- provide aquatic and recreation facilities for the City;
- facilitate the provision of community, health, recreational, educational, cultural and tourism facilities, services and activities across the City;
- provide opportunities for informal and formal recreational, community and sporting activities; and
- provide opportunities for social interaction and connection, relaxation and physical activity.

Management of the Land

Please refer to the Management Strategies table contained within **Appendix B** for the Council's specific objectives, strategies, performance targets and measures for the management of sporting facilities including Norwood Swimming Centre.

Trusts, Dedications and Other Restrictions

Listed as a Local Heritage Place.



Leasing and Licensing

Pursuant to Section 202 of the Act, the following leasing and licensing arrangements are authorised for the Community Land comprising Norwood Swimming Centre:

Type of Arrangement	Length of Term	Authorised Uses
Leases (exclusive use)	Nil	Not Applicable.
Licences (non-exclusive use)	Six months – one year	Only the kiosk may be licensed. Any use consistent with the Purpose of the Land set out in this Plan. Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.
Casual Hire (non-exclusive use)	Up to six months	The grassed area adjacent to the swimming pool may be hired. Any use consistent with the Purpose of the Land set out in this Plan. Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.

Notes:

- All existing licences and casual hire arrangements in place with respect to Norwood Swimming Centre at the time of adoption of this Plan, are taken to be authorised for the purposes of this Plan.
- Where a lease or licence is proposed to be granted for a term of more than five years, or where a use of Community Land outside the Authorised Uses is proposed, this will be at the Council's discretion in all respects, and the Council is required to comply with its public consultation policy pursuant to Section 202(3) of the Act.
- The Council can approve the use of Community Land for a business purpose in accordance with the provisions of this Community Land Management Plan, pursuant to Section 200 of the Act.

History of the Land

In 1938, the former Corporation of the Town of Kensington and Norwood acquired a portion of land adjacent to Philips Street, Kensington and Third Creek which would later become the first outdoor chlorinated fresh water pool in the Adelaide metropolitan area.



An ambitious plan was launched by the Council to build a public swimming pool at the Phillips Street site, made possible following the recently guaranteed water supply to Adelaide from the Mannum pipeline. Inspired by the Melbourne Olympics, the Norwood Pool was built as an Olympic sized pool. It was the first outdoor chlorinated fresh water pool in the Adelaide metropolitan area. The filtration plant cost \$20,000 and was state of the art technology for the day. The Pool was officially opened on 23 February 1957 by the Premier of South Australia, Sir Thomas Playford. The development included the establishment of a caravan park and a motel adjacent to the pool, all part of recreational life in the 1950s–1960s.

The only other public pools then operating in Adelaide at this time were the old City Baths on King William Road in the city, the sea-water pool at Henley Beach, the old Crystal Pool at Unley and the Gilberton Pool in the River Torrens. As such, the new Norwood Pool was in great demand. From 1957, it was home to the Norwood Water-Polo Team and the Norwood Swimming Club established by Mrs Nora Nelligan (1912–1997). Nora Nelligan (nee Maguire) was a swimming instructor who taught life-saving, learn to swim lessons and rehabilitation for injured, disabled and intellectually impaired persons at the Norwood Pool. She continued to instruct and educate 30,000 men, women and children in the art of safe swimming until she retired in 1985, and was awarded an Order of Australia for her services to the sport of swimming.

Another legend was Harry Gallagher, who trained many of Australia's greatest swimmers and who conducted specialist coaching sessions at the Norwood Pool. In 1960, Gallagher organised for Dawn Fraser, Australia's golden girl of swimming, to do exhibition laps as part of a scout swimming carnival at the Norwood Pool. The Pool has since hosted other swimming legends over the years, including Haley Lewis, Samatha Riley, Shelly Taylor Smith and Susie O'Neil, as well as being featured on a number of television programs and the film 'Look Both Ways'.

Between 1956–1967, the Corporation of the City of Kensington and Norwood acquired further adjoining land, increasing the footprint of the site through to Thornton Street.

In 1988, the southern portion of the Council's land which spanned from Phillips Street to Thornton Street and adjoined Portrush Road, was sold by the Council to the South Australian Housing Trust, leaving the portion of land to the north that is the Swimming Centre site today. The adjoining land remains used as housing trust land to this day.

In 2001, the Norwood Swimming Centre was listed as a Local Heritage Place under the *Heritage Places Act 1993* and the Council's Development Plan, on the basis that it displays historical, economic or social themes that are of importance to the local area, it has played an important part in the lives of local residents, it is associated with notable local personalities or events, and it is a notable landmark in the area. Listing as Local Heritage Place provides recognition of the pool's importance to the local area, and ensures that certain planning controls are in place which ensure that any future work on the site is undertaken in a manner which is sympathetic to those heritage values.

In 2008, the Council undertook a comprehensive review of the Norwood Swimming Centre's infrastructure and determined that an upgrade would be required in light of its condition.

As a result of this, in 2017 the Council developed its *Swimming Centres Long-Term Strategy* to ensure that the Council's Swimming Assets would continue to be managed, maintained and developed to meet the current and changing needs of the community.

Under the Strategy, the focus is to future proof the current infrastructure at the Centre in line with the cultural heritage of the site. Subject to a Masterplan process, it is proposed to maintain, refurbish and upgrade aspects of the existing pool facilities and amenities, and to establish new recreational aquatic facilities (including, eg, an inflatable obstacle course), in line with growing community expectations of what modern swimming centres should provide.

Payneham Memorial Swimming Centre



Opened in 1968 and conveniently located adjacent to the Payneham Library and Community Facilities Complex, the Payneham Memorial Swimming Centre is the Council's premier swimming facility. The Centre has three pools which cater to different aquatic skill levels, along with clubrooms that are regularly used by local swimming clubs.

On average, the Centre attracts between 75,000–80,000 patrons during the swimming season each year. The Centre currently caters for lap swimming, swimming lessons, club swimming, canoe polo, school carnivals, water safety programs and general recreational swimming and fitness. Community events such as the Council's Australia Day 'Poolside' event are also regularly held at the Centre.

Payneham Memorial Swimming Centre includes the following facilities:

- Olympic sized pool
- Learner medium sized pool
- Toddler pool
- Clubrooms/office
- Change rooms and bathroom facilities
- Barbeques and kiosk
- Car park

For more information about the Payneham Memorial Swimming Centre, see the Community Land Register excerpt contained within **Appendix A**.

Purpose of the Land

The purpose for which Payneham Memorial Swimming Centre is held is to:

- provide aquatic and recreation facilities for the City;
- facilitate the provision of community, health, recreational, educational, cultural and tourism facilities, services and activities across the City;
- provide opportunities for informal and formal recreational, community and sporting activities; and
- provide opportunities for social interaction and connection, relaxation and physical activity.

Management of the Land

Please refer to the Management Strategies table contained within **Appendix B** for the Council's specific objectives, strategies, performance targets and measures for the management of sporting facilities including Payneham Memorial Swimming Centre.



Leasing and Licensing

Pursuant to Section 202 of the Act, the following leasing and licensing arrangements are authorised for the Community Land comprising Payneham Memorial Swimming Centre:

Type of Arrangement	Length of Term	Authorised Uses
Leases (exclusive use)	Up to 15 years (Five + five + five)	Car parks on any of the land included in this Plan may be used on a commercial basis for the provision of publicly accessible electric vehicle charging stations.
Licences (non-exclusive use)	Six months – one year	Only the clubrooms/office and kiosk may be licensed. Any use consistent with the Purpose of the Land set out in this Plan. Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.
Casual Hire (non-exclusive use)	Up to six months	The grassed area adjacent to the swimming pool may be hired. Any use consistent with the Purpose of the Land set out in this Plan. Use of the Land for a business purpose may be granted where it occurs on a single occasion or on a short-term basis (up to the maximum term length), subject to approval.

Notes:

- All existing licences and casual hire arrangements in place with respect to Payneham Memorial Swimming Centre at the time of adoption of this Plan, are taken to be authorised for the purposes of this Plan.
- Where a lease or licence is proposed to be granted for a term of more than five years, or where a use of Community Land outside the Authorised Uses is proposed, this will be at the Council's discretion in all respects, and the Council is required to comply with its public consultation policy pursuant to Section 202(3) of the Act.
- The Council can approve the use of Community Land for a business purpose in accordance with the provisions of this Community Land Management Plan, pursuant to Section 200 of the Act.

History of the Land

The former City of Payneham acquired the land between Payneham Road, O G Road and Turner Street between 1964–1967, following the division of this land by the Minister of Education and the establishment of a scheme for the use and development of the land under the *Recreation Grounds (Joint Schemes) Act 1947*.



In December 1964, the new City of Payneham Civic Centre was opened on the corner of O G Road and Payneham Road, and the idea for an Olympic-size swimming pool, paddling pool and learners pool to be located on the land adjacent Third Creek was put forward shortly after.

The development of a modern public pool was a joint 'War Memorial Project' between the City of Payneham, the Payneham RSL, and the St Peters and Payneham Rotary Clubs, with funds contributed by all parties including the local community.

In August 1966, it was reported that 'work is to start on a joint recreation scheme at Felixstow to provide playing fields, lawns and gardens near Third Creek. When completed, the area will be transformed into a comprehensive sports centre with the addition of the Payneham Memorial Swimming Pool'.

On 10 February 1968, the Payneham Memorial Swimming Pool was officially opened by the Mayor of Payneham, Max Redden. Before a crowd of over one thousand people, the Mayor stated that 'rate payers would continue to be proud of this magnificent facility for years to come'. Built to honour those who had served their country in war, it was a sign that times were changing as Payneham became one of the fastest growing urban areas east of Adelaide.

The history of the Payneham Swimming Club began in 1942 as Richardson's Industries Patriotic Club, based at the Adelaide City Baths. In 1951, the Chrysler Corporation of America purchased T.J. Richardson & Sons Motor Body Builders and the swimming club then became known as the Chrysler Swimming Club. In 1969, the Adelaide City Baths were demolished to make way for the Festival Centre and so the Chrysler Swimming Club relocated to the newly opened Payneham Memorial Swimming Pool. It then became known as the Payneham Chrysler Swimming Club.

The Payneham Chrysler Swimming Club produced several champions and won the famous River Torrens 'Swim Thru Adelaide' from 1970 to 1977. In 1980, the Japanese company, Mitsubishi, bought Chrysler Australia but sadly withdrew its sponsorship of the swimming club. The City of Payneham stepped in and so the Club because the Payneham Swimming Club and helped nurture Olympic medallists Glen Beringen and Martin Roberts. It continues its success today.

In 2001–2002, the Payneham Civic Centre site at the corner of O G Road and Payneham Road was subdivided, rezoned and sold by the Council. The Garden of Remembrance adjacent to the corner site was, however, retained by the Council, together with the Payneham Memorial Swimming Centre land. A new Library and community centre were constructed by the Council at the corner of O G Road and Turner Street and formally opened on 1 May 2003 as the 'Payneham Library & Community Facilities Complex'.

Over the years, a range of refurbishments have been undertaken to maintain the Payneham Memorial Swimming Centre infrastructure in good order. In 2008, the Council undertook a comprehensive review of the Centre's swimming infrastructure and determined that an upgrade would be required in light of its condition, and the growing community expectations of aquatic leisure facilities. As a result of this, in 2017 the Council developed its *Swimming Centre Long-Term Strategy* to ensure that the Council's

Swimming Assets would continue to be managed, maintained and developed to meet the current and changing needs of the community.

Under the Strategy, the focus is to build on the traditional programs and services of the Swimming Centre, while encouraging greater family and child usage through adding more leisure water, play and fun water features. Subject to a Masterplan process, the existing pool facilities and amenities at the Payneham Memorial Swimming Centre will be refurbished and upgraded, and new recreational aquatic facilities will be established (including, eg, an interactive Water Play Park and inflatable obstacle course). As a result, it is hoped that the Centre will become a water based recreational destination for the Eastern Region.

Appendix A

*Community Land Register
Sporting Facilities*

#	Name of Land	Address of Land	Certificate of Title Plan and Parcel	Notes	Lease / Licence*	Land area (approximate m ²)	
1	Buttery Sportsground	259 Portrush Road, Norwood SA 5067	5872/151 5872/152 5872/153	D58030 A51 D58030 A52 D58030 A53	Includes croquet green, tennis courts and clubrooms	Leases Licence	7,909
2	Cruikshank Reserve	Corner of Phyllis Street and Clifton Street, Maylands SA 5069	5807/109 5824/191 5827/929 5832/304 5831/945 5785/757	F135048 A97 F135049 A98 F135050 A99 F135051 A100 F135052 A1 D1210 A12	Also Reserve Includes tennis courts, netball courts and clubrooms	Lease	5,323
3	John Horrocks Memorial Green	65-69 Breaker Street, St Morris SA 5068	5700/552	D2589 A82	Includes tennis courts and building	Lease	3,490
4	Norwood Oval	4 Woods Street, Norwood SA 5067 75 The Parade, Norwood SA 5067	6130/129 Pt 6130/134	F35168 A7 D87096 A51 D31103 A10	Includes clubrooms and grandstand with facilities. The land to the north of Allotments 10 and 11 in Deposited Plan 31103 is to be perpetually held by the Council for the purpose of open air games and recreation	Leases Underlease Licence	28,943
5	Norwood Swimming Centre	Lot 102 Phillips Street, Kensington SA 5068	5759/406	D16233 A102			3,721
6	Patterson Sportsground	20 Turner Street, Felixstow SA 5070	Pt 5859/643 Pt 5386/506	D58460 A100 D42573 Q23	Includes sportsground and clubrooms	Leases Licences	35,252
7	Payneham Memorial Swimming Centre	188 O G Road, Felixstow SA 5070	Pt 5859/643 Pt 5386/506 5744/453	D58460 A100 D42573 Q23 F40075 A16	Includes clubrooms	Licences	13,650
8	Payneham Oval	26 Rosella Street, Payneham SA 5070	5839 / 146	D372 A115 D372 A51 D372 A52 D372 A116 D372 A63 D372 A64	Includes oval, clubrooms, tennis courts and playground	Lease Underlease Licences	40,442
			N/A	D372 A117	Whole of the land in General Memorial Registered No 80 Book 474 (NUA)		

#	Name of Land	Address of Land	Certificate of Title Plan and Parcel	Notes	Lease / Licence*	Land area (approximate m ²)	
9	St Peters River Park	Lot 10 River Street, St Peters SA 5069 Lot 31 Eighth Avenue, St Peters SA 5069 Lot 46 Eighth Avenue, College Park	Pt 5875/802 Pt 5853/87 339/70	D22127 Q9, Q10 Also Reserve F136682 A31 F136689 A38	Includes L G Perriam Memorial Oval and St Peter's Billabong	92,643	
		Lot 31 Eighth Avenue, St Peters SA 5069 Lot 46 Eighth Avenue, College Park	5750/168 5262/161 5261/579	F136697 A46 F138132 A8, A9 F138138 Q23, Q24			
		Lot 46 Eighth Avenue, College Park SA 5069 23 River Street, St Peters SA 5069 Lot 10 River Street, St Peters SA 5069	329/181, 182 5547/589 5329/205	D882 A725A F136779 A28 F136688 A37			
10	Trinity Gardens Soldiers Memorial Reserve	Lot 36 Gilbert Street, Gilberton SA 5069	Pt 5832/927 Pt 5875/665	F136687 A36 D22127 Q7	Includes tennis courts, bowling green and clubrooms	Leases Subject to a Trust Deed dated 2 July 1924, which requires the Reserve 'to be used, kept, and held as an open space and recreation ground for the use of the persons resident on the remainder of the forty acres of land hereinbefore mentioned and for the use of the public' and on the further conditions set out in the Deed (see Lease dated 15 June 1998 for more details).	10,151

Appendix B

*Management Strategies
Sporting Facilities*

#	Category	Objectives	Strategies	Performance Targets	Performance Measures
1	Public Access and Mobility	Provide reserves, facilities and spaces that are fit-for-purpose, safe, well-maintained and accessible for people of all ages, backgrounds and abilities*	Design and provide safe, high quality facilities and spaces for all people Provide safe and accessible movement for all people	Achieve a resident perception rating higher than the average from the previous four Council Community Surveys for the level of community satisfaction with the access to services and facilities.	Community Survey (undertaken every two (2) years) – level of resident satisfaction
			All upgrades and redevelopments are compliant with relevant legislation, strategies and standards relating to public access (including, e.g., <i>Disability Discrimination Act 1992 (Cth)</i> , <i>National Disability Strategy</i> , <i>Building Code of Australia</i> , <i>Australian Standards</i>)	Audit of upgrades and redevelopments once completed	
		Implement the Council's Access & Inclusion Strategy and Access & Inclusion Policy (as amended from time-to-time)	Citizens of all ages and abilities have equitable access to building, open space and services available in the City	Annual reporting on Access & Inclusion Strategy	
		Identify opportunities for accessible and inclusive elements in all Masterplans for upgrades and redevelopments of Council reserves, facilities and public places	All upgrades and redevelopments include accessible or inclusive elements	Review of Masterplans prior to Council endorsement	
		Improve smart mobility options/ outcomes in Council reserves, facilities and public places	Explore opportunities to improve city parking with smart technology Facilitate smart mobility options (e.g. micro-mobility, active travel, green transport)	Consider and incorporate smart technology and smart mobility options in upgrades of Council reserves, facilities and public place upgrades (where practicable) Targets otherwise as outlined in the Council's Smart City Implementation Strategy and Smart City Action Plan (as amended from time-to-time)	Performance measures as per the Council's Smart City Implementation Strategy and Smart City Action Plan (as amended from time-to-time)
		Facilitate uptake of electric vehicles (EV) and roll-out of EV charging infrastructure	Enter into arrangements with up to two (2) private sector proponents to install a maximum of 16 publicly accessible electric Vehicle (EV) charging stations at key locations across the City over the period 2021-2036, with a minimum of two (2) charging stations installed within the period 2021-2023.	Number of EV charging stations installed in 2021-2023 and 2021-2036	
#	Category	Objectives	Strategies	Performance Targets	Performance Measures
2	Cultural Vitality	Dynamic community life in public places and precincts*	Facilitate a mix of land uses and activities in appropriate locations in balance with amenity and character Create and provide interesting and vibrant public spaces to encourage interaction and gatherings	Undertake the design or upgrade of at least one public space per annum	The number of designs or upgrades undertaken to community spaces by the Council
		Host and facilitate community events and activities	Host and facilitate community events and activities	Hold a minimum of six major community events per year	The number of community events held
		Value and promote the City's rich cultural and built heritage*	Protect and enhance places, streetscapes, precincts and landmarks which reflect the built and cultural history of our City	Achieve a resident perception rating higher than the average from the previous four Council community surveys for the level of community satisfaction with cultural heritage programs provided by the Council	Community Survey undertaken by the Council every two years
3	Economic Development	Cosmopolitan business precincts contributing to the prosperity of the City*	Promote use of Council re-serves, facilities and public places to activate the surrounding precinct Promote the City as a visitor destination	Year-on-year increase in the number of business promotional initiatives held	The number of promotional initiatives undertaken by the Council

#	Category	Objectives	Strategies	Performance Targets	Performance Measures
4	Environmental Sustainability	Sustainable and efficient management of resources*	Investigate and implement innovative waste reduction and education initiatives	Year-on-year increase in community recycling and green waste diverted from landfill across the City	Tonnes of community recycling and green waste diverted from landfill as a percentage of the total waste collected, measured each financial year
			Install recycling and/or food and garden organics bins at Council reserves, facilities and public places where practicable	Number of recycling and food and garden organics bins installed per year	
		Incorporate "zero waste" or low waste principles into community event planning	All community events held by the Council are "zero waste"	Number of "zero waste" community events held by Council each year	
		Prioritise the purchase of recycled products and materials in the replacement or upgrade of Council assets in reserves, facilities and public places, for all relevant product types	Year-on-year increase in corporate purchases of products of materials that contain recycled content	The weight (tonnes) of recycled content purchased by the Council, as reported under the LGA Circular Procurement Pilot Project	
		Mitigating and adapting to the impacts of climate change*	Undertake climate change adaptation initiatives for our assets, public spaces, services and operations	Achieve a resident perception rating higher than the average from the previous four Council Community Surveys for the level of community satisfaction with the Council's response to climate change	Community Survey undertaken by the Council every two years
			Implement actions from the Resilient East Action Plan 2020-2025	Refer to timeframes for actions in the Action Plan	Resilient East reporting on Action Plan each financial year
#	Category	Objectives	Strategies	Performance Targets	Performance Measures
5	Public Amenity	All Council reserves and facilities maintained as smoke-free facilities	Educating the community about the Council's Smoke-Free Policy	No smoking in smoke-free areas	Review of the number of complaints received regarding smoking in smoke-free areas annually
		Improve the usage and amenity of public and green spaces	Integrate digital technology into parks and green spaces to improve amenity, sustainability and safety	Consider and incorporate digital and smart technology in upgrades of Council reserves, facilities and public place upgrades (where practicable)	Performance measures as per the Council's Smart City Implementation Strategy and Smart City Action Plan (as amended from time-to-time)
			Leverage smart data collection to improve planning and management of parks and public space	Targets otherwise as outlined in the Council's Smart City Implementation Strategy and Smart City Action Plan (as amended from time-to-time)	
			Investigate the usage of smart sensors to enhance the collection and activation of data to improve public asset management	Performance measures as per the Council's Smart City Implementation Strategy and Smart City Action Plan (as amended from time-to-time)	
6	Leasing, Licensing and Casual Hire	Public and private use of Council reserves and facilities is managed in an equitable, efficient and consistent manner	New leases and licences are assessed against a leasing and licensing strategy	Development of a leasing and licensing policy framework for the City	Adoption of a leasing and licensing policy framework by the Council
			Maintenance of a Lease and Licence Register	All leases, licences and hire arrangements are up-to-date and compliant with relevant legislative requirements	Review of Lease & Licence Register annually
			Community Land Management Plans regulate unauthorised uses and tenure for leasing and licensing of public open space and facilities	Leased / licensed / hired facilities are used in accordance with the terms of their lease / licence / hire arrangement	Inspection records for properties
			Regular inspections of leased / licensed / hired reserves and facilities to ensure compliance by users		
		Increased, varied and shared use of Council reserves and facilities through suitable occupancy arrangements	Explore opportunities for increased and varied use of Council reserves and facilities (both short-term and long-term)	Highest and best usage of all Council reserves and facilities	Annual review to determine usage and occupancy of Council reserves and facilities
			Development of a leasing and licensing strategy for all Council owned properties		Adoption of a leasing and licensing strategy by the Council

#	Category	Objectives	Strategies	Performance Targets	Performance Measures
7	Urban Design	Pleasant, well designed and sustainable urban environments*	Encourage sustainable and quality urban design outcomes in all Council reserves and facilities Maximise the extent of green landscaping provided in new development and in the public realm	Undertake the design or upgrade of at least one public space per annum	The number of designs or upgrades undertaken to community spaces by the Council
8	Public Art	To create an artistic, creative, cultural and visually interesting City*	Protect, enhance and expand public open space Integrate green infrastructure into streetscapes and public spaces Facilitate public arts projects through the Council's Public Art Program, in accordance with the Council's <i>Public Art Policy</i> Include funding for development and design of public artwork in all major Council projects Continued implementation of the Council's Quadrennial Public Art Program	All upgrades and redevelopments of Council reserves, facilities and public places incorporate landscaping and/or green infrastructure elements Public artwork included in all major Council projects, where practicable Commission a major public artwork every four years	Audit of upgrades and redevelopments once completed Number of major projects incorporating public artwork each year Major public artwork installed every four years
9	Graffiti, Vandalism and Litter	Council reserves, facilities and public places are maintained free from graffiti, vandalism and litter in the interests of public amenity and safety	Provision of public waste bins at all Council reserves and facilities Public waste bins are emptied in accordance with the Council's service standard (frequency dependent upon location) Community education regarding waste management and reporting of incidents of littering, graffiti and/or vandalism	No complaints regarding litter and provision of / access to public waste bins CRM's are actioned in accordance with the Council's service standard (including reporting to the Police where required)	Review of CRMs relating to litter and provision of access to public waste bins Inspection and maintenance records
10	Animal Management	Animal management in Council reserves, facilities and public places is conducted in accordance with the objectives set out in the Council's 2019-2024 Dog & Cat Management Plan	General inspection and monitoring of reserves for graffiti, vandalism and litter per month, and otherwise as required CRM's in relation to graffiti, vandalism and litter are investigated and action taken where practicable (including reporting to the Police where required) Volunteer Graffiti Removal Program across the City (priority removal for offensive content) Explore opportunities for urban design to reduce risk of graffiti and/or vandalism in upgrades or developments of Council reserves, facilities and public places	Inspection of approximately five reserves per month, and otherwise as required CRM's are actioned in accordance with the Council's service standard Continued implementation of the Volunteer Graffiti Removal Program All Masterplans for Council reserves, facilities and public places incorporate urban design that seeks to reduce the risk of graffiti and/or vandalism (where relevant)	Review of CRM responses against the Council's service standard, monthly Records of Graffiti Removal Program Review of Masterplans prior to Council endorsement
			As set out in the 2019-2024 Dog & Cat Management Plan (as amended from time-to-time)	As set out in the 2019-2024 Dog & Cat Management Plan (as amended from time-to-time)	As set out in the 2019-2024 Dog & Cat Management Plan (as amended from time-to-time)

#	Category	Objectives	Strategies	Performance Targets	Performance Measures
11	Pest Control	To maintain public safety and amenity in Council reserves, facilities and public places	General inspection and monitoring of reserves for pest control Annual termite inspections of Council buildings Treatment of pest infestations and animal management issues if and when they arise (e.g. bees, ant, cockroach, rodents, possums, pigeons, fruit fly)	Inspection of approximately five reserves per month, and otherwise as required	Inspection and maintenance records
		CRMs in relation to pest control are investigated and action taken where practicable	CRMs are actioned in accordance with the Council's service standard	Review of CRM responses against the Council's service standard, monthly	Review of CRM responses against the Council's service standard, monthly
		To conduct pest control in an environmentally sustainable manner where practicable	Utilisation of environmentally sustainable pest control measures where practicable	Relocation of up to 50% of bee infestations at Council reserves, facilities and public places	Review of CRM responses against the Council's service standard, monthly
12	Vegetation and Landscaping	To maintain public safety and amenity in Council reserves, facilities and public places are fit-for-purpose, safe and well-maintained	Regular vegetation maintenance program at all Council reserves, facilities and public places (including, e.g., pruning, fertilising, irrigation, mulching, plant replacement) (frequency dependent upon type of vegetation)	Delivery of maintenance program Development of maintenance plans for all Council reserves and facilities upon completion of reserve upgrade or redevelopment	Inspection and maintenance records Number of maintenance plans developed
		General inspection and monitoring of reserves for vegetation and landscaping	General inspection and monitoring of reserves for vegetation and landscaping are investigated and action taken where practicable	Inspection of approximately five reserves per month, and otherwise as required	Review of CRM responses against the Council's service standard, monthly
		CRMs in relation to vegetation and landscaping are investigated and action taken where practicable	CRMs are actioned in accordance with the Council's service standard	Plant a minimum of 500 new trees per year in streets and/or public spaces.	The number of new trees planted by the Council (LiDAR Analysis – Mapping Data)
		Sustainable streets and open spaces*	Protect, diversify and increase green cover Establish a network of linked open spaces for wildlife habitat	Plant a minimum of 500 new trees per year in streets and/or public spaces.	The number of new trees planted by the Council (LiDAR Analysis – Mapping Data)
#	Category	Objectives	Strategies	Performance Targets	Performance Measures
		Thriving and healthy habitats for native flora and fauna*	Identify and protect existing native vegetation and enhance habitat quality Revegetate designated areas with local native species where appropriate	Undertake at least two initiatives to promote the value of native flora and fauna per year	Number of initiatives to promote and educate the community about the value of native flora and fauna, per year
			Facilitate community participation in revegetation programs and gardening programs, where appropriate		
			Site management and maintenance of St Peters Billabong to be conducted in accordance with any specific management plan for the Billabong, in connection with Green Adelaide (or other relevant body), as amended from time-to-time	Site management and maintenance of St Peters Billabong is maintained in accordance with applicable management plan (if any)	Review of management and maintenance as required under plan (if any)
		Trees at Council reserves, facilities and public places are healthy, structurally sound and well-maintained	Tree management program for selected trees in specified locations (including, e.g., adjacent high-usage Council facilities), with annual inspection and monitoring	Continued implementation of tree management program and general inspection and monitoring regime	Inspection and monitoring records (annually or otherwise as required)
			General inspection and monitoring of trees by a qualified arborist to assess tree condition and identify faults, dead trees or fallen branches (before programmed works, prior to major Council events, and otherwise as required)	Development of a Tree Strategy for the City	Development of Strategy
		Cataloguing of Council trees across the City (dependent upon availability of resources)	Cataloguing of Council trees across the City (dependent upon availability of resources)	Development of a comprehensive register for all Council trees in the City	Register developed
		CRMs in relation to trees are investigated and action taken where practicable	CRMs are actioned in accordance with the Council's service standard	Review of CRM responses against the Council's service standard, monthly	Review of CRM responses against the Council's service standard, monthly

#	Category	Objectives	Strategies	Performance Targets	Performance Measures
13	Drainage and Stormwater Management	Sustainable and efficient management of resources*	Encourage the capture and re-use of stormwater and reduce stormwater run-off from Council reserves, facilities and public places	Incorporate water sensitive urban design (WSUD) / stormwater capture and treatment considerations in reserve and public place upgrades (where practicable)	Number of projects with WSUD/stormwater capture and treatment considerations per year
		Implementation of the Eastern Regional Alliance (ERA) Waterproofing Eastern Adelaide Stormwater Harvesting and Re-Use Project	Connection of all Council parks and reserves to the Council's recycled water supply	Number of parks and reserves connected to the Council's recycled water supply	
		To seek equitable flood protection across the City	Manage stormwater to reduce the risks of flooding Development and review of the Flood Mapping and Management Strategy Implementation of the Stormwater Infrastructure Asset Management Plan Implementation of the Council's 15-year Drainage Program across the City Implementation of an annual scheduled maintenance program for all side entry pits Continued implementation of gross pollutant trap cleaning and inspection program for relevant creeks and rivers (frequency dependent upon rain events)	Reduction in local area flooding (particularly in high priority areas in the City, as identified in the Flood Mapping and Management Strategy) Trunk mains across the City are capable of transferring a 100-year flow	Number of reported incidents of local area flooding per storm event Review of Drainage Program annually in Budget process
		CRM's in relation to drainage and stormwater management are investigated and action taken where practicable	CRM's are actioned in accordance with the Council's service standard	CRM's are actioned in accordance with the Council's service standard	Review of CRM responses against the Council's service standard, monthly
14	Irrigation				
		Irrigation systems at Council reserves, facilities and public places are fit-for-purpose, safe and well-maintained	Irrigation of Council reserves, facilities and public places is managed in accordance with the Council's Irrigation Policy and Irrigation Management Plans	Irrigation of Council reserves, facilities and public places (where relevant) meets the irrigated Public Open Space (IPOS) Code of Practice requirements and relevant legislative requirements	Review of water use and irrigation practices against IPOS Code of Practice, annually (or otherwise as required)
		Utilise best practice and sound horticultural principles to maximise efficient use of water	Automatic or manual irrigation systems programmed to meet the needs of each area (including, e.g., soil type, grass type, use of area, water quality, climatic conditions)	CRM's in relation to irrigation are investigated and action taken where practicable	Inspection of approximately five reserves per month and otherwise as required
				CRM's are actioned in accordance with the Council's service standard	Inspection and maintenance records
15	Building Maintenance				
		Convenient and accessible buildings and facilities that are fit-for-purpose, safe and well-maintained*	Design and provide safe, high quality facilities and spaces for all people Management of Council buildings in accordance with the Council's Infrastructure & Asset Management Plans, policies, strategies and statutory requirements	Continued asset management in accordance with Infrastructure & Asset Management Plans, Council policies, strategies and statutory requirements All buildings are compliant with Australian Standards and statutory requirements (where practicable, taking into account physical and heritage limitations of assets)	Asset Management Plan reviewed every five (5) years
		Sustainable and efficient management of water, energy and other resources in Council buildings and facilities	Incorporation of water saving / re-use, energy reduction and sustainability measures into existing buildings during repair or upgrade, or as opportunities arise	Building Condition Audit conducted every ten years Planned building maintenance program to ensure key services are provided as required (frequency dependent upon service) (e.g. cleaning, essential safety provision testing and maintenance, pest control)	Building Condition Audit Process reviewed annually Delivery of maintenance program Compliance certificates for building maintenance
		Inspection and monitoring of Council buildings and facilities to assess asset condition and performance as required	Continued implementation of Building Condition Audit every ten years Planned building maintenance program to ensure key services are provided as required (frequency dependent upon service) (e.g. cleaning, essential safety provision testing and maintenance, pest control)	Continued implementation of inspection and monitoring regime	Inspection and maintenance records

#	Category	Objectives	Strategies	Performance Targets	Performance Measures
16	Public Toilets	Public toilets at Council reserves, facilities and public places are well-maintained, safe and accessible to all members of the community To prevent vandalism and antisocial behaviour in the vicinity of public toilets	CRMs in relation to building maintenance are investigated and action taken where practicable Public toilets are regularly cleaned and maintained (at a minimum of three (3) times per week, dependent upon location and usage) All public toilets are locked between sunset and sunrise Security monitoring (dependent upon standard of public toilet facility) CRMs in relation to public toilets are investigated and action taken where practicable	CRMs are actioned in accordance with the Council's service standard Upgrade of at least one public toilet facility per year (including in connection with an upgrade / redevelopment process) to incorporate automated locking, security monitoring and DDA compliance CRMs are actioned in accordance with the Council's service standard	Review of CRM responses against the Council's service standard, monthly Number of public toilet facilities upgraded per year
17	Public Lighting	Council reserves facilities and public places are lit for safety and amenity	Public lighting installed or upgraded to appropriate lighting levels where practicable (where Council responsible for lighting infrastructure) Use LED or energy efficient lighting where practicable	Public lighting installed and maintained in accordance with Australian standards	Maintenance and upgrade records
18	Playgrounds and associated structures (including, e.g. shade structures and sails, exercise equipment)	Playgrounds and associated structures at Council reserves and facilities are fit-for purpose, safe and well-maintained	Annual external audit of all playground equipment and surfacing against Australian Standards Monthly inspection and monitoring of all playgrounds and associated structures to assess asset condition, performance and maintenance	All playgrounds and associated structures are compliant with Australian Standards and legislative requirements Continued implementation of inspection and monitoring regime	Audit records Inspection and maintenance records
19	Outdoor Furniture and Associated Structures (includes, e.g., seats, benches, tables, shelters, barbecues, litter bins, drinking fountains, signage, dog poo bag dispensers)	Outdoor furniture and associated structures in Council reserves, facilities and public places are fit-for-purpose, safe and well-maintained	Playgrounds are upgraded in accordance with the Council's <i>Playground Strategy</i> Identify opportunities to incorporate accessible and inclusive play equipment in Masterplan for upgrades and developments of Council reserves and facilities Identify opportunities to incorporate exercise equipment in Master Plans for upgrades and developments of Council reserves and facilities	Create or improve five innovative playgrounds in the City in accordance with the Council's <i>Playground Strategy</i> All new or upgraded playgrounds include accessible and inclusive play equipment and associated structures Exercise equipment is included in all upgraded or redeveloped reserves or facilities where identified in Masterplans	Number of innovative playgrounds implemented over life of Strategy Play space design compliance report for all new playgrounds and associated structures Number of reserves incorporating exercise equipment
20	Fencing, Retaining Walls and Associated Structures		Inspection and monitoring of outdoor furniture and associated structures to assess asset condition, performance and maintenance CRMs in relation to outdoor furniture and associated structures are investigated and action taken where practicable	All outdoor furniture and associated structures are compliant with Australian Standards and legislative requirements Inspection of approximately five reserves per month, and otherwise as required	Inspection and maintenance records Review of CRM responses against the Council's service standard
				All fencing, retaining walls and associated structures are compliant with Australian Standards and legislative requirements Inspection of approximately five reserves per month, and otherwise as required	Inspection and maintenance records Review of CRM responses against the Council's service standard

#	Category	Objectives	Strategies	Performance Targets	Performance Measures
21	Roadways, Car Parks and Paths	Roadways, car parks and paths at Council reserves, facilities and public places are fit-for-purpose, safe and well-maintained	Regular inspections and monitoring of roadways, car parks and paths to assess asset condition, performance and maintenance Regular street sweeping of car parks and roadways (approximately every six weeks)	All newly constructed car parking is compliant with Australian Standards and legislative requirements, and is paved Inspection of approximately five reserves per month, and otherwise as required Implementation of inspection and monitoring regime and street sweeping program	Inspection and maintenance records
			CRM's in relation to roadways, car parks and paths are investigated and action taken where practicable	CRM's are actioned in accordance with the Council's service standard	Review of CRM responses against the Council's service standard, monthly
22	Oval, Sportsground and Other Surface Maintenance (including, e.g. grassed surfaces utilised for informal recreation / sport)	Ovals, sportsgrounds and other surfaces are fit-for-purpose, safe and well-maintained	Inspection and monitoring of ovals, sportsgrounds and other surfaces to assess condition, performance and maintenance Regular mowing and weed control program (frequency dependent upon season and usage requirements at each location) Irrigation of ovals, sportsgrounds and other surfaces is managed in accordance with the Council's <i>Irrigation Policy</i> and Irrigation Management Plans	All ovals, sportsgrounds and selected grassed surfaces are maintained in accordance with the Irrigated Public Open Space (IPOS) Code of Practice requirements, Australian Standards and relevant sporting code requirements Inspection of approximately two ovals and sportsgrounds per month, and otherwise as required	Monthly external audit against IPOS Code of Practice Inspection and maintenance records
			CRM's in relation to oval, sportsground and other surface maintenance are investigated and action taken where practicable	CRM's are actioned in accordance with the Council's service standard	Review of CRM response actions and timeframes by responsible officers, monthly
23	Tennis Courts and Associated Facilities	Tennis facilities are fit-for-purpose, safe and well-maintained	Public and/or Club usage of tennis facilities is managed in accordance with the Council's <i>Tennis Facilities Policy</i> (or other relevant policy in place from time-to-time) (e.g. clubrooms)	All tennis facilities are compliant with relevant legislative standards and sporting code requirements upon upgrade or redevelopment	Audit of tennis court upgrades upon completion
				Court maintenance undertaken in accordance with the Council's <i>Tennis Facilities Policy</i> and any relevant lease agreement	
				Court reconstruction works are undertaken in accordance with the Council's <i>Tennis Facilities Policy</i> (or the equivalent policy in place from time-to-time), and relevant legislative standards and sporting code requirements	Review of CRM response actions and timeframes by responsible officers, monthly
			CRM's in relation to tennis courts and associated facilities are investigated and action taken where practicable	CRM's are actioned in accordance with the Council's service standard	

Appendix B: Management Strategies: Sporting Facilities

#	Category	Objectives	Strategies	Performance Targets	Performance Measures
24	Swimming Pools	<p>Providing convenient and accessible aquatic facilities and services, which are safe, fit-for-purpose and well-maintained</p> <p>Swimming centre assets are managed, maintained and developed to effectively meet the current and changing needs of the community</p>	<p>Swimming Centre assets are managed and developed in accordance with the Council's <i>Swimming Centres Long-Term Strategy</i> (which includes provision for future upgrades, capital works and scheduled programmed maintenance)</p> <p>Implementation of the Royal Lifesaving Australia Guidelines for Safe Pool Operations</p> <p>Promotion of water safety and supervision requirements (e.g. program implementation, signage, handouts, lifeguards)</p> <p>Inspection, monitoring and cleaning of pool area and change rooms daily</p> <p>Water chemistry testing (minimum five hourly)</p> <p>Providing a diverse range of aquatic recreation opportunities (including, e.g. Swim School, holiday and VacSwim programs)</p>	<p>Implementation of the <i>Swimming Centres Long-Term Strategy</i></p> <p>Maintenance of Swimming Centre assets and operation of an aquatic environment in accordance with applicable standards and legislative requirements</p> <p>Continued implementation of aquatic recreation programs at both Council Pools</p> <p>CRM's are actioned in accordance with the service standard</p>	<p>Completion of upgrade, capital and maintenance works as provided for in the Strategy</p> <p>EHA inspection report in relation to water chemistry testing, annually</p> <p>WH&S audit, annually</p> <p>End of season report on operation of Swimming Centres, annually (including, e.g. attendance, programs, events, revenue)</p> <p>Review of CRM response actions and timeframes by responsible officers, monthly</p>

Notes:

*See the Council's Strategic Management Plan *CityPlan 2030: Shaping Our Future*, for the Council's strategic objectives for the City.

'CRM's' – CRM's are Customer Requests logged in the Council's Customer Request Management System. CRM's are investigated and action taken where practicable (ie within Council budgetary limits, and in accordance with the Council's service standard and timeframe, for that category of request).

Further Information

For information on the Council's Community Land Management Plans, please visit www.npsp.sa.gov.au or phone 8366 4555.

You can also visit the Council's Customer Service Centre at the Norwood Town Hall, 175 The Parade, Norwood.

Additional Copies

The Community Land Management Plan: *Sporting Facilities* can be viewed online at www.npsp.sa.gov.au

Additional copies may also be obtained by:

- visiting Norwood Town Hall
- visiting any of the Council's Libraries
- emailing townhall@npsp.sa.gov.au
- contacting the Council on 8366 4555
- writing to the Council at PO Box 204, Kent Town SA 5074

City of Norwood Payneham & St Peters
175 The Parade, Norwood SA 5067

Telephone 8366 4555
Facsimile 8332 6338
Email townhall@npsp.sa.gov.au
Website www.npsp.sa.gov.au



City of
Norwood
Payneham
& St Peters



[DRAFT 22.09.25]

Draft Management Agreement Payneham Memorial Swimming Centre

**The Corporation of the City of Norwood Payneham & St Peters
[Manager]**

Draft

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DATE

PARTIES

THE CORPORATION OF THE CITY OF NORWOOD PAYNEHAM & ST PETERS
ABN 11 390 194 824 of 175 The Parade, Norwood SA 5067 (Council)

[INSERT] ACN [insert] of [insert] (Manager)

BACKGROUND:

- A. The Aquatic Centre is a redeveloped public aquatic facility that has been constructed for the Council pursuant to the Construction Contract.
- B. Pursuant to a Request for Tenders process, the Council sought submissions from suitably qualified parties to manage the Aquatic Centre.
- C. The Manager has represented to the Council that it has capability in the operation and management of facilities of the same or a substantially similar type as the Aquatic Centre.
- D. The Manager submitted a tender, and the Council accepted it.
- E. The Manager now agrees to manage the Aquatic Centre on the terms of this Agreement.

1. INTERPRETATION

1.1 Background

The Background forms part of this Agreement and the Parties agree that the Background is true and accurate.

1.2 Definitions

In the interpretation of this Agreement unless the contrary intention appears or unless the context otherwise requires, the following expressions have the following meanings:

- 1.2.1 **Agreement** means this agreement including the Background, all Annexures and all terms and conditions contained herein.
- 1.2.2 **Agreement Commencement Date** means the date on which this Agreement is fully executed.
- 1.2.3 **Agreement Term** means the Pre-Opening Period, the Initial Operating Period and, if this Agreement is extended for the Extension Period, then it also includes the Extension Period, subject to earlier termination in accordance with this Agreement.
- 1.2.4 **Annual Business Plan and Budget** means the annual business plan and budget required to be prepared by the Manager, and approved by the Council, under clause 11.2.
- 1.2.5 **Annual Operating Subsidy** has the meaning given to it in clause 6.5.1.

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1.2.6 **Annual Report** means the annual report required to be prepared by the Manager under clause 12.5.

1.2.7 **Aquatic Centre** means the Payneham Memorial Swimming Centre, 194 O G Rd, Felixstow SA 5070, which is further identified in the site plan at **Annexure A**, and it includes the Council's Fixtures, Fittings and Plant and all improvements to the Aquatic Centre during the Agreement Term and where the context permits it includes any part or parts of the Aquatic Centre.

1.2.8 **Aquatic Centre Accounting Ledger** means the ledger required to be established by the Manager pursuant to clause 6.2.1(a).

1.2.9 **Authorisation** means any authorisation, agreement approval, licence, permit, consent, qualification, accreditation, filing, registration, certificate, resolution, direction, declaration or exemption and any renewal and variation of them by or with a Governmental Agency, including in respect of the operation of the Aquatic Centre as a public pool and recreation facility.

1.2.10 **Background IP** means any Intellectual Property Rights of a party which were in existence prior to the Agreement Commencement Date, or which are subsequently developed by that party independently of and for purposes unconnected with this Agreement as advised in writing by that Party to the other.

1.2.11 **Business Day** means a day that is not a Saturday, Sunday or Public Holiday in South Australia.

1.2.12 **Café Operating Hours** means the operating hours detailed at **Annexure G**, or such other hours as may be approved by the Council in writing, acting at its absolute discretion in all things.

1.2.13 **Claim** means in relation to any person, a claim, action, proceeding, damage, loss, cost, expense or liability incurred by or to, or made or recovered by or against that person, however arising and whether present, unascertained, immediate, future or contingent.

1.2.14 **Confidential Information** means all information disclosed or made available to a recipient by or on behalf of a Party and includes:

- (a) information that is by its nature confidential;
- (b) information that is identified as confidential;
- (c) information that the recipient knows or ought to know is confidential;
- (d) information comprised in or relating to any Intellectual Property Rights;
- (e) information relating to the financial position of any person; and/or
- (f) information that has any actual or potential commercial value;

but specifically does **not** include any financial information of the Aquatic Centre except for the quantum of the Fees and the quantum of any Profit Share payment.

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- 1.2.15 **Construction Contract** means [insert].
- 1.2.16 **Contract Year** means each 12-month period commencing on and from the Operating Period Commencement Date.
- 1.2.17 **Corporate Services Fee** means the amount of \$[insert] (ex GST) per annum based on the Manager's tender submission.
- 1.2.18 **Council** means the City of Norwood Payneham & St Peters and where the context permits, includes the Council's employees, agents, contractors and invitees.
- 1.2.19 **Council Capital Expenditure** means any capital expenditure on the Aquatic Centre provided by the Council (whether the funds are managed and administered by the Council or the Manager);
- 1.2.20 **Council Equipment** means all equipment owned or provided by the Council to the Manager for use at the Aquatic Centre and all equipment purchased during the Agreement Term using funds from the Aquatic Centre Accounting Ledger (whether those funds are provided 'up front' or provided as a reimbursement or repayment of an up-front investment by the Manager over the Agreement Term).
- 1.2.21 **Council Fixtures, Fittings and Plant** means all fixtures, fittings, plant and other improvements and assets (but not equipment) at the Aquatic Centre which are owned by the Council and which are provided to the Manager for use at the Aquatic Centre, including all fixtures, fittings, plant, improvements and other assets purchased during the Agreement Term using funds from the Aquatic Centre Accounting Ledger, whether those funds are provided 'up front' or provided as a reimbursement of an up-front investment by the Manager over the Agreement Term, and unless otherwise determined by the Council.
- 1.2.22 **Council's Contact Officer** means such person as the Council nominates from time to time as its contact officer for the purposes of this Agreement.
- 1.2.23 **Customer** means a customer or customers of the Aquatic Centre.
- 1.2.24 **Data** means all documents and information in connection with this Agreement and includes all technical, performance, sales, financial, commercial, Customers, user groups, contractual and marketing information possessed by the Manager including CCTV Data and all reports, plans and other documentation prepared by the Manager as required by or otherwise for the purposes of this Agreement but does not include Background IP.
- 1.2.25 **Employee** means an employee employed or otherwise engaged by the Manager during the Agreement Term who performs duties for the provision of the Services.
- 1.2.26 **Equipment** means the Manager Equipment and the Council Equipment.
- 1.2.27 **Expenses** means all the operating costs and expenses incurred wholly and directly for the operation of the Aquatic Centre during the Agreement Term, and includes:

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- (a) the Fees; and
- (b) the dollar sum of the wages, leave entitlements, payroll tax, workers compensation levies, superannuation and other employment related entitlements in respect of Employees (**Employment Costs**) paid to Employees during the Agreement Term, **provided always that** such Employment Costs are wholly and directly attributable to the Services and the Aquatic Centre and not any other facility the Employees may be required to perform work;
- (c) all other direct operating expenditure incurred in relation to delivering the Services;

but does **not** include:

- (d) any internal project management or other administrative or internal costs of the Manager; or
- (e) Council Capital Expenditure.

- 1.2.28 **Extension Period** means the period of seven years commencing immediately after the end of the Initial Operating Period.
- 1.2.29 **Fees** means collectively the Corporate Services Fee and the Management Fee.
- 1.2.30 **Financial Year** means each 12-month period from 1 July to 30 June.
- 1.2.31 **Governmental Agency** means any government or any government, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity including any self-regulatory organisation established under statute or any stock exchange.
- 1.2.32 **GST** means any tax on goods and/or services including any value added taxes, broad based consumption tax, or other similar tax introduced in Australia, including that tax imposed under GST Law.
- 1.2.33 **GST Law** means a *New Tax System (Goods and Services Tax) Act 1999* and any other act, order, ruling or regulation which imposes or otherwise deals with the administration of imposition of GST in Australia.
- 1.2.34 **Income** means all income derived from the operation of the Aquatic Centre, including User Charges, all income derived from the operation of cafes within the Aquatic Centre, amounts derived from merchandise sales, rent from subtenants and sublicensees amounts paid into vending machines located within the Aquatic Centre and any Annual Operating Subsidy.
- 1.2.35 **Initial Operating Period** means the period of three years commencing on the Operating Period Commencement Date.
- 1.2.36 **Intellectual Property Rights** means and includes rights in respect of or in connection with copyright, know how, inventions or other proprietary rights.
- 1.2.37 **Key Performance Indicators** means:

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- (a) for the Pre-Opening Period, the key performance indicators detailed at **Annexure B**;
- (b) for the period from the Operating Period Commencement Date until the following 30 June, the key performance indicators detailed at **Annexure B**; and
- (c) thereafter, for each Financial Year of the Agreement Term the key performance indicators finalised by the Council in accordance with clause 5.2.

1.2.38 **Legislation** includes any relevant Statute or Act of Parliament (whether State or Federal) and any regulation, order or by-law including by-laws issued by any local government body or authority or other document enforceable under any Statute, Regulation, Order, Rule or subordinate legislation.

1.2.39 **Maintenance Plan** means the maintenance plan required to be prepared by the Manager as part of the Annual Business Plan and Budget, and which is to contain detailed proposals for the maintenance of the Aquatic Centre and the Council Fixtures, Fittings and Plant, Council Equipment and the Manager Equipment at the Aquatic Centre, having regard to the Key Performance Indicators.

1.2.40 **Management Fee** means the amount of \$[insert] (ex GST) per annum based on the Manager's tender submission

1.2.41 **Management Objectives** means the objectives described in clause 3.1.

1.2.42 **Manager** means [insert] and where the context permits, includes its employees, agents, contractors and invitees.

1.2.43 **Manager Equipment** means any and all equipment owned or hired by the Manager that the Manager uses for carrying out its obligations under this Agreement, the details of which as at the Agreement Commencement Date is detailed at **Annexure I**.

1.2.44 **Market Rates** means the user fees and charges charged by comparable aquatic and leisure facilities.

1.2.45 **Marketing Plan** means each marketing plan required to be prepared by the Manager, and approved by the Council, as part of the Annual Business Plan and Budget, and which is to contain detailed proposals for the marketing of the Aquatic Centre for the relevant Financial Year.

1.2.46 **Minimum Operating Services Specifications** are those specifications detailed at **Annexure E**.

1.2.47 **Monthly Meeting** has the meaning given to it in clause 17.1.1.

1.2.48 **Monthly Reports** means the monthly reports required to be prepared by the Manager under clause 12.2.

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- 1.2.49 **Net Loss** means the loss remaining after Expenses are deducted from Income.
- 1.2.50 **Net Profit** means the profit remaining after Expenses are deducted from Income.
- 1.2.51 **Operating Hours** means the minimum operating hours specified at **Annexure G** and such additional operating hours as are required to ensure that the Manager meets or exceeds the Key Performance Indicators and approved by the Council.
- 1.2.52 **Operating Period** means the period commencing on the Operating Period Commencement Date and expiring at the end of the Agreement Term.
- 1.2.53 **Operating Period Commencement Date** means a date to be notified by the Council as the date on which the Aquatic Centre is complete and ready for commencement of public operation, provided always that the Council has given the Manager no less than 28 days written notice.
- 1.2.54 **Operating Services** means the management services for the Aquatic Centre which the Manager is to perform during the Operating Period pursuant to this Agreement and which are further detailed in the Minimum Operating Services Specifications.
- 1.2.55 **Parties** means both of the Council and the Manager, and **Party** means one of the Parties.
- 1.2.56 **Pre-Opening Period** means the period commencing on the Agreement Commencement Date and expiring on the day immediately prior to the Operating Period Commencement Date.
- 1.2.57 **Pre-Opening Services** means the services which the Manager is to perform during the Pre-Opening Period the details which are detailed at **Annexure C**.
- 1.2.58 **Pre-Opening Services Budget** means the budget attached at **Annexure D**.
- 1.2.59 **Profit Share** is as defined in clause 6.6.
- 1.2.60 **Programs** mean all programs run by the Manager at the Aquatic Centre in accordance with clause 4.5.
- 1.2.61 **Public Health and Safety Plan** means the plan at **Annexure #J**.
- 1.2.62 **Quality Plan** means the quality management plan or system required to be prepared (or procured) by the Manager under clause 4.7.
- 1.2.63 **Related Entity** has the meaning given to it in the *Corporations Act 2001* (Cwth).
- 1.2.64 **Royal Lifesaving Society of Australia Guidelines** means all guidelines for safe pool operation published by the Royal Lifesaving Society of Australia, as updated and replaced from time to time.

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- 1.2.65 **Security** means an irrevocable and unconditional bank guarantee from an Australian banking institution, or such other form of security that is acceptable to the Council, with no expiry date in the amount of [\$TBA].
- 1.2.66 **Services** means the Operating Services and the Pre-Opening Services.
- 1.2.67 **Standard for the Operation of Swimming Pools and Spa Pools** is as issued by the South Australian Health Commission (Revised 2013), or other recognised government authority, and any updated and /or replacement standard, as applicable.
- 1.2.68 **Statutory Requirements** means all relevant and applicable Legislation and all lawful conditions, requirements, notices and directives issued or applicable under any such Legislation.
- 1.2.69 **Supply** and **Supplier** have the meanings given to them in GST Legislation;
- 1.2.70 **Swimming Pools** mean the designated swimming areas within the Aquatic Centre including zero depth water play and water slide areas, and **Swimming Pool** means one of the Swimming Pools.
- 1.2.71 **Three Year Budget** means the budget forecast attached at Annexure (as may be amended pursuant to clause 6.1.4).
- 1.2.72 **User Charges** means any charges which the Manager may charge Customers for use of the whole or any part of the Aquatic Centre or participation in any Program, which, as at the Agreement Commencement Date are the charges detailed at [Annexure F](#).
- 1.2.73 **User Groups** means Norwood Swimming Club and such other groups that may engage in Services from time to time.
- 1.2.74 **Variation** means any change to the Services including any addition, increase, decrease, omission, deletion, demolition or removal to or from the Services.
- 1.2.75 **WHS Management System** means the system required to be prepared by the Manager under clause 9.2.1.
- 1.2.76 **Work Health and Safety Legislation** means the *Work Health and Safety Act 2012*, *Work Health and Safety Regulations 2012* and relevant codes of practice (as amended from time to time).

1.3 **General**

Unless the contrary intention appears:

- 1.3.1 the Background is correct;
- 1.3.2 headings do not affect interpretation;
- 1.3.3 singular includes plural and plural includes singular;
- 1.3.4 a reference to a party includes its executors, administrators, successors and permitted assigns;

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- 1.3.5 a reference to a person includes a partnership, corporation, association, government body and any other entity;
- 1.3.6 an agreement, representation, warranty or indemnity by two or more Parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- 1.3.7 an agreement, representation, warranty or indemnity in favour of two or more Parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- 1.3.8 a reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- 1.3.9 a provision is not construed against a party only because that party drafted it;
- 1.3.10 an unenforceable provision or part of a provision may be severed, and the remainder of this Agreement continues in force, unless this would materially change the intended effect of this Agreement;
- 1.3.11 a reference to any policy document of the Council is to a policy document appearing on the Council's website or as otherwise advised to the Manager and refers to that policy as amended, varied or replaced from time to time;
- 1.3.12 any approval or consent given by the Council under this Agreement is given in its capacity as the owner of the Aquatic Centre only and the Manager must, in addition, obtain all other applicable approvals and consents for the relevant matter;
- 1.3.13 the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- 1.3.14 an expression defined in the *Corporations Act 2001* (Cth) has the meaning given to it by that Act at the date of this Agreement; and
- 1.3.15 examples are to assist in interpretation of this Agreement but do not form part of this Agreement.

1.4 Order of precedence

In the interpretation of this Agreement, if there is any inconsistency between any of the following documents, they will be interpreted in the following order of precedence to the extent only of the inconsistency and only for as long as the inconsistency exists:

- 1.4.1 [insert Council's order of precedence]

[Drafting Note - this is to include the Agreement terms & conditions and all of the Plans]

2. SCOPE OF THE AGREEMENT

2.1 Provision of the Services

- 2.1.1 The Manager agrees:

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- (a) during the Pre-Opening Period to provide the Pre-Opening Services; and
- (b) during the Operating Period to provide the Operating Services.

2.1.2 The Manager agrees, during the Agreement Term, to provide the Services in compliance with all Statutory Requirements and on the terms and conditions of this Agreement.

2.2 **Term of Agreement**

This Agreement is for the Agreement Term.

3. MANAGEMENT CRITERIA

3.1 **Management Objectives**

The Manager must, so far as reasonably practicable, develop an effective and accountable management arrangement with the Council in order to:

- 3.1.1 bring a best practice aquatic management approach to the operation of the Aquatic Centre;
- 3.1.2 maximise opportunities for community participation at, and utilisation of, the Aquatic Centre;
- 3.1.3 achieve and maintain a high standard of performance in the provision of the Services by the Manager using best practice methods and systems, including cleanliness and maintenance, health and safety and customer service;
- 3.1.4 continually seek to identify and cater for the changing needs within the community and provide a quality and range of programs, services and customer service at the Aquatic Centre;
- 3.1.5 align with the Council's strategic vision and objectives (as amended from time to time);
- 3.1.6 improve the financial sustainability of the Aquatic Centre over the Agreement Term;
- 3.1.7 ensure that the Aquatic Centre is managed in accordance with the approved Annual Business Plan and Budget at all times during the Agreement Term;
- 3.1.8 ensure the provision of ongoing effective communication and cooperation between the Council and the Manager;
- 3.1.9 fulfil the Council's obligations under all applicable Legislation; and
- 3.1.10 achieve the Key Performance Indicators.

3.2 **Forecasted performance**

The Manager acknowledges that:

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- 3.2.1 it represented to the Council as part of its tender submission referred to in Background D that the Three-Year Budget reflects the Manager's anticipated performance of the Aquatic Centre during the Initial Operating Period, and includes appropriate sensitivity analysis, identification of key assumptions and operating risks;
- 3.2.2 the Council has relied on the Manager's representation described in clause 3.2.1 in deciding to enter into this Agreement; and
- 3.2.3 the Council has set the financial KPI's during the Operating Period for this Agreement using the information provided by the Manager in its tender submission.

4. PROVISION OF THE SERVICES

4.1 General provisions

- 4.1.1 During the Agreement Term, the Manager must provide the Council with the Services in respect of the Aquatic Centre as set out in this Agreement.
- 4.1.2 Throughout the Agreement Term the Manager must perform the Services diligently, expeditiously and in a timely manner in accordance with this Agreement.
- 4.1.3 The Manager must manage the Aquatic Centre and the activities conducted at the Aquatic Centre in accordance with any reasonable directions of the Council's Contact Officer.
- 4.1.4 The Council is entitled to appoint any other representatives in its discretion to oversee the provision of the Services by the Manager and to provide the Manager with reasonable directions in respect of the provision of the Services, provided such representatives act reasonably and in good faith in performing these duties.
- 4.1.5 The Manager must provide the Pre-Opening Services in accordance with the Pre-Opening Services Budget.
- 4.1.6 The Manager must provide the Operating Services in accordance with each Annual Business Plan and Budget approved by the Council under clause 11.2.
- 4.1.7 The Manager must carry out the Services with all the skill, care and diligence to be expected from a qualified, competent and experienced provider of services of a similar nature as the Services. During the Agreement Term the Manager will devote such of its time and ability as is appropriate and reasonably necessary for the proper performance of the Services.
- 4.1.8 The Manager warrants to the Council that it holds all Authorisations required for it to perform its obligations under this Agreement and undertakes to comply with all Authorisations (whether held by either the Council or the Manager) and all applicable Legislation, accepted industry standards, specifications and procedures in the performance of its obligations under this Agreement.

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4.1.9 The Manager must at all times keep the Council fully and regularly informed as to those matters relating to the Services that are likely to have a negative impact on the Council and which the Manager becomes aware of and must provide to the Council such information as is reasonably requested by the Council from time to time for the purposes of monitoring the performance by the Manager of its obligations under this Agreement, including:

- (a) any matter which is likely to significantly affect the delivery of the Services by the Manager on either a short or long term basis;
- (b) any alteration, including any reduction, to the nature of the Services being provided;
- (c) any significant changes to the Manager's Employees who have managerial responsibilities at the Aquatic Centre;
- (d) any significant matter which may give rise to an obligation on the part of the Manager to indemnify the Council;
- (e) any significant matter which may result in any potential liability to the Council;
- (f) any serious complaints or other significant matters or significant behavioural incidents which may cause reputational damage to the Council;
- (g) any vandalism or theft at the Aquatic Centre; and
- (h) any maintenance issues relevant to the Aquatic Centre and the provision of the Services.

4.2 **Compliance with Statutory and Legal Obligations**

4.2.1 The Manager must fully comply with all legal obligations that arise, whether by or under this Agreement, Legislation, in equity or at common law, as a consequence of or in connection with the performance of its obligations under this Agreement.

4.2.2 The Manager must have and maintain during the Agreement Term internal operating procedures that facilitate and support the Manager's compliance with its obligations under the Agreement.

4.2.3 For the avoidance of doubt, the Manager acknowledges that its obligations include:

- (a) where any person, premises, Equipment, or activity is required to be licensed, registered, approved or accredited, the Manager must ensure that the appropriate licence, registration, approval or accreditation is in force and current at all times during the Agreement Term and during the performance of the Services;
- (b) other than a redevelopment under clause 26 of this Agreement or a demolition under clause 27 of this Agreement, where development consent is required to be obtained pursuant to any Legislation in respect of the use of any part of the Aquatic Centre,

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the Manager must ensure such consent is obtained and is in force prior to the commencement of, and at all times during, such use; and

(c) irrespective of who performs the Services, the Manager must ensure the Services are performed in a safe manner and in accordance with all applicable Legislation, Authorisations and codes of practice.

4.2.4 In providing the Services under this Agreement, the Manager must:

(a) comply with all Legislation and the requirements of any Governmental Agency including the requirements of the *Work Health and Safety Act 2012 (SA)* and any regulations made thereunder; and

(b) comply with any reasonable requests of the Council, whether in relation to the manner of the performance of the Services or otherwise.

4.2.5 Without limiting the Manager's obligations under clause 4.2.4, the *Ombudsman Act 1972 (Ombudsman Act)* provides that the Ombudsman may investigate any act of an individual or organisation done in the performance of functions conferred under a contract with certain public authorities. The Manager agrees to ensure timely compliance with all obligations arising under the Ombudsman Act, and any other applicable Legislation, in relation to any such investigation involving the Council.

4.2.6 The Manager acknowledges that in entering into a contract with the Council they will be considered to be public officers for the purposes of the *Independent Commissioner Against Corruption Act 2012 (SA) (ICAC Act)* and will be obliged to comply with the ICAC Act and the directions and guidelines issued pursuant to the ICAC Act.

4.3 Licences and Certificates

4.3.1 The Manager must, at its expense, ensure that all licences required for the management and operation of the Aquatic Centre and the provision of the Services are obtained and maintained during the Agreement Term in accordance with Statutory Requirements.

4.3.2 The Manager must notify the Council's Contact Officer without delay of any proceedings which may lead to forfeiture of the Manager's licences or certificates, or if objections are lodged in relation to the Manager's application to renew the licences or certificates.

4.4 Hours of Operation

During the Operating Period, the Manager must ensure that the Aquatic Centre is open for business no less than the Operating Hours.

4.5 Program Development

4.5.1 The Manager must run Programs that meet the Management Objectives and will assist the Manager to meet the Key Performance Indicators.

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4.5.2 The Manager must include a proposal for new Programs for each Financial Year within the Manager's draft Annual Business Plan and Budget.

4.6 **Service Quality**

4.6.1 **Quality Assurance**

- (a) The Manager must perform the Services in a way which:
 - (a) complies with the Council's policies, practices and procedures concerning public health, and occupational health, welfare and safety;
 - (b) complies with the Manager's Quality Plan (or similar), which should include a methodology of regularly receiving customer feedback on the Manager's performance and reporting on that feedback to Council;
 - (c) ensures compliance with all Legislation; and
 - (d) complies with the Royal Lifesaving Society of Australia Guidelines.
- (b) The Council may conduct independent customer surveys to monitor the performance of the Manager and the operation of the Aquatic Centre. The Manager will be engaged on the survey methodology and will be provided access to the results of any survey.

4.6.2 **Cleaning**

(a) **General Cleaning**

- (a) The Manager must ensure that all Council Fixtures, Fittings and Plant, Council Equipment and Manager Equipment and public areas of the Aquatic Centre are maintained in a safe, clean and hygienic condition at all times during the Operating Period, including attending to the requirements set out at **Annexure H**.
- (b) Without limiting clause (a)(a), the Manager must:
 - (i) attend to any and all cleaning required by, and in accordance with, operations and maintenance manuals for Council Fixtures, Fittings and Plant, Council Equipment and Manager Equipment; and
 - (ii) comply with all reasonable directions of the Council regarding cleaning requirements and standards for the Aquatic Centre.

(b) **Rubbish**

The Manager must make proper arrangements and use best practice for the storage, disposal and recycling of waste and refuse

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from all parts of the Aquatic Centre during the Operating Period, including by complying with all applicable environmental and/or sustainability policies and plans adopted by the Council (as updated from time to time).

4.6.3 ***Customer Service and Complaint Rectification - General***

- (a) The Manager is responsible for customer service under this Agreement and will be the principal point of contact for customer enquiries and complaints about the Services.
- (b) The Manager must act on complaints by any Customer at the Aquatic Centre in an appropriate and timely manner.
- (c) The Manager must prepare and adopt a policy and procedure on Customer service and complaint resolution which deals with how complaints will be managed, including response times, escalation of complaints and so forth.

4.6.4 ***Urgent Complaints***

In an instance where a Customer complaint is received that requires urgent attention, the Manager must as soon as practicable take steps to resolve the complaint and must first report the matter to Council's Contact Officer verbally, and then to the Council in writing as soon as practicable describing the steps and time taken to resolve the complaint. An urgent complaint includes, but is not limited to, a complaint that may impact on safety of any person(s) or property, traffic hazards, or public health.

4.6.5 ***Rectification of Complaints***

The Manager must efficiently address all complaints that relate to the Services in a satisfactory and timely manner, and in accordance with the timeframes and processes specified in this Agreement.

4.6.6 ***Customer Service Reporting***

- (a) The Manager must maintain a register of Customer complaints and other feedback and the steps taken to address or rectify each complaint.
- (b) Council may review the register of complaint and other feedback from time to time.

4.7 ***Quality Management***

- 4.7.1 The Manager must ensure that it has a comprehensive Quality Plan in place for the Aquatic Centre which will monitor, control and manage the work being undertaken (including the provision of the Services) under this Agreement.
- 4.7.2 The Quality Plan must be provided to the Council by the Manager promptly on request.

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4.8 Live and continuous reporting requirements

Unless otherwise agreed by the Council, the Manager must provide facilities for electronic transfer of information to and from the Council. As a minimum requirement, the Manager must provide the following live and continuous reports and data in relation to the Aquatic Centre and the Services:

Timing	Reporting Requirements
Continuous/live/at all times	<ul style="list-style-type: none">The Manager must ensure that the Council has access at all times to a cloud-based operating system which provides continuous, live and up to date data on, at a minimum, agreed measures of Customer activity, revenue generation and such other additional information as is reasonably requested by the Council.
Daily (telephone or via email)	<ul style="list-style-type: none">Urgent (within one business hour) notifying the Council of serious personal injury, damage to property, or any significant interruption to the Services for whatever cause;Immediate (within four business hours) notifying the Council of any major malfunction of the Council Fixtures, Fittings and Plant, Council Equipment or the Manager Equipment, industrial situations, serious complaints or non-availability of facilities at the Aquatic Centre that has the potential to interrupt the Services and any attendances by emergency services at the Aquatic Centre;Routine (within one day) notifying the Council of other service problems that may affect the provision of the Services at the Aquatic Centre.

4.9 Catering, Merchandising and Vending Machines

4.9.1 Catering Services

- (a) The Manager must provide a diverse range of catering services of a high quality at the Aquatic Centre during the Operating Period.
- (b) The Manager must ensure its catering services (including the supply of any products and equipment) comply with all Statutory Requirements and food industry codes.
- (c) Subject to clauses (d) - (g), the Manager must ensure any kiosks and/or cafes within the Aquatic Centre are open for business during the Café Operating Hours.
- (d) The Parties acknowledge that the kiosks and/or cafes within the Aquatic Centre should be operated by the Manager in a financially sustainable manner, including by ensuring that they are not open for business at times of low patronage and high Employee costs, and in a manner that seeks to achieve the anticipated financial performance for the Aquatic Centre detailed in the Annual Business Plan and Budget documents approved in accordance with this Agreement.

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- (e) The Manager may submit a proposal to the Council to vary the Café Operating Hours if this is reasonably necessary taking into account clause (d).
- (f) The Council will consider any proposal given to it by the Manager in accordance with clause (e) and may direct the Manager to vary the Café Operating Hours in accordance with the proposal, and the Manager must comply with any such direction.
- (g) A proposal pursuant to clause (e) and a direction pursuant to clause (f) may be given on more than one occasion during the Agreement Term.
- (h) The Manager may sublincence the catering services with the Council's prior written consent, provided the Manager retains responsibility for delivery of the catering Services and compliance with this Agreement.

4.9.2 ***Merchandising***

- (a) As part of the Services, the Manager may (with the Council's prior written consent) produce merchandise in respect of the Aquatic Centre.
- (b) With the Council's prior written consent, the Manager may sell or provide merchandise for promotional purposes using the name of the Aquatic Centre.
- (c) Naming rights for the Aquatic Centre remain the Council's at all times.

4.9.3 ***Provision of Vending Machines***

- (a) The Manager may provide vending machines at the Aquatic Centre.
- (b) The Manager must comply with all Statutory Requirements for the provision, maintenance and proper operation of vending machines.
- (c) The Manager must not, without the prior written consent of the Council, enter into a lease or rental agreement for vending machines which extends beyond the Term of this Agreement.
- (d) All money paid into vending machines at the Aquatic Centre is Income for the purposes of this Agreement.

4.10 ***Advertising***

- 4.10.1 The Manager must obtain the prior written approval of the Council (which approval will not be unreasonably withheld) before the installation of any interior electronic display signs or advertising or signage with bolts, screws or nails.

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4.10.2 The Manager must not place any signs or advertisements on the exterior of the buildings at the Aquatic Centre, except a sign or signs advertising or promoting the Aquatic Centre and which:

- (a) are approved in writing by the Council (which approval will not be unreasonably withheld or delayed provided that the proposed signs or advertisements comply with applicable Council policies applying at the time that the Council's consent is sought by the Manager) prior to placement; and
- (b) comply with any relevant Legislation, and the requirements of any Governmental Agency.

4.11 Storage of clothes, valuables and lost property

4.11.1 The Manager must operate a clothes and personal items storage system at the Aquatic Centre.

4.11.2 The Manager must manage and maintain a register for lost property at the Aquatic Centre.

4.11.3 The Manager must ensure that the lockers are cleaned and maintained on a regular basis, to the satisfaction of the Council's Contact Officer, to ensure an optimum level of service at all times.

4.12 Sustainability and energy efficiency

In the provision of the Services the Manager must:

4.12.1 use its best endeavours to operate the Aquatic Centre in a manner that optimises energy efficiency;

4.12.2 must work with Council Staff to schedule the use of plant and equipment (where possible) at times where favourable electricity tariffs are available under Council's energy plans; and

4.12.3 meet or exceed the Key Performance Indicators directed at energy usage.

4.13 User Groups

The Manager must use reasonable commercial endeavours to facilitate and accommodate the use of the Aquatic Centre by User Groups on their preferred days and at their preferred times.

4.14 Personal information and privacy

The Manager must ensure that it has appropriate policies and procedures in place to manage risks relating to the collection and storage of personal information and privacy.

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5. KEY PERFORMANCE INDICATORS

5.1 Generally

The Manager must, during the Agreement Term provide the Pre-Opening Services and the Operating Services in a manner that achieves or exceeds the Management Objectives and the Key Performance Indicators.

- 5.1.1 The Key Performance Indicators for the first Contract Year are those set out at **Annexure B**.
- 5.1.2 The Manager must submit to the Council as part of each draft Annual Business Plan and Budget draft key performance indicators for the performance of the Services for the upcoming Financial Year.
- 5.1.3 The draft key performance indicators must include:
 - (a) achievement of the approved budget; and
 - (b) safety and compliance; and
 - (c) Customer feedback processes,and take into account the following requirements and objectives of the Council:
 - (d) for the financial performance of the Aquatic Centre to achieve at least a Net Profit result (and for the avoidance of doubt the Net Profit is determined taking into account the Annual Operating Subsidy as part of the Income of the Aquatic Centre);
 - (e) efficient and responsible use of utilities;
 - (f) maintain or increase the Aquatic Centre's net promotor score or other relevant measure of customer satisfaction (as determined by the Council);
 - (g) achieving the Council's required asset maintenance standards; and
 - (h) maximising utilisation of the Aquatic Centre with a diversity of services that respond to community needs.

5.2 Achievement of Key Performance Indicators

- 5.2.1 If at any Monthly Meeting it is the Council's reasonable opinion that the Manager is likely to:
 - (a) fail to meet any financial Key Performance Indicators; and/or
 - (b) fail to achieve any other Key Performance Indicators;then the Council may require the Manager to submit an action plan and proposal for the achievement of the Key Performance Indicators by the end of the next month (**Action Plan**). The Manager must comply with the Action

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Plan. The Council may require the Manager to change any part of the Action Plan which the Council sees fit, acting reasonably at all times.

5.2.2 If by the end of any Financial Year in which the Manager was required to comply with an Action Plan the Manager fails to meet or achieve (as the case may be) the Key Performance Indicators then the Council may exercise their rights pursuant to clause 25.1.1 to:

(a) **TBA**

6. FINANCIAL ARRANGEMENTS

6.1 Management

6.1.1 The Manager will, during the Agreement Term:

(a) collect all Income generated by the Aquatic Centre; and
(b) pay all Expenses associated with the Aquatic Centre,

subject always to the provisions of the relevant approved Annual Business Plan and Budget.

6.1.2 All Income received and Expenses paid for the Aquatic Centre must be separately recorded in the Manager's accounting system which must be accessible to the Council for inspection immediately upon request by the Council.

6.1.3 The Manager must keep proper accounts of all Income generated at, and all Expenses associated with, the Aquatic Centre, and provide the Council with all records and systems information requested by the Council in respect of such Income and Expenses, including point of sales records, employment contracts and the like.

6.1.4 The Parties may by mutual agreement (acting at their absolute discretion in all things) in writing vary the Three-Year Budget at any time during the Initial Operating Period. Any variation of the Three-Year Budget in accordance with this clause is to be taken into account for the following purposes only:

(a) the preparation and approval of an Annual Business Plan and Budget required by this Agreement; and
(b) the determination of Key Performance Indicators for this Agreement.

6.2 Establishment of Aquatic Centre Accounting Ledger

6.2.1 The Manager:

(a) must establish and maintain during the Agreement Term an accounting ledger specific to the Aquatic Centre (**Aquatic Centre Accounting Ledger**);
(b) must not transfer money out of the Aquatic Centre Accounting Ledger except as permitted by this Agreement; and

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- (c) warrants that all monies from the Aquatic Centre Accounting Ledger will only be used by the Manager for the operation of the Aquatic Centre.

6.3 Corporate Services Fee

NOTE that Section 6.3 and 6.4 can be aligned to tender responses

- 6.3.1 The Manager will, subject to the provisions of this clause 6.3, be paid the Corporate Services Fee during the Operating Period in accordance with this clause 6.3.
- 6.3.2 During the Operating Period the Manager may transfer the Corporate Services Fee from the Aquatic Centre Accounting Ledger to the Manager's operational account(s).
- 6.3.3 The Corporate Services Fee must be transferred by the Manager in monthly instalments in arrears.
- 6.3.4 The Corporate Services Fee forms part of the Expenses for the purposes of this Agreement.
- 6.3.5 The Corporate Services Fee covers overhead costs incurred by the Manager in providing the Services at the Aquatic centre and includes the following costs and expenses, which costs and expenses must not be charged separately as Expenses in addition to the Corporate Services Fee:
 - (a) payroll;
 - (b) preparation of reports required by this Agreement;
 - (c) banking reconciliation;
 - (d) contract administration;
 - (e) accounts payable;
 - (f) accounts receivable;
 - (g) production of financial statements;
 - (h) work cover administration;
 - (i) Aquatic Centre support;
 - (j) help desk IT support;
 - (k) onsite support and administration; and
 - (l) all other costs and expenses in relation to the administration of the provision of the Services.

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6.4 Management Fee

- 6.4.1 The Manager will, subject to the provisions of this clause 6.4, be paid the Management Fee during the Operating Period in accordance with this clause 6.4.
- 6.4.2 The Management Fee forms part of the Expenses for the purposes of this Agreement.
- 6.4.3 The Management Fee is in consideration for the provision of the Services in accordance with the Key Performance Indicators and includes the following, which must not be charged separately as Expenses in addition to the Management Fee:
 - (a) area manager support;
 - (b) implementation of all Programs and associated Services;
 - (c) implementation of all systems required to be implemented pursuant to this Agreement; and
 - (d) all other costs and expenses in relation to the management of the provision of the Services.

6.5 Operating Subsidy

6.5.1 *Payment of subsidy*

- (a) During the Initial Operating Period, and subject to clause 6.5.2 during the Extension Period, the Council agrees to provide financial assistance towards the costs of operating the Aquatic Centre by paying an operating subsidy into the Aquatic Centre Accounting Ledger as detailed at **Annexure L** (each operating subsidy payment for a Contract Year is an **Annual Operating Subsidy**).
- (b) Each Annual Operating Subsidy payable pursuant to this Agreement will be paid by the Council in monthly instalments in advance, with the first payment due on the Operating Period Commencement Date.
- (c) The Manager acknowledges and agrees that the Annual Operating Subsidy payments are to be treated as Income for the Aquatic Centre for the purposes of this Agreement and applied and used only in accordance with this Agreement.

6.5.2 *Review of subsidy and extension of this Agreement*

- (a) Before the expiry of the Initial Operating Period the Council will procure an independent review from a provider of Council's choosing, to consider the financial and operational performance of the Aquatic Centre.

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(b) The independent review for the purposes of clause (a) is to have regard to the following:

- (a) the overall financial performance of the Aquatic Centre during the period from the Operating Period Commencement Date to the end of the second Contract Year (**Review Period**);
- (b) whether the Manager has satisfied (or not) the Key Performance Indicators; and
- (c) the level of achievement of the Management Objectives during the Review Period,

in order to formulate a proposal for the Annual Operating Subsidy amounts (if any) for the Extension Period

(c) The Council is required to provide the Manager with a copy of the independent review and the subsidy proposal for the Extension Period not less than six months prior to the end of the Initial Operating Period.

(d) The Manager must notify the Council in writing within one month of receiving the subsidy proposal for the Extension Period if it accepts the subsidy proposal for the Extension Period or of its alternative proposal (**Manager's Notice**).

(e) Within one month of the Council's receipt of the Manager's Notice, the Council may notify the Manager that this Agreement is extended for the Extension Period on the same terms and conditions as this Agreement except:

- (a) that this clause 6.5.2 is deleted in its entirety (and there is no further right to extend this Agreement); and
- (b) that the Annual Operating Subsidy amounts for the purposes of the Extension Period are in accordance with the Manager's Notice.

(f) If the Council does not give notice to the Manager pursuant to clause (c) extending this Agreement for the Extension Period, then either party may refer the matter of Annual Operating Subsidy amounts for the Extension Period to expert determination in accordance with clause 33.3 and the Parties must continue to comply with their obligations under this Agreement until the Annual Operating Subsidy amounts for the Extension Period are determined.

(g) Nothing in this clause 6.5.2 prevents the Parties negotiating and agreeing the Annual Operating Subsidy amounts for the purposes of the Extension Period without following the process provided for in this clause.

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6.6 Initial Operating Period

6.6.1 During the first three years of the Operating Period and subject to the Manager complying with:

- (a) this Agreement;
- (b) the approved Annual Business Plan and Budget; and
- (c) the Three-Year Budget (taking into account, however, the matters in clause 6.6.2),

the financial performance of the Aquatic Centre is at the Council's risk and:

- (d) the Manager must collect all Income on behalf of the Council;
- (e) the Manager must pay all Expenses on behalf of the Council; and
- (f) the Council must reimburse the Manager for all Expenses for this period (excluding the Management Fee and Corporate Services Fee which are payable in accordance with clauses 6.3 and 6.4) that are in excess of the Income for the same period monthly in arrears.

6.6.2 For the avoidance of doubt, when determining the net position of any Financial Year, the results of previous Financial Years are to be disregarded.

6.7 Extension Period – Profit & Loss Share

6.7.1 The Parties acknowledge and agree that from the fourth Contract Year, that the intention of both Council and the Manager is to enter a profit share model whereby Net Profit or Net Loss for the Aquatic Centre's operations will be calculated and distributed as follows:

- (a) within 60 days of audited financial statements being prepared for the Aquatic Centre, where those financial statements identify that for the relevant Financial Year:
 - (a) the result is a Net Profit, then the Manager must, within seven days, pay 50% of the Net Profit to the Council; or
 - (b) the result is a Net Loss, the Manager will, within seven days:
 - (i) issue an invoice to the Council (with a 30-day payment period) for 50% of the Net Loss, to be paid into the Aquatic Centre Accounting Ledger; and
 - (ii) pay an amount equal to 50% of the Net Loss, into the Aquatic Centre Accounting Ledger.

6.7.2 For the purpose of determining the Income and the Net Profit or Net Loss of the Aquatic Centre for a Financial Year in accordance with this clause 6.7, previous Financial Year Net Profit and / or Net Loss results and payment on account of a Net Loss or Net Profit in accordance with clause 6.7.1(a) are to be disregarded.

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6.7.3 An obligation to issue an invoice, make a payment or undertake a reconciliation that falls after the end of the Agreement Term, but which relates to a period during the Agreement Term survives the end of this Agreement.

6.8 **Payments by Council**

6.8.1 The Manager must issue to the Council (attention to the Council's Contact Officer) invoices for any amount payable by the Council to the Manager in accordance with this clause 6.

6.8.2 The Council must pay any amount payable by the Council to the Manager in accordance with this clause 6 within 30 days from the end of the month in which the Council receives a correctly rendered Tax Invoice from the Manager.

6.9 **Effect of payment**

Any payment, or acceptance of, money by the Council is not an acceptance of the Services or a waiver of a right or action of the Council.

6.10 **Disputed invoice and transactions**

6.10.1 If the Council disputes an invoice (or any part of an invoice) or any payment otherwise requested or made in accordance with clause 6.1.1 or any financial transaction completed by the Manager purportedly in accordance with clause 6.1.1 then the matter must be dealt with under clause 33.

6.10.2 The Council and the Manager must still pay all undisputed amounts in any disputed invoice on time.

6.10.3 On resolution of any dispute contemplated in clause 6.10.1:

- (a) the Council must pay any amounts owing to the Manager as agreed between the Parties or determined under clause 33 within 10 Business Days of such resolution or determination; or
- (b) the Manager must remedy any payments that are agreed or determined not to be in accordance with this clause 6.10.3 within 10 Business Days of such resolution or determination.

6.11 **Right of set off**

The Council may deduct from amounts otherwise payable to the Manager any amount due from the Manager to the Council.

6.12 **Certification**

From time to time, as required by Council, the Manager must certify to the Council that the Manager has paid all salary, wages, allowances, and invoices due and payable by the Manager to any employees, suppliers or sub-contractors in connection with the Services or the Aquatic Centre.

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6.13 Loyalty program

- 6.13.1 Without derogating from any other provision herein, the Manager acknowledges and agrees that it must not participate in a loyalty program or scheme which involves the Aquatic Centre without the prior written consent of the Council, which consent may be granted or withheld by the Council at its absolute discretion.
- 6.13.2 The accounting treatment for income and expenses relating to loyalty programs and schemes which involve the Aquatic Centre is to be directed by the Council, and the Manager must comply with such direction.

6.14 Related party contracts

The Manager must not enter into any contracts with a Related Entity in connection with the provision of the Services, without the prior written consent of the Council.

6.15 Survival

An obligation to issue an invoice, make a payment or undertake a reconciliation that falls after the end of the Agreement Term, but which relates to a period during the Agreement Term survives the end of this Agreement.

7. USER CHARGES

7.1 Determination of User Charges

- 7.1.1 The User Charges as at the Operating Period Commencement Date are specified at **Annexure K**.
- 7.1.2 The Parties acknowledge and agree that the objectives in setting User Charges for the purposes of this Agreement (**User Charges Objectives**) are:
 - (a) for User Charges to be consistent with and responsive to community expectations and means;
 - (b) are set in accordance with Council's Competitive Neutrality requirements;
 - (c) for User Charges to offer value for money for Customers;
 - (d) for the Aquatic Centre to be financially sustainable; and
 - (e) for the Aquatic Centre to achieve a Net Profit (after Council Subsidy),

the weighting and order of precedence of which are to be determined by the Council from time to time.

- 7.1.3 The Manager must prepare and submit to the Council for approval at the same time as the Manager submits a draft Annual Business Plan and Budget to the Council in accordance with clause 11.2 and as part of that draft Annual Business Plan and Budget, a schedule of proposed User Charges. The schedule of proposed User Charges must take into account the User

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Charges Objectives and be supported by a list of comparable User Charges from other nearby Aquatic Centres and justifications for any proposed User Charges that are not consistent with the market rates.

- 7.1.4 The Council may, on receipt of the proposed User Charges:
 - (a) approve the proposed User Charges for the forthcoming Financial Year; or
 - (b) require a meeting with the Manager to discuss changes to the proposed User Charges.
- 7.1.5 The Manager agrees to continue to work with the Council and to resubmit the proposed User Charges to the Council until they are approved by the Council.
- 7.1.6 The Manager may only charge Customers approved User Charges for attendance at and / or use of the whole or any part of the Aquatic Centre or participation in any Program.

8. ALTERATIONS AND ADDITIONS

- 8.1 The Manager must not carry out, cause or permit any alterations or additions to the Aquatic Centre without the prior written consent of the Council.
- 8.2 All approved alterations and additions to the Aquatic Centre will be the Council's property unless otherwise agreed by the Parties and without limitation to any rights of the Council pursuant to this Agreement to require the removal of such alterations and additions at the expiry or termination of this Agreement.
- 8.3 If the Council approves an alteration or addition pursuant to clause 8.1, such approval may be given subject to conditions, including conditions requiring that the proposed alteration or addition be undertaken or facilitated by the Council and the costs of the same be paid or reimbursed by the Manager.

9. WORK HEALTH AND SAFETY

9.1 General

- 9.1.1 The Manager will, in all respects, comply with its duties and obligations under the Work Health and Safety Legislation.
- 9.1.2 The Manager must maintain the Aquatic Centre as a safe workplace and must implement safe systems of work so as to protect Customers, other users of the Aquatic Centre, the Employees, Council employees and members of the public.

9.2 Work Health and Safety Obligations

- 9.2.1 At all times during the Agreement Term, the Manager must:
 - (a) have in place and implement a comprehensive WHS management system (**WHS Management System**) for the Aquatic Centre which ensures the Manager's compliance with any Legislation, codes of practice, Australian standards and the Council's WHS Policy which

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are in any way applicable to this Agreement or the performance of the Services and its obligations under this Agreement;

- (b) when requested by the Council, provide the Council with a copy of the WHS Management System and evidence of the Manager's ongoing performance with the WHS Management System;
- (c) when requested by the Council, provide reports on WHS inspections, audits or assessments undertaken during the course of this Agreement; and
- (d) permit the Council unrestricted access to the Aquatic Centre for any inspections, repairs, maintenance, upgrades or other works or actions the Council is required or permitted to attend to pursuant to this Agreement or that the Council considers necessary and reasonable in connection with any emergency.

9.2.2 If the Manager is required by the *Work Health and Safety Act 2012* (SA) or by any other Legislation to give any notice of an accident occurring during the performance of its obligations pursuant to this Agreement the Manager must at the same time or as soon thereafter as possible in the circumstances give a copy of the notice to the Council.

9.2.3 The Manager must promptly notify the Council of any accident, injury, property or environmental damage which occurs during the carrying out of the Services. All lost time incidents must be immediately notified to the Council. The Manager must and within three days of any such incident provide a report giving complete details of the incident, including results of investigations into its cause, and any recommendations or strategies for prevention in the future.

9.2.4 If, during the Agreement Term, the Council informs the Manager that it is of the opinion that the Manager is:

- (a) not conducting its obligations pursuant to this Agreement in compliance with the health and safety management procedures, relevant Legislation or health and safety procedures provided by the Council from time to time; or
- (b) conducting the work in such a way as to endanger the health and safety of the Manager's Employees or the Council or their contractors' and subcontractors' employees, plant, equipment or materials,

the Manager must promptly remedy that breach of health and safety.

9.2.5 The Council may direct the Manager to suspend the Services or such part of the Services as the Council determines until such time as the Manager satisfies the Council that the Services will be resumed in conformity with applicable health and safety provisions.

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9.3 Compliance

9.3.1 If at any time the Council's Contact Officer reasonably considers that the Manager is not complying with any Statutory Requirements, then the Council's Contact Officer is entitled to:

- (a) instruct the Manager to take measures to ensure compliance with the Statutory Requirements;
- (b) instruct the Manager to close the Aquatic Centre, or any part thereof, either immediately or within a specified period; and/or
- (c) give any other reasonable instructions deemed necessary by the Council.

9.3.2 In the event the Manager fails to comply with any instructions issued by the Council under clause 9.3.1, the Council's Contact Officer may organise such actions to be taken as may be required. The Manager will pay, and indemnifies the Council against, any expenses so incurred by the Council directly caused by the Manager's failure to comply with any instructions issued by the Council under clause 9.3.1.

9.4 Maximum Occupancy Level

The Manager must control the occupancy level within the Aquatic Centre (if any) to ensure compliance with all Statutory Requirements.

9.5 Evacuation, Emergency and Incident Procedures

The Manager is responsible for the production and implementation of all plans, procedures, training and processes to deal with any emergencies which may occur within the Aquatic Centre.

9.6 Supervision and Operation

9.6.1 The Council recognises the Royal Lifesaving Society of Australia Guidelines as a minimum standard for safe pool operation and the Manager must adopt these guidelines as a minimum standard for safe pool operation and minimum staffing levels for the Swimming Pools.

9.6.2 The Manager must ensure that all thoroughfares are clear at all times and patrons of the Swimming Pools are requested to clear thoroughfares if considered a safety hazard.

9.6.3 The Manager must ensure that the Swimming Pools are checked regularly and, in any event, at least once every hour for objects or materials that may threaten the safety of patrons.

9.6.4 All Employees working in the Swimming Pools must be made aware of pool customers or groups who may pose a risk to water quality and implement preventative measures to minimise risk.

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9.7 Dangerous Substances

- 9.7.1 The Manager must prepare and maintain a chemical register which individually lists all substances used at the Aquatic Centre, together with all relevant safety and storage information, within one month of the Commencement Date. The Manager must keep this list up to date in accordance with the *Work Health and Safety Regulations 2012 (SA)*.
- 9.7.2 The Manager must ensure that all substances hazardous to health and of a hazardous nature are used, stored and transported as required in accordance with Statutory Requirements and without risk to the Manager's Employees, Council employees and members of the public.

9.8 Environmental Conditions: Swimming Pools

9.8.1 Water Quality

- (a) Water quality of the Swimming Pools must meet or exceed the minimum requirements as specified in the *South Australian Public Health (General) Regulations 2013* and comply with the requirements of the Standard for the Operation of Swimming Pools and Spa Pools, as amended and replaced from time to time. Testing of water quality must be completed in accordance with the *South Australian Public Health (General) Regulations 2013* and the requirements of the Standard for the Operation of Swimming Pools and Spa Pools (as amended and replaced from time to time), as a minimum.
- (b) Water quality readings must be taken and recorded in a log book in accordance with industry standards and in compliance with all legislation and regulations.
- (c) The Council may, at any time, instruct the Manager to conduct additional tests, including microbiological testing.

9.8.2 Heating, Air Conditioning and Ventilation

The Manager must ensure that all air and water temperatures provide for a comfortable user experience, ventilation rates are maintained, and heating and air conditioning systems are operated, in accordance with industry standards and manufacturer specifications.

9.8.3 Lighting Levels

The Manager must maintain lighting levels to ensure a safe and comfortable level of illumination and operate all lighting at the Aquatic Centre in accordance with industry standards and safety standards.

10. KEYS AND SECURITY DEVICES

10.1 Keys

- 10.1.1 The Council will, immediately prior to the Operating Period Commencement Date, issue the Manager with keys for the Aquatic Centre.

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- 10.1.2 The Manager is responsible for the safekeeping of all keys to the Aquatic Centre provided by the Council.
- 10.1.3 All keys issued to the Manager for use must be returned to the Council on or before the end of the Agreement Term.
- 10.1.4 The Manager must not install or change any locks or cut additional keys to the Aquatic Centre (or any areas within them).

10.2 Alarms and Monitoring

10.2.1 **Security alarms and services**

- (a) The Manager must ensure that all alarm equipment at the Aquatic Centre is serviced as and when required.
- (b) The Manager must maintain during the Agreement Term arrangements for contracted security services to be provided at the Aquatic Centre which include afterhours random patrols and on call response to alarm activations.

10.2.2 **CCTV**

- (a) This clause 10.2.2 only applies if a closed-circuit television system is installed and operated at the Aquatic Centre by the Council (**CCTV System**).
- (b) The Manager acknowledges and agrees:
 - (a) the CCTV System will be managed and operated solely and wholly by the Council and the Manager must provide the Council with reasonable access to the Aquatic Centre for the installation, repair, upgrade, maintenance, management and operation of the CCTV System;
 - (b) the Manager must not prevent or interfere with the operation of the CCTV System;
 - (c) the CCTV System and all images, video and data recorded by them (**CCTV Data**) is exclusively the Council property. The Manager consents to the Council use of CCTV Data for any and all purposes; and
 - (d) if the Manager wishes at any time to access, view or use any CCTV Data then the Manager must make an application to the Council for this purpose.

11. BUDGETS AND PLANS

11.1 **Pre-Opening plan**

- 11.1.1 The Manager is responsible for developing and executing a Pre-Opening plan. The Pre-Opening plan will include at a minimum:
 - (a) timeframes and tasks that need to be undertaken to facilitate the effective opening of the Aquatic Centre;

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- (b) the Pre-Opening Services Budget to undertake these tasks; and
- (c) support requested from Council to support the effective opening of the Aquatic Centre.

11.1.2 The Manager must perform the Pre-Opening Services in accordance with the Pre-Opening Services Budget.

11.2 Annual Business Plan and Budget

11.2.1 The Manager must perform the Operating Services in accordance with the Annual Business Plan and Budget approved by the Council during each Financial Year of the Operating Period. The Parties expressly acknowledge and agree that during the period covered by the Three-Year Budget the Annual Business Plan and Budget must align to and reference the Three-Year Budget and describe and explain any proposed deviations from the Three-Year Budget.

11.2.2 The Annual Business Plan and Budget must include appropriate detail as to how the Operating Services will be provided for the Aquatic Centre in the forthcoming Financial Year and address, as a minimum, the following:

- (a) annual budget;
- (b) when season elements of the Aquatic Centre are to be in operation;
- (c) the Manager's proposed User Charges;
- (d) Marketing Plan;
- (e) Maintenance Plan;
- (f) environmental sustainability plan which addresses, at a minimum, water consumption, energy consumption and waste production and division;
- (g) risk management plan that covers safety risks as well as operational risks, and covers risk assessment, risk treatment and risk monitoring;
- (h) key planning activities and events;
- (i) proposed equipment purchases;
- (j) during the period covered by the Three-Year Budget, how the Manager will ensure achievement of the Three-Year Budget;
- (k) the Manager's proposed Key Performance Indicators;
- (l) how the Manager will ensure achievement of the Key Performance Indicators;
- (m) how the Manager will ensure achievement of the Management Objectives;

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- (n) proposed Programs; and
- (o) any other matters the Council reasonably deems relevant to the provision of the Services.

11.2.3 The first Annual Business Plan and Budget must be submitted to the Council for consideration and approval by 30 April 2025. For each subsequent Financial Year the Manager must provide the Council with a draft Annual Business Plan and Budget for consideration and approval by 28 February of each year of the Agreement Term.

11.2.4 The Council may, on receipt of the draft Annual Business Plan and Budget:

- (a) approve the Annual Business Plan and Budget for the forthcoming Financial Year; or
- (b) require a meeting with the Manager with a view to refining the terms of the draft Annual Business Plan and Budget.

11.2.5 The Manager agrees to continue to work with the Council and to resubmit the draft Annual Business Plan to the Council until it is in a form which is approved by the Council.

11.2.6 The Manager must respond to any request from the Council for further information or clarification as promptly as possible.

11.2.7 The Annual Business Plan and Budget must not contain any terms that negate or derogate from any provisions of this Agreement. The terms and conditions in this Agreement will override any terms or conditions in the Annual Business Plan and Budget which are contrary to those contained in this Agreement.

11.2.8 Once approved by the Council, the Parties may agree to vary the Annual Business Plan and Budget during any Financial Year. Such an agreement must be in writing and executed by the Parties.

11.2.9 The Manager agrees that it will not be entitled to perform the Operating Services in accordance with the draft Annual Business Plan and Budget until it is approved in writing by the Council.

11.2.10 The Council and the Manager may meet as and when required by either Party to assess whether management of the Aquatic Centre is being undertaken in accordance with the approved Annual Business Plan and Budget.

11.2.11 In circumstances where the Council, acting reasonably, determines that the management of the Aquatic Centre is not being undertaken in accordance with the approved Annual Business Plan and Budget, the Council's Contact Officer may give notice to the Manager directing the Manager to remedy the issue. Any notice given under this clause may specify a time within which the default must be remedied which is to be at the Council's discretion and must be reasonable.

11.2.12 If the Manager fails to remedy the default in accordance with a notice issued under clause 11.2.11, the Council may exercise its rights under clause 25,

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but such termination will not absolve the Parties from any previous unresolved breaches of this Agreement.

11.2.13 The Council may, at its cost, order an internal audit of the financial operation of the Aquatic Centre at any time during the Agreement Term. The Manager must provide all relevant access, documents, records and explanations and assist in the discharge of the audit to the best of its ability.

12. REPORTING

12.1 Reporting

The Manager must maintain accurate information in respect of the Aquatic Centre and must report the information to the Council in accordance with this Agreement.

12.2 Monthly Operations Reports

During the Agreement Term, the Manager must provide the Council with written monthly reports (in electronic format or such other format as the Council requests) (**Monthly Reports**) which include the following information for the Aquatic Centre:

- 12.2.1 key operational updates, including new Programs and marketing initiatives;
- 12.2.2 management accounts detailing financial performance against budget; and
- 12.2.3 attendances / usage against budget.

Where reasonably requested by the Council, the Manager must provide the Council with copies of all relevant documents, records and explanations to substantiate the contents of its Monthly Reports.

12.3 Quarterly Reports

During the Agreement Term, the Manager must provide the Council with written quarterly reports (in electronic format or such other format as the Council requests) (**Quarterly Reports**) which includes the following information for the Aquatic Centre:

- 12.3.1 management accounts detailing financial performance against budget;
- 12.3.2 a 'Profit and Loss Statement' for the quarter that reflects actual performance for that quarter as compared to the approved budget (within the approved Annual Business Plan and Budget) and applicable commentary for any significant variances. During the period to which the Three-Year Budget applies, there must also be a comparison provided with the Three-Year Budget and commentary for any significant variances;
- 12.3.3 a Year-to-date 'Profit and Loss Statement' that reflects actual performance year to date as compared to the approved budget (within the approved Annual Business Plan and Budget) and an updated forecast end of year position. During the period to which the Three-Year Budget applies, the Three-Year Budget must also be taken into account;
- 12.3.4 an updated copy of the complaints register (including all response actions on the part of the Manager) and other customer services information;

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- 12.3.5 all incidents and near misses under the Work Health and Safety Legislation and other work health and safety reporting requirements including a running log where such matters extend beyond the three month period;
- 12.3.6 any relevant issues relating to the Operating Services provided during the previous three months;
- 12.3.7 any issues that the Manager becomes aware of that may affect Operating Services in future;
- 12.3.8 graphical reports of Operating Services provision over the preceding three months, showing trends;
- 12.3.9 details of all equipment purchases in excess of \$500 per item and in the aggregate where the items are the same, similar or related and identification of whether they are Council Equipment or Manager Equipment in accordance with this Agreement;
- 12.3.10 details of all equipment leases the Manager has in place for equipment at the Aquatic Centre, confirmation that all lease payments have been made and that lease payments are up to date and any further information reasonably requested by the Council in relation to such equipment leases;
- 12.3.11 Customer / Attendance growth;
- 12.3.12 details of all Programs delivered in the previous quarter;
- 12.3.13 a summary of marketing activities undertaken and their effectiveness in the previous quarter and major marketing initiatives proposed to be undertaken for the ensuing quarter pursuant to the current Marketing Plan;
- 12.3.14 maintenance works undertaken in the previous quarter and an updated Maintenance Plan for the ensuing quarter;
- 12.3.15 failure of any plant and equipment during the period, which required remedy by the Manager;
- 12.3.16 an up-to-date list of the current Employees noting any change to key management staff (as relevant);
- 12.3.17 attendance / usage numbers and demographic records; and
- 12.3.18 the Manager's performance against:
 - (a) the Management Objectives;
 - (b) the Key Performance Indicators; and
 - (c) the approved Annual Business Plan and Budget.

12.4 Administration and Record Keeping

- 12.4.1 The Manager must maintain accurate information and records in respect of the Aquatic Centre.

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12.4.2 Without limiting clause 12.4.1, the Manager must maintain up to date contact and financial information and records for all Customers and the Manager must provide the Council with access to such information and records on request.

12.5 **Annual Reports**

By each 30 September during the Agreement Term, except for the first year of the Agreement Term, the Manager must provide the Council with a written annual report (**Annual Report**) which provides a consolidated report of the Manager's performance under this Agreement during the preceding Financial Year, including a report on the Manager's Performance against the relevant approved Annual Business Plan and Budget whether the Key Performance Indicators have been met. The Annual Report must be in a format approved by the Council and must contain all information and data specified by the Council, including, as a minimum, all information included within Quarterly Reports.

12.6 **Audits**

The Manager must, at its cost, provide audited annual financial statements for the income and expenditure of the Aquatic Centre during each Financial Year of the Agreement Term. The audit must be undertaken by an Independent Qualified Accountant who is a registered auditor in accordance with Australian Auditing Standards and an audit report produced by such auditor. A copy of the financial statements and audit report must be provided to the Council by 30 September of each year of the Agreement Term.

12.7 **Community Forums / Workshops / Council Meetings**

The Manager must when requested by the Council participate in community forums workshops and/or Council meetings.

12.8 **Benchmarking**

The Manager must when requested by the Council participate in any actions required to benchmark the performance of the Aquatic Centre against other nearby public aquatic facilities.

13. **INFORMATION, PUBLICITY AND MARKETING**

13.1 **Marketing**

13.1.1 The Manager must market the Aquatic Centre in accordance with:

- (a) the Pre-Opening Services Budget;
- (b) the Marketing Plan; and
- (c) the Annual Business Plan and Budget,

(as applicable).

13.1.2 The Manager and Council will collaborate on creating a brand direction and maintaining a brand identity for the Aquatic Centre, and must arrange to market the Aquatic Centre so as to effectively promote the Aquatic Centre.

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- 13.1.3 The Manager must ensure that all publicity, advertisements and public communications for the Aquatic Centre comply with:
 - (a) the branding for the Aquatic Centre (as updated from time to time);
 - (b) all applicable policies of the Council; and
 - (c) all relevant Legislation and Statutory Requirements.
- 13.1.4 The Manager must ensure that all notice boards are in a neat and tidy condition at all times and that the material displayed is reviewed regularly (with any non current notices and/or materials removed).
- 13.1.5 The Manager must allow the Council access to the Aquatic Centre for promotion of council events.

13.2 Standards of Publicity

- 13.2.1 The Manager must ensure that any promotional material for the Aquatic Centre is accurate, truthful and a fair representation of the services to be offered.
- 13.2.2 The Manager will be the principal in all transactions with all publicity media. All queries regarding the standard of publicity are to be directed to the Manager.
- 13.2.3 The Manager must compile a file which contains copies of all major promotional literature, notices, advertisements, media advertising, commercials and office stationery for the Aquatic Centre.
- 13.2.4 All Intellectual Property Rights and Data in relation to all marketing and advertising material for the Aquatic Centre belong to the Council on their creation.

13.3 Social Media

- 13.3.1 The Council will, with the support of the Manager, establish social media accounts for the Aquatic Centre. For the avoidance of doubt, the Council is the owner of all such social media accounts.
- 13.3.2 The Council will, during the Agreement Term, provide the Manager with unrestricted and unlimited access to any social media accounts established for the Aquatic Centre.
- 13.3.3 The Manager has day to day responsibilities for managing and promoting the Aquatic Centres social media accounts in accordance with the approved Marketing Plan.
- 13.3.4 Upon the expiry or earlier termination of this Agreement the Council will remove the Manager's access to all social media accounts established for the Aquatic Centre.

13.4 Sponsorship

- 13.4.1 The Manager is encouraged to:

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- (a) seek sponsorship for events held at the Aquatic Centre, provided always that sponsorship related to tobacco, vaping, gambling and alcohol is not permitted;
- (b) identify and use reasonable endeavours to enter into sponsorship arrangements in connection with the Aquatic Centre with suppliers of goods and services to the Aquatic Centre and businesses with activities compatible with the Aquatic Centre's operations.

13.4.2 The Manager must ensure that the sponsor(s) and their business activities are compatible with this Agreement and with any other sponsors the Council may have.

13.4.3 All revenue derived from sponsorship arrangements for the Aquatic Centre is Income for the purposes of this Agreement and all sponsorship arrangements for the Aquatic Centre that result in a reduction in the Manager's expenditure must be applied to reduce the Expenses.

13.4.4 Sponsorship for naming rights for any part of the Aquatic Centre must first be approved by the Council in writing.

13.4.5 The Manager must not, without the Council's prior written consent, enter into any commitment with sponsors which extends beyond the Agreement Term.

14. HUMAN RESOURCE MANAGEMENT

14.1 Staffing

14.1.1 The Manager must at all times have and make available appropriately skilled, trained and qualified personnel and such other resources as may be necessary from time to time for the proper, safe and efficient operation and management of the Aquatic Centre as required under this Agreement.

14.1.2 Notwithstanding the inclusion of Employee wages and entitlements in the Expenses for the Aquatic Centre for the purposes of this Agreement, the Manager solely is the employer of all Employees, and:

- (a) is solely responsible for the appointment and employment conditions of the Employees, including any leave entitlements, payroll tax, workers compensation levies, superannuation and any other employment related entitlements and/or benefits. All positions must have detailed job descriptions, specifications and conditions of employment prior to the advertising of any position; and
- (b) is solely responsible for the conduct of all Employees and for determining the working hours and duties they are to perform;
- (c) is solely responsible for paying or allowing for any accrued employee entitlements owing to any existing employees transferred to the Aquatic Centre or any employee who has unrealised employee entitlements relating to previous or other work undertaken for the Manager (including annual leave, sick leave or long-service leave), noting specifically that these costs will

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not be treated as Expenses in the Aquatic Centre Accounting Ledger.

- 14.1.3 The Manager must comply with all Legislation regarding the employment of its Employees.
- 14.1.4 The Manager must ensure that the Employees undertake regular training to ensure that the Aquatic Centre is operated professionally, efficiently and effectively and in accordance with all Statutory Requirements.
- 14.1.5 All Employees must wear:
 - (a) a uniform which is specific to and branded for the Aquatic Centre and is appropriate to their job function; and
 - (b) an identification badge (which may be embroidered) on the upper chest area. The badge and/or uniform must display the following information:
 - (a) name of the Aquatic Centre; and
 - (b) name of the staff member.

14.2 Aquatic Centre Manager

The Manager must ensure that a designated manager is present at the Aquatic Centre during the Operating Hours.

15. EQUIPMENT

15.1 Provision of Fixtures, Fittings and Plant and Equipment

- 15.1.1 The Council Fixtures, Fittings and Plant and Council Equipment belongs to the Council and must remain at the Aquatic Centre.
- 15.1.2 The Manager must ensure that there is sufficient equipment at the Aquatic Centre to maximise Customer attendances, membership and business opportunities at the Aquatic Centre (subject to the provisions of the approved Annual Business Plan and Budget).
- 15.1.3 The Manager is responsible for keeping the Council Fixtures, Fittings and Plant, Council Equipment and the Manager Equipment to a high standard of operation, maintenance and cleanliness, and must undertake regular preventative maintenance subject to and in accordance with the Maintenance Plan and any industry standards. Any reasonable repairs required to Council Fixtures, Fittings and Plant, Council Equipment and Manager Equipment must be undertaken (or procured) by the responsible Party as soon as possible.
- 15.1.4 The Council's Contact Officer must be notified of any item of the Council Fixtures, Fittings and Plant and Council Equipment reaching the end of its useful life.
- 15.1.5 Where an item of the Council Fixtures, Fittings and Plant reaches the end of its useful life, the Council may, in its absolute discretion, replace that item.

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15.1.6 Where an item of the Council Equipment reaches the end of its useful life, subject to the Manager's compliance with its maintenance and repair obligations pursuant to this Agreement, the item may be replaced utilising funds from the relevant Aquatic Centre Account Ledger, subject, however, to the replacement being in accordance with the then current approved Annual Business Plan and Budget or as otherwise approved by the Council, which approval may be granted or withheld at the Council's absolute discretion.

15.2 Compensation for Loss or Damage to Council Fixtures, Fittings and Plant and Council Equipment

The Manager must compensate the Council if any item of the Council Fixtures, Fittings and Plant or Council Equipment is damaged or lost at any time before the end of the Agreement Term as a result of the Manager's negligence, excluding fair wear and tear. The compensation to be paid by the Manager to the Council must include the full cost of replacing, disposing of and reinstating the item and be by agreement between the Manager and the Council's Contact Officer or failing agreement, as determined by an independent valuer, whose costs will be borne by the Manager.

15.3 Control of Use of Equipment

The Manager must stop further use of, or remove from the Aquatic Centre, an item or category of Equipment for reasons that include:

- 15.3.1 Statutory Requirements;
- 15.3.2 health and safety considerations;
- 15.3.3 advice or recommendation of the manufacturers of that item of Equipment; or
- 15.3.4 advice of independent experts and/or specialist officers.

15.4 Ownership of equipment

15.4.1 All equipment purchased for the Aquatic Centre:

- (a) by the Council;
- (b) from funds in the Aquatic Centre Accounting Ledger and recorded as an Expense in the Aquatic Centre Accounting Ledger; and / or
- (c) for which there is an operational expense included in the Aquatic Centre Account Ledger in respect of the upfront cost of that Equipment (however such upfront cost was funded);

is the sole and exclusive property of the Council and must remain at the Aquatic Centre at all times.

15.5 Fixtures, fittings and equipment purchases by the Manager

15.5.1 The Manager must not purchase any equipment for the Aquatic Centre except in accordance with an approved Annual Business Plan and Budget without the prior written consent of the Council.

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15.5.2 Notwithstanding, and in addition to, clause 15.5.1, the Manager must obtain the Council's prior written approval for all proposed equipment purchases (including replacements) over \$5,000.00 (ex GST).

15.6 Equipment register

15.6.1 The Manager must maintain an up-to-date equipment register for the Aquatic Centre (**Equipment Register**).

15.6.2 The Equipment Register must, at a minimum, include details of all:

- (a) Equipment (itemised);
- (b) Equipment purchased during the Operating Period by the Manager in accordance with this Agreement for use at the Aquatic Centre;
- (c) details of all Equipment that has reached the end of its useful life.

15.6.3 The Manager must provide the Council with a copy of the Equipment Register, and any associated information or documentation, on request.

16. MAINTENANCE, REPAIR AND DECORATION OF THE AQUATIC CENTRE

16.1 General

16.1.1 The Manager must ensure the Aquatic Centre and the Council Fixtures, Fittings and Plant, Council Equipment and the Manager Equipment are maintained to a high standard and that:

- (a) the standard of maintenance supports and facilitates the achievement of the Management Objectives and the Key Performance Indicators; and
- (b) all maintenance is carried out by persons who are skilled and experienced in carrying out maintenance of public aquatic facilities.

16.1.2 The Manager must also keep the Aquatic Centre in a clean and well-maintained condition at all times, subject to fair wear and tear.

16.1.3 Without derogating from any other provision in this Agreement, the Manager must maintain the Aquatic Centre, the Council Fixtures, Fittings and Plant, Council Equipment and Manager Equipment at the times and in accordance with the standards specified in, and by undertaking the tasks identified in, the Maintenance Plan.

16.1.4 The Manager's obligations in this clause 16.1 are subject to clause 16.3 during the period of any defects liability period under the Construction Contract.

16.1.5 The Council Fixtures, Fittings and Plant and Council Equipment belong to the Council and must remain at the Aquatic Centre at all times, unless otherwise approved by the Council.

16.1.6 If the Manager does or omits to do anything that causes or contributes to any manufacturer's or supplier's warranties in connection with the Aquatic Centre being voided or of reduced benefit, the Manager must indemnify the Council

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in respect of all loss or damage suffered or costs incurred by the Council as a result.

16.2 Standard of Maintenance

Without limiting clause 16.1.1, the Manager must undertake maintenance works to the following standard:

- 16.2.1 items that are subject to manufacturer's or supplier's warranties must be maintained so as to ensure the full benefit of those warranties are maintained;
- 16.2.2 items that are subject to manufacturer's or suppliers' instructions and/or recommendations are to be inspected and maintained in accordance with those instructions and/or recommendations. The Manager must forward all maintenance reports to the Council's Contact Officer;
- 16.2.3 items that are subject to statutory maintenance regulations (such as compressed air cylinders and fire extinguishers) must comply with Statutory Requirements. The Manager must keep certificates of inspection and make them available to the Council on request; and
- 16.2.4 preventative, routine and non-routine maintenance and repairs are performed on a basis that ensures reliable long-term and safe operation in accordance with manufacturer's instructions and / or recommendations and are performed by knowledgeable, trained and experienced personnel utilising proper equipment, tools and procedures;
- 16.2.5 appropriate monitoring, testing and calibration is done to ensure processes are functioning as designed and to provide assurance that processes will function properly under both normal and reasonably anticipated abnormal conditions;
- 16.2.6 in accordance with all Authorisations and applicable Statutory Requirements;
- 16.2.7 as otherwise required by the Maintenance Plan or, where the Maintenance Plan does not specify a standard, then to the standard reasonably determined by the Council (from time to time).

16.3 Defects Liability Period maintenance

- 16.3.1 Where any item at the Aquatic Centre is subject to a defects liability period under the Construction Contract, the Council will, and the Manager must not, attend to maintenance of that item for the duration of the defects liability period.
- 16.3.2 The Manager must allow the contractor under the Construction Contract, and its subcontractors, access to the Aquatic Centre at all reasonable times to attend to inspections of, and maintenance, repairs and other works to, items that are subject to a defects liability period under the Construction Contract.

16.4 Modifications

- 16.4.1 The Manager must not make any modifications to the Aquatic Centre without the prior written approval of the Council. A modification includes:

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- (a) the addition to or removal of any attachment from any item of plant; and/or
- (b) the improvement to or reduction of performance of an item of plant.

16.4.2 If the Council approves a modification pursuant to clause 16.4.1, such approval may be given subject to conditions, including conditions requiring that the proposed modification works be undertaken or facilitated by the Council and the costs of the same be paid or reimbursed by the Manager.

16.5 **Fire Servicing**

- 16.5.1 Subject to clause 16.5.3, and unless directed otherwise, the Manager is responsible for servicing all fire Equipment at the Aquatic Centre, including but not limited to emergency exit lighting and fire safety equipment.
- 16.5.2 Without limiting clause 16.5.1, the Manager must undertake the tasks relating to fire and safety equipment identified in the Maintenance Plan.
- 16.5.3 The Manager will attend to testing of Residual Current Devices (**RCDs**) located at the Aquatic Centre in accordance with Statutory Requirements.

16.6 **Sanitary Services and sharps disposal**

The Manager must make arrangements for sanitary services and sharps disposal services to be provided at the Aquatic Centre.

16.7 **Closure of the Aquatic Centre**

- 16.7.1 The Council may instruct the Manager to close the Aquatic Centre (or any part or parts of it) for reasons of:
 - (a) maintenance and/or repairs;
 - (b) capital works to the Aquatic Centre or any one of them (or any part or parts of them);
 - (c) safety; and/or
 - (d) any Statutory Requirements.
- 16.7.2 The Council will meet with the Manager in determining times for closure of the Aquatic Centre. Both the Council and the Manager will act reasonably in considering the closure times. Where possible, any closures should be at low patronage periods and in stages, to avoid the whole Aquatic Centre being closed.
- 16.7.3 Closures of the Aquatic Centre must be communicated to the community via the Aquatic Centre' website, social media platforms, and notices at the Aquatic Centre.
- 16.7.4 The Manager expressly acknowledges and agrees that it will not be entitled to any compensation in respect of any closure of the Aquatic Centre in accordance with this clause 16.7 where:

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- (a) the closure is of part or parts of the Aquatic Centre and is for a period of five consecutive trading days or less (or such other period as may be agreed by the Parties).
- (b) the closure of the whole of the Aquatic Centre and is for a period of three consecutive trading days or less;
- (c) the closure is required as a result of an act or omission of the Manager or is due to any circumstance beyond the reasonable control of the Parties; or
- (d) the closure is requested by the Manager;

and the Manager releases the Council in respect of all Claims for the same.

16.7.5 In respect of any closure of the Aquatic Centre where clause 16.7.4 does not apply then Council and the Manager will negotiate in good faith what if any compensation will be payable to the Manager.

16.8 **Ground Maintenance**

As part of the Services, the Manager must attend to any repairs, maintenance and cleaning obligations in respect of exterior areas of the Aquatic Centre and Common Areas in accordance with the Maintenance Plan.

16.9 **Council right of entry**

- 16.9.1 The Council may enter and remain at the Aquatic Centre at all reasonable times after giving the Manager not less than 48 hours' notice (except in the event of an emergency where no notice is required) to perform any maintenance, repair, cleaning and renewal obligations identified as being attributable to the Council in the Maintenance Plan, by an express provision of this Agreement or otherwise deemed necessary by the Council.
- 16.9.2 Notwithstanding any other provision of this Agreement, the Council has complete and unfettered discretion as to whether and when they complete any maintenance, repair, cleaning and renewal obligations identified as being attributable to the Council in the Maintenance Plan or by an express provision of this Agreement. The Council must take reasonable steps to minimise (except in emergencies) interference with the Services provided by the Manager when exercising their right of entry pursuant to this clause 16.9.

17. **MEETINGS WITH THE COUNCIL**

17.1 **Monthly Meetings**

- 17.1.1 During the Agreement Term, the Manager must attend monthly meetings with the Council's Contact Officer (each, a **Monthly Meeting**) to discuss all matters relevant to this Agreement, including the Manager's performance.
- 17.1.2 Not less than one weeks prior to each Monthly Meeting, the Manager must provide the Council with a report, in a form requested by the Council, on its performance for the relevant month in a form required by the Council.

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- 17.1.3 Monthly Meetings will be chaired by the Council's Contact Officer and maybe attended by other Council staff as necessary, at a time and a place nominated by the Council's Contact Officer. Meetings may be conducted virtually at the discretion of Council's Contact Officer.

17.2 Annual Performance Reviews

- 17.2.1 During the Agreement Term, the Manager must also attend annual performance review meetings with the Council's Contact Officer (each, a **Manager Performance Review**).
- 17.2.2 Minutes of each Manager Performance Review must be kept by the Council's Contact Officer and issued to the Manager as soon as possible thereafter. If the Manager does not agree with the accuracy of the minutes, it must notify the Council's Contact Officer of the inaccuracy within 48 hours of receipt of the minutes. Failure to do so, will be deemed to be acceptance by the Manager of the minutes as a true and accurate record.

17.3 Additional Meetings

The Manager must attend such additional meetings as may be directed by the Council's Contact Officer, at a mutually agreed time. These meetings may be with the Council's Contact Officer, members or officers of the Council (including the CEO and/or Elected Members), users or potential users of the Aquatic Centre, community groups or the general public.

17.4 Documents and Information

The Council's Contact Officer must have full access to all records and documents required to be maintained by the Manager under this Agreement.

18. INTELLECTUAL PROPERTY RIGHTS AND DATA

- 18.1 Notwithstanding any other provision of this Agreement, each Party retains ownership of all rights to their Background IP. The Parties may only use the other Party's Background IP as outlined in this Agreement or as otherwise agreed in writing.
- 18.2 The Parties hereby acknowledge and agree that all Intellectual Property Rights and Data created in relation to, and in connection with, this Agreement during the Agreement Term, whether by the Manager or the Council will become the property of the Council immediately on their creation and unless specifically directed by the Council to the contrary, the Manager is hereby granted an irrevocable and royalty free licence to use such Intellectual Property Rights and Data during the Agreement Term for the purposes of providing the Services.
- 18.3 On expiry of the Agreement Term, the Manager must provide the Council with a backup copy of all Intellectual Property and Data created in electronic form during the Agreement Term.
- 18.4 For the avoidance of doubt, Intellectual Property Rights and Data include all membership Customer and User Group data and all information relating to the Aquatic Centre (other than Background IP).

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- 18.5 The Manager must ensure that all contracts it enters into in relation to the Services permit the disclosure, provision and transfer of Intellectual Property Rights and Data to the Council and any other person nominated by the Council.
- 18.6 The Manager must store all Data in connection with this Agreement in accordance with the requirements of all applicable Council policies on the storage, management and destruction of Data (including privacy requirements) as if the Data was Council-generated Data.

19. INSURANCE

- 19.1 The Manager must, at its cost in all things, arrange and maintain during the Agreement Term, with a reputable insurance company acceptable to the Council, the insurance listed in this clause 19 in connection with the operation of the Aquatic Centre.

19.1.1 *Return To Work*

The Manager must, during the Term, ensure that it is registered as an employer under the *Return to Work Act 2014* (SA) and it must pay all monthly levies due pursuant to that Act or any other law in respect of the Employees.

19.1.2 *Public Liability*

The Manager must insure for public liability for an amount of not less than \$20,000,000 per occurrence and unlimited in the annual aggregate and note the Council's interest in the policy or policies.

19.1.3 *Professional Indemnity Insurance*

The Manager must obtain professional indemnity insurance sufficient to cover its provision of the Services pursuant to this Agreement for an amount of not less than \$5,000,000 per claim.

19.1.4 *Loss of Income / Theft Cover Insurance*

The Manager will effect loss of income and Fidelity Guarantee insurance for material loss or damage and consequential loss for an amount of not less than \$150,000 per claim (which amount is to be reviewed annually by the Manager) and note the Council's interest in the policy or policies.

19.1.5 *Product liability*

The Manager must insure for product liability for an amount of not less than \$5,000,000 per occurrence and unlimited in the annual aggregate and note the Council's interest in the policy or policies.

19.1.6 *Manager Equipment*

The Manager must maintain contents insurance in respect of the Manager Equipment for its full replacement value and note the Council's interest in the Manager Equipment and the policy.

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19.2 Insurance Policies by Manager – General requirements

All insurances taken out by the Manager must be with reputable insurance companies. Evidence of currency must be provided to the Council by the Manager upon request.

19.3 Building insurance

- 19.3.1 The Council will maintain in connection with the Aquatic Centre and the Council Equipment building insurance for their replacement value.
- 19.3.2 If the Aquatic Centre or any item of the Council Equipment are damaged the Manager must, where requested by the Council:
 - (a) as soon as reasonably practicable report the damage to the South Australia Police and obtain a report number and notify the Council of the report number; and
 - (b) provide assistance to the Council in respect of the making and/or resolution of any claim made against the insurance maintained by the Council pursuant to clause 19.3.1.

19.4 Not to Void Insurance Cover

Neither party will do anything, or fail to do anything, which does or may render any policy of insurance taken out by the other party void or unenforceable (whether in part or in whole).

20. SUBCONTRACTING AND ASSIGNING

- 20.1 The Manager must not assign or subcontract this Agreement or any right or obligation under it without the prior written consent of the Council, which may be granted or withheld in the Council's absolute discretion.
- 20.2 Notwithstanding any other provision herein, no such assignment or subcontract relieves the Manager from any liability under this Agreement or pursuant to any Legislation in respect of the performance or purported performance of this Agreement and the Manager is responsible for the acts and omissions of any assignee or subcontractor or any assignee's or subcontractor's employees and agents as if they were the acts or omissions of the Manager.

21. LIQUOR LICENSING

- 21.1 The Manager may, with the Council's prior written consent, apply to obtain a liquor licence (**Liquor Licence**) under the *Liquor Licensing Act 1997 (Licensing Act)* for the Aquatic Centre.
- 21.2 If the Manager is issued with a Liquor Licence the Manager must comply with and observe, and carry out and perform all of the requirements of the Liquor Licence and the Licensing Act and all directions and requirements relating to the Liquor Licence.
- 21.3 If the Manager is served with any summons, complaint or other legal process, or any notice, requirement or other communication from any person or authority acting under the Licensing Act or otherwise relating to the Liquor Licence or the Aquatic Centre, the Manager must immediately inform the Council of this fact and provide all relevant

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and available particulars of the events and circumstances to the Council. The Manager must consult fully with the Council (or its nominated legal advisors) in relation to any defence and other legal action to be initiated and at all times will prosecute and conduct such legal action in a diligent manner and so as to protect and preserve the Liquor Licence.

21.4 Upon expiration or sooner termination of this Agreement for any reason whatsoever, the Manager must:

- 21.4.1 if requested by the Council, transfer to the Council or its nominee the Liquor Licence and all other licences, approvals and consents at no cost to the Council or its nominee, other than payment of any fee in order to effect such transfer; or
- 21.4.2 in all other cases, surrender the Liquor Licence.

22. DAMAGE AND DESTRUCTION

22.1 Damage Due to Negligence of the Manager

If the Aquatic Centre or any part or parts of it is damaged or destroyed as a consequence of some negligent act or omission on the part of the Manager or any of its servants or agents, then without limiting the rights and entitlements of the Council under this Agreement and at law, the Manager indemnifies the Council against all loss and damage suffered in consequence thereof.

22.2 Temporary Damage

If the Aquatic Centre sustains any temporary damage which impacts and/or limits the operation of the Aquatic Centre:

- 22.2.1 the Parties must negotiate in good faith adjustments to the Annual Budget that reasonably reflect any decrease in the Manager's duties and costs during the period while and until the damage is repaired;
- 22.2.2 if the Parties are unable to agree on the amount of any reductions pursuant to clause 22.2.1 the reductions are to be determined by an independent expert in accordance with clause 33.3;
- 22.2.3 if the Aquatic Centre has to be closed down for the purposes of repairs and reinstatement the Manager must do everything possible in the circumstances to minimise the Aquatic Centre's operating costs during the relevant period; and
- 22.2.4 if the Aquatic Centre remains open (whether in whole or in part) while such repair and reinstatement works are being carried out the Manager must provide such co-operation, accommodation and assistance as may be necessary and reasonable to allow such works to be completed as soon as practicable.

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22.3 **Substantial Damage**

If the Aquatic Centre sustains any substantial damage, then the Council may terminate this Agreement by giving the Manager no less than 14 days' written notice. Neither party will have any further right, entitlement or interest under this Agreement after the date of such termination.

23. **INDEMNITY AND RELEASE AND LIMITATION OF LIABILITY**

23.1 **Indemnity**

23.1.1 The Manager must indemnify the Council and its employees, officers and organisations against all Claims which may be made against the Council arising from, or in connection with:

- (a) demands, expenses, loss or damage in respect of loss or damage to any property, or the death of or personal injury to any person, caused or contributed to by the Manager, a breach by the Manager of this Agreement, a wilful unlawful or negligent act or omission of the Manager in performing its obligations under this Agreement, and any claim action or proceeding by a third party against the Council or its employees officers and organisations caused or contributed to by the Manager; and
- (b) wages, long service leave, sick leave, annual leave, superannuation, and/or any other employee entitlement made by the Manager or any of its employees if they are deemed or found to be an employee of the Council.

23.1.2 This indemnity is reduced by the extent to which the Council and/or its employees cause or contribute to the event giving rise to the claim for the indemnity, including but not limited to failing to take reasonable steps to mitigate loss.

23.2 **Release**

The Manager must perform the Services at its own risk in all things and releases the Council and its employees, officers, members and organisations from all Claims, actions, proceedings, costs, expenses, losses, suffering, and liabilities incurred by the Manager or its employees, agents, subcontractors and third parties which arise from the performance of the Services, save and except to the extent that such a Claim, actions, proceedings, costs, expenses, losses, suffering, or liabilities are caused by or contributed to, by the Council and/or its employees.

24. **NON-PERFORMANCE BY THE MANAGER**

24.1 If the Manager breaches a provision of this Agreement and fails to remedy the breach within a reasonable time after receiving notice requiring it to do so, the Council may:

- 24.1.1 suspend any or all payment of the Management Fee until the breach is remedied, and upon such remedy, all suspended amounts will be paid to the Manager; and/or
- 24.1.2 remedy the breach itself whether by the use of the Council's employees or other organisations and deduct the cost of remediation from any

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Management Fee or other payment due to the Manager or require the Manager to pay the cost of remediation as a debt due and owing to the Council (and such cost will **not** be an Expense of the Aquatic Centre); and/or

24.1.3 terminate this Agreement in accordance with clause 25; and/or

24.1.4 pursue any other legal remedies available to the Council.

25. TERMINATION

25.1 Termination by the Council for cause

25.1.1 The Council may immediately terminate this Agreement by giving notice to the Manager if the Manager:

- (a) ceases to carry on business or becomes otherwise unable to perform its obligations under this Agreement;
- (b) breaches a material or essential term of this Agreement and fails to remedy the breach within a reasonable time (being not less than seven days) after receiving notice requiring it to do so;
- (c) becomes an externally-administered body corporate or an insolvent under administration;
- (d) after receiving written notice from Council and being given a reasonable opportunity to rectify (being no less than 14 days):
 - (a) fails to maintain any other equipment as required by this Agreement;
 - (b) fails to make any payment required to be made to the Council in accordance with this Agreement;
 - (c) fails to meet any of its obligations pursuant to clause 35 in respect of Security;
 - (d) fails to provide any plans or reports to the Council as required by this Agreement;
 - (e) fails to maintain any insurance policy required by this Agreement;
 - (f) commits or permits to occur any breach or default in the due and punctual observance and performance of any of the terms of this Agreement, and fails to remedy the breach within a reasonable time after receiving notice requiring it to do so;
 - (g) in the reasonable opinion of the Council, is unable (other than causes beyond the reasonable control of the Manager) to manage the Aquatic Centre within the parameters of the approved Annual Business Plan and Budget;
 - (h) repeatedly or continuously fails to meet or achieve the Key Performance Indicators or fails to meet or achieve multiple

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Key Performance Indicators in a manner that has a significant or substantial impact on the standard of delivery of the Services;

- (i) fails to obtain the Council's approval for an Annual Business Plan and Budget for a Financial Year of the Agreement Term before the commencement of that Financial Year (whether due to a failure on the Manager's part to prepare and submit a draft Annual Business Plan and Budget for the Council's approval or due to any draft Annual Business Plan and Budget submitted by the Manager being unacceptable to the Council for any reason);
- (j) fails to obtain the Council's approval (which is not unreasonably withheld or delayed) for a Maintenance Plan for any Financial Year of the Agreement Term before the commencement of that Financial Year (whether due to a failure on the Manager's part to prepare and submit a draft Maintenance Plan for the Council's approval or due to any draft Maintenance Plan submitted by the Manager being unacceptable to the Council for any reason); and /or
- (k) fails to maintain, refurbish and renew the Council Fixtures, Fittings and Plant, the Council Equipment and/or Manager Equipment in accordance with this Agreement and the approved Maintenance Plan;

(e) becomes insolvent or bankrupt.

25.1.2 In such circumstances the Council will not be liable to compensate the Manager for loss of potential profits or other consequential loss incurred by the Manager arising from termination by the Council pursuant to this clause.

25.2 Termination by the Manager for cause

The Manager may immediately terminate this Agreement if:

- 25.2.1 the Council breaches a material term of this Agreement and fails to remedy the breach within a reasonable time after receiving notice requiring it to do so; or
- 25.2.2 the Council fails to make any payment required to be made to the Manager in accordance with this Agreement and fails to remedy the breach within a reasonable time after receiving notice requiring it to do so.

25.3 Termination by the Council – financial performance of the Manager during the Initial Operating Period

25.3.1 At any time or times during the first three years from the Operating Period Commencement Date, the Manager acknowledges that the Council may at its discretion and cost appoint a suitably qualified and experienced expert to undertake one or more independent external reviews of the performance of the Aquatic Centre, including the Aquatic Centre's financial performance and the Manager's management of the Aquatic Centre's finances and community

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satisfaction, safety, complaints management and other operational matters, (each an **External Review**).

25.3.2 In addition to the Council's other rights pursuant to this Agreement, if in the Council's reasonable opinion an External Review:

- (a) identifies that the Aquatic Centre's financial performance has not met or exceeded the forecast performance detailed in the Three-Year Budget; and / or
- (b) indicates that a Net Profit result will not be returned on and from the end of the Three-Year Budget,

then the Council may terminate this Agreement by giving not less than three month's written notice of termination to the Manager at any time after the first anniversary of the Operating Period Commencement Date. At the end of any period of notice given in accordance with this clause this Agreement will determine without the need for any further notice. In such circumstances the Council will not be liable to compensate the Manager for loss of potential profits or other consequential loss incurred by the Manager arising from termination by the Council pursuant to this clause and clause 29 will apply.

25.4 **Accrued rights and remedies**

Except where otherwise expressly provided by this Agreement, termination of this Agreement under this clause does not affect any accrued rights or remedies of either Party.

26. **REDEVELOPMENT**

Notwithstanding any other provision in this Agreement, if during the Agreement Term the Council proposes to carry out any redevelopment of the Aquatic Centre (or any substantial part of it), (**Redevelopment**) then:

- 26.1 the Council must give the Manager not less than six months' written notice of any Redevelopment proposal (**Redevelopment Proposal Notice**). Such notice must include details of the proposed Redevelopment, identification of which part or parts of it are affected by the Redevelopment (**Redevelopment Area**) and specifying the date on which the Redevelopment will commence, and the Council will require exclusive access to and use and possession of the Redevelopment Area (**Redevelopment Commencement Date**);
- 26.2 on and from the Redevelopment Commencement Date (or such later date determined by the Council and notified to the Manager in writing) during the period that any Redevelopment is carried out:
 - 26.2.1 the Manager's obligations to provide the Services in respect of the Redevelopment Area will be suspended and the Council will have the exclusive right to access and use the Redevelopment Area for the purposes of the Redevelopment;
 - 26.2.2 the Annual Operating Subsidy will be adjusted by an amount reasonably determined by the Council taking into account the anticipated reduction in Income for the Aquatic Centre, the anticipated reduction in operational costs for the Aquatic Centre, the anticipated number of days during which the

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Aquatic Centre (or any part or parts of it)(as the case may be) will be closed or otherwise unavailable for use by Customers and any additional operating costs for the Aquatic Centre directly and solely attributable to the Redevelopment;

- 26.2.3 the Parties will, during the period of the Redevelopment, enter into negotiations on a varied or new agreement to apply to the Aquatic Centre following the completion of the Redevelopment; and
- 26.3 if within three months of the Redevelopment Commencement Date the Parties have not agreed varied or new arrangements to apply to the Aquatic Centre in accordance with clause 26.2.3, then the Council may by written notice to the Manager terminate this Agreement by giving the Manager written notice of the termination and specifying a date for termination of not less than six months after the notice of termination is given. At the end of the notice period, the rights and obligations of the Council and the Manager under this Agreement (except with regard to an existing breach) come to an end and the Manager is not entitled to any form of compensation whatsoever from the Council unless otherwise agreed.
- 26.4 If the Council terminates this Agreement under clause 26.3, then clause 29 will apply.

27. ASSET RATIONALISATION AND DEMOLITION

If as part of any asset rationalisation or other project conducted by the Council that includes the Aquatic Centre, or for any other reason, the Council wishes to demolish or acquire vacant possession of the Aquatic Centre or any part of it (**Proposed Demolition or Asset Rationalisation**) then the Council will be entitled to terminate this Agreement subject to the following provisions:

- 27.1 the Council must provide the Manager with details of the Proposed Demolition or Asset Rationalisation sufficient to indicate a genuine proposal to carry out that Proposed Demolition or Asset Rationalisation within a reasonably practical time after this Agreement is to be terminated;
- 27.2 the Council may at any time after providing the Manager with the information specified in clause 27.1, give the Manager a written notice of termination of this Agreement (**Termination Notice**) specifying the date on which this Agreement is to come to an end being a date not less than six months after the Termination Notice is given. This Agreement will then come to an end at midnight on the day specified in the Termination Notice;
- 27.3 when this Agreement is terminated by the Council under clause 27.2 subject to clause 27.4 the rights and obligations of the Council and the Manager under this Agreement will come to an end but if any breach by either party still exists at that time then the rights of the other party with regard to that existing breach will continue; and
- 27.4 If the Council terminates this Agreement under clause 27.3, then clauses 25.3 and 29 will apply.

28. EXEMPTION FROM LEASES ACT

- 28.1 The Parties acknowledge and agree that it is intended that all of the provisions of the *Retail and Commercial Leases Act 1995 (SA)* (**Leases Act**) will not apply to this Agreement.

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- 28.2 To reinforce the intention of the Parties, the Parties further acknowledge and agree that as soon as reasonably practicable after execution of this Agreement, the Council and the Manager will jointly make an application pursuant to Section 77 of the Leases Act for an exemption from the application of all of the provisions of this Agreement.
- 28.3 All costs incurred pursuant to this clause 28 will be borne by the Council.
- 28.4 If an exemption from the application of all of the provisions of the Leases Act to this Agreement is not granted on or before the day prior to the Operating Period Commencement Date, then this Agreement will be voidable by the Council on written notice to the Manager.

29. HANDOVER OF THE AQUATIC CENTRE

- 29.1 Without limiting any other provision of this Agreement, no less than four weeks prior to the expiry of the Agreement Term (or immediately following the earlier termination of this Agreement, if terminated on less than four weeks' notice in accordance with this Agreement), the Manager will if requested by the Council:
 - 29.1.1 thoroughly clean all surfaces of the Aquatic Centre;
 - 29.1.2 remove and reinstate any alterations or additions made to the Aquatic Centre by the Manager;
 - 29.1.3 attend to any outstanding repair, maintenance and decoration obligations of the Manager pursuant to this Agreement, excluding fair wear and tear;
 - 29.1.4 notify all Customers of the expiry of the Manager's role and advise of the new manager;
 - 29.1.5 deliver to the Council all manuals and maintenance records for the Council Fixtures, Fittings and Plant, the Council Equipment and all other equipment at the Aquatic Centre (other than Manager Equipment);
 - 29.1.6 advise the Council of all existing contractual arrangements for the Aquatic Centre and provide copies of same to the Council;
 - 29.1.7 provide the Council with all system and procedure manuals and Program manuals relating to the Aquatic Centre;
 - 29.1.8 provide the Council with all records (in soft and hard copy); including all Intellectual Property and Data, records relating to Customers and memberships for the Aquatic Centre, including prepaid memberships;
 - 29.1.9 transfer all licences, subscriptions, registers, procedures and databases;
 - 29.1.10 transfer ownership and control of all social media accounts for the Aquatic Centre to the Council;
 - 29.1.11 do anything else that the Manager is required under this Agreement to do at or prior to the end of this Agreement; and
 - 29.1.12 do anything else reasonably requested by the Council to ensure a smooth transition of the operations of the Aquatic Centre to the new manager (which may include the Council).

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- 29.2 During any hand over, the Manager has a general responsibility to productively work with Council, and any new or future manager, to participate in any reasonable transition plan to ensure that all systems, processes and maintenance responsibilities are transitioned to new management arrangements.
- 29.3 On the expiry or termination of this Agreement, the Manager must:
 - 29.3.1 hand over vacant possession of the Aquatic Centre in a condition that is commensurate with the condition of the Aquatic Centre as at the Operating Period Commencement Date, fair wear and tear excepted, and otherwise in the condition required by this Agreement; and
 - 29.3.2 hand over to the Council all keys and other security devices for the Aquatic Centre which the Manager has in its possession or control; and
 - 29.3.3 immediately transfer control of the Aquatic Centre Accounting Ledger (and all funds held in it) to the Council.
- 29.4 Where the Council has not requested the Manager pursuant to clause 29.1.2 to remove all or particular alterations or additions made to the Aquatic Centre by the Manager (**Alterations and Additions to Remain at the Aquatic Centre**) then at the time that possession of the Aquatic Centre is given back to the Council the Alterations and Additions to Remain at the Aquatic Centre must be left at the Aquatic Centre by the Manager and will vest in the Council absolutely for no consideration.
- 29.5 If at the time that possession of the Aquatic Centre is given back to the Council, the Manager has not complied with all or any of its obligations under this clause 29, the Manager will not be relieved of its obligation to comply with those requirements, or to compensate the Council for failure to do so, by reason of the fact that the Council has accepted or taken possession of the Aquatic Centre.
- 29.6 If, when this Agreement comes to an end, the Manager leaves any goods or equipment at the Aquatic Centre after twenty eight (28) days have elapsed since the Agreement came to an end (or such earlier period agreed by the Parties), then the Council will be entitled to deal with and dispose of those goods or equipment in its discretion.

30. CONFIDENTIAL INFORMATION AND FREEDOM OF INFORMATION

- 30.1 Subject to clause 30.2, each of the Parties agrees that it will not use any Confidential Information of the other Party or allow any Confidential Information of the other party to be used for any purpose whatsoever, except for the purposes of and in the manner contemplated by this Agreement, and agrees that it will:
 - 30.1.1 keep confidential;
 - 30.1.2 take reasonable steps to ensure that the party's officers and employees do not disclose to a third party;
 - 30.1.3 maintain proper and secure custody of; and
 - 30.1.4 not use or reproduce in any form,

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any Confidential Information belonging to the other Party. Any departure from a party's obligations pursuant to this clause may only be with the written consent of the other Party or as required by law or the terms of this Agreement.

30.2 Notwithstanding clause 30.1, both Parties consent to the disclosure of Confidential Information in the following circumstances:

- 30.2.1 in Council reports and at meetings of the elected members of the Council provided that the Council takes reasonable steps to maintain the confidentiality of such information;
- 30.2.2 where the Manager or the Council are legally required to do so under any law including to the extent required by the rules of any recognised stock exchange or in the course of legal proceedings;
- 30.2.3 in any Court matter or Government application that is connected to this Agreement;
- 30.2.4 to professional advisers of the Manager or the Council for the purposes of obtaining advice relating to the Manager's or the Council's obligations under this Agreement;
- 30.2.5 to any new potential operator or tenant of the Aquatic Centre, including as part of any procurement process of the Council, excluding however any information which the Manager has designated as commercial in confidence on the basis that:
 - (a) it relates only to the financial affairs and operations of the Manager (including the details of its submission in response to the procurement process for this Agreement) and is not relevant to the Aquatic Centre; or
 - (b) it contains proprietary systems or Background IP owned by the Manager;
- 30.2.6 where the Confidential Information has been included in any reports given to the Council by the Manager as required by this Agreement, the Council may use and disclose this information for all purposes as needed for the proper administration, management and operation of the Aquatic Centre; and
- 30.2.7 to the extent that such information is already or becomes in the public domain without breach of clause 30.1.

30.3 The Manager acknowledges and agrees that the Council may use Intellectual Property Rights and Data vested in or otherwise owned by the Council (including because of clause 18.1) as it sees fit and for any purpose.

30.4 The *Freedom of Information Act 1991 (SA) (FOI Act)* gives members of the public rights to access Council documents. The FOI Act promotes openness in governance and accountability of government agencies and to achieve these objects confers on members of the public a legally enforceable right to be given access to documents, including Agreements, held by the Council subject but not limited to such restrictions as are consistent with the public interest, commercial in confidence and/or necessary for the preservation of personal privacy in respect of those from whom information is collected and held by the Council and other public authorities.

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- 30.5 The Manager consents to any disclosures made as a result of the Council complying with its obligations under the FOI Act, subject to any legally required consultation.
- 30.6 For the purposes of the FOI Act, the following are confidential (**Confidential Sections**):
 - 30.6.1 All reports, information and Data provided to the Council by the Manager in accordance with, and for the purposes of, this Agreement.
- 30.7 Unauthorised disclosure of the Confidential Sections and the subject matter contained therein constitutes a breach of a party's obligations under this Agreement.

31. NO PARTNERSHIP OR AGENCY

The Parties acknowledge and declare that:

- 31.1 they are not in partnership;
- 31.2 no agency relationship is created; and
- 31.3 the Manager will operate and manage the Aquatic Centre as an independent contractor and that there will be no employment relationship between the Council and any employees, contractors or others engaged by the Manager in connection with the management and operation of the Aquatic Centre.

32. GENERAL

32.1 Co-operation and Good Faith

The Parties will liaise and consult, and deal with each other in good faith and generally cooperate with each other with a view to ensuring that the requirements and objectives of this Agreement are fulfilled in all respects.

32.2 Costs

The Parties will bear their own costs of and in connection with preparation, negotiation and finalisation of this Agreement.

32.3 Notices

Any notice required or permitted to be given or served under this Agreement must be in writing and will, without prejudice to any other mode of service, be treated as being duly given or served if it is:

- 32.3.1 left at the recipient party's address;
- 32.3.2 sent by pre-paid mail to the recipient party's address (in which case it will be deemed to have been given three Business Days after the date on which it was posted); or
- 32.3.3 sent by electronic mail to the recipient party's address,

and for the purposes of this a reference to an address means the party's principal and current business address which in the absence of notice to the contrary is deemed to be the address stated herein.

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32.4 **Variations**

No variation or waiver of, or any consent to any departure by either party from, a provision of this Agreement is of any force or effect unless it is confirmed in writing, signed by the Parties and then that variation, waiver or consent is effective only to the extent to which it is made or given.

32.5 **Waiver**

The failure, delay, relaxation, or indulgence on the part of either Party in exercising any power or right conferred upon that party by this Agreement does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other right or power under this Agreement.

32.6 **Entire Agreement**

This Agreement constitutes the sole and entire agreement between the Parties and no warranties, representations, guarantees or other terms or conditions of any nature not contained and recorded herein will be of any force or effect.

32.7 **Severance**

If any provision of this Agreement is invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of enforcement without regard to the invalid provisions will be and continue to be valid and enforceable in accordance with their terms.

32.8 **Governing law**

32.8.1 This Agreement is governed by the law in South Australia.

32.8.2 The Parties irrevocably submit to the exclusive jurisdiction of the courts in South Australia.

33. **DISPUTE RESOLUTION**

33.1 **General**

33.1.1 A Party must not commence arbitration or court proceedings (except for urgent equitable or injunctive relief) in respect of a dispute under this Agreement, unless it first attempts to resolve the dispute by negotiation and mediation under this clause.

33.1.2 A Party claiming that a dispute has arisen under this Agreement must give written notice to the other Party specifying the nature and details of the dispute.

33.1.3 On receipt of that notice by the other Party, the Parties must negotiate in good faith to resolve the dispute.

33.1.4 If the Parties are unable to resolve, or have agreed on a defined process for resolution, the dispute within 10 business days, they must promptly refer the dispute:

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- (a) in the case of the Council, to the Chief Executive Officer; and
- (b) in the case of the Manager, to the Chief Executive Officer

33.1.5 Those persons must meet to resolve the dispute and must be authorised to resolve the dispute.

33.2 **Mediation**

33.2.1 If those persons are unable to resolve the dispute within 10 business days of referral, a Party may refer the dispute for mediation under the mediation rules of the Law Society of South Australia Inc to:

- (a) a mediator agreed by the Parties; or
- (b) if the Parties are unable to agree a mediator within five Business Days, a mediator nominated by the President of the Law Society or the President's nominee.

33.2.2 The role of a mediator is to assist in negotiating a resolution of the dispute. A mediator may not make a decision that is binding on a Party unless that Party has agreed in writing.

33.2.3 Any information or documents disclosed by a Party under this clause:

- (a) must be kept confidential; and
- (b) may not be used except to attempt to resolve the dispute.

33.2.4 Each Party must bear its own mediation costs. The Parties must bear equally the costs of any mediator.

33.3 **Expert Determination**

33.3.1 **General**

- (a) If a dispute is unable to be resolved within 10 Business Days of referral to a mediator pursuant to clause 33.2, the Parties may agree to:
 - (a) jointly appoint an expert to decide the dispute; or
 - (b) ask the appropriate body under clause 33.3.2 to appoint the expert.
- (b) In deciding the dispute, the expert must act as an expert and not as an arbitrator.

33.3.2 **Selecting expert**

The expert must have at least 10 years current and continuous standing in the expert's profession at the date of the appointment and must be:

- (a) in the case of a legal matter, a practising barrister or solicitor appointed by the President of the appropriate governing body of barristers or solicitors;

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- (b) in the case of a financial or accountancy matter, a practising chartered accountant appointed by the President of the Institute of Chartered Accountants in Australia;
- (c) in any other case, a qualified person appointed by the senior officer of an appropriate association, institute, society or board; or
- (d) if appropriate, a panel of experts representing more than one of the appropriate skills.

33.3.3 ***Expert's decision***

The expert must give written reasons for the decision. The decision is final and binds the Parties except for any manifest error.

33.3.4 ***Expert's fees***

The Parties must each pay one half of the expert's fees, unless the expert decides that one party should bear all or a greater part of the fees.

33.3.5 ***Replacement expert***

If the expert appointed is unable to complete a decision of the dispute, another expert must be appointed under this clause to decide the dispute

33.4 **Performance**

If possible, each party must perform its obligations under this Agreement during negotiations, mediation and arbitration proceedings.

34. **GST**

- 34.1 Unless otherwise provided, all amounts specified in this Agreement are expressed to be exclusive of GST.
- 34.2 If GST applies to any Supply made by either party under or in connection to this Agreement, the consideration (or payment) provided or to be provided for that Supply will, upon production by the Supplier of an appropriate tax invoice, be increased by an amount equal to the GST liability properly incurred by the party making Supply.
- 34.3 If a payment to a party under this Agreement is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that Party, then the amount of the payment must be reduced by the amount of any input tax credit to which that Party is entitled for that expense or other liability, such reduction to be effected before any increase in accordance with the previous subclause.
- 34.4 Each party here warrants that at the time any Supply is made under this Agreement on which GST is imposed they are or will be registered under the GST Law. If the other party requests written evidence and registration, the first party will properly produce evidence satisfactory to the other party of such registration.
- 34.5 If an adjustment event has occurred in respect of a taxable supply made under this Agreement, any party that becomes aware of the occurrence of that adjustment event must notify each other party to that taxable supply as soon as practicable, and all of those parties agree to take whatever steps are necessary (including to issue an

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adjustment note), and to make whatever adjustments are required, to ensure that any GST or additional GST on that taxable supply, or any refund of GST (or part thereof), is paid no later than 28 days after the Supplier first becomes aware that the adjustment event has occurred.

35. SECURITY

- 35.1 The Manager must provide the Security to the Council within seven days of the Agreement Commencement Date.
- 35.2 The Council may have recourse to the Security, subject to giving prior reasonable written notice to the Manager, if the Manager fails to comply with any of its obligations under this Agreement.
- 35.3 Without limiting the rights of the Council under clause 35.2, the Council may deduct from the Security any sum payable to the Council under the terms of this Agreement.
- 35.4 In the event that the Council has recourse to the Security then the Council must notify the Manager within 14 days thereafter.
- 35.5 The Security will be returned to the Manager within one month of the conclusion of the Agreement Term providing and subject to all liabilities and obligations of the Manager arising under this Agreement having been met.
- 35.6 If the Council has applied the Security or any part thereof to rectify or part rectify any breach of, or failure under, this Agreement the Manager must within 30 days of service of the notice on the Manager pursuant to clause 35.4 provide a replacement Security or "top up" of the same amount to be held on the same terms, to the intent that the Security will be maintained in the amount specified within this Agreement.
- 35.7 The Manager irrevocably appoints the Council as its attorney to do any acts and execute any documents that may be necessary to ensure payment of the whole or part of the Security to the Council.
- 35.8 If the Manager fails to meet its obligations under this clause 35, the Council may immediately terminate this Agreement by written notice to the Manager.

36. FORCE MAJEURE

- 36.1 In this Agreement, an **Event of Force Majeure** means:
 - 36.1.1 the outbreak of hostilities (whether or not accompanied by any formal declaration of war), riot, civil disturbance or acts of terrorism;
 - 36.1.2 the act of any government or competent authority (including the cancellation or revocation of any approval, authority or permit);
 - 36.1.3 fire, explosion, flood, inclement weather, or natural disaster
 - 36.1.4 the declaration of a state of emergency or the invocation of martial law having an effect on commerce generally;
 - 36.1.5 industrial action (including strikes and lock-outs) that is of a widespread nature affecting the Manager personally or the industry or sector of which the Manager is a part (whether in a vertical sense or horizontal sense);

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36.1.6 any other cause, impediment or circumstance beyond the reasonable control of any party:

- (a) which was not reasonably foreseeable as at the Agreement Commencement Date;
- (b) whose consequences could not be avoided in this Agreement; and
- (c) which makes performance of this Agreement impossible, not merely more onerous or uneconomic;

however, does **not** include any event or circumstance which the Manager ought to have reasonably foreseen as at the Agreement Commencement Date from or as a result of the Existing Conditions.

36.2 Where an Event of Force Majeure takes place, the Party claiming this must (**Notifying Party**):

- 36.2.1 immediately notify the other Party of this and provide complete details of the Event of Force Majeure; and
- 36.2.2 notify the other Party within a reasonable time after the giving of notification under clause 36.2.1 of any methods or procedures known to it to circumvent the Event of Force Majeure.

36.3 Where an Event of Force Majeure takes place:

- 36.3.1 neither Party is liable to the other for any failure to perform their obligations under of this Agreement (except for the payment of money due and owing up to the date that notice is provided in accordance with clause 36.2);
- 36.3.2 the Notifying Party must use all reasonable endeavours to circumvent, remedy or abate the Event of Force Majeure;
- 36.3.3 the Parties must immediately pay each other any moneys that are due and owing under this Agreement as at the date that notice is provided in accordance with clause 36.2; and
- 36.3.4 the unperformed obligations of this Agreement are suspended for the duration of the Event of Force Majeure unless otherwise agreed by the Parties.

36.4 Where an Event of Force Majeure continues for a period of three months, the Parties must consult with a view to determining whether or not this Agreement should continue to be in force. If it is decided that the Agreement will continue, the Parties must also consult with each other on whether any amendments to the Agreement ought to be made in order to take into account the Event of Force Majeure.

36.5 If it is decided that this Agreement will not continue, the Council will not be liable for any costs, loss, expenses or damages incurred by the Manager, including any claim relating to loss of anticipated profits or unperformed Services.

36.6 Where an event of Force Majeure ceases, the Parties must immediately re-commence performing the duties that were affected by the Event of Force Majeure.

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36.7 In this clause, **Existing Conditions** means the impact of the wars in Ukraine and the Middle East (including with respect to goods and equipment supply and workforce availability) in the State of South Australia, Australia as at the Agreement Commencement Date.

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EXECUTED as an agreement.

**Signed for THE CORPORATION OF THE
CITY OF NORWOOD PAYNEHAM & ST
PETERS** by its authorised delegate in the
presence of:

.....
Signature of witness

.....
Signature of authorised delegate

.....
Name of witness (print)

.....
Name of authorised delegate (print)

.....
Position of authorised delegate

Executed by [insert] pursuant to section
127 of the *Corporations Act 2001 (Cth)*

.....
Signature of Director

.....
Signature of Director/Company Secretary
(Please delete as applicable)

.....
Name of Director (print)

.....
Name of Director/Company Secretary (print)

or

.....
Signature of Sole Director and Sole Company Secretary

.....
Name of Sole Director and Sole Company Secretary (print)

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Annexure A Aquatic Centre

Draft

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Annexure B Key Performance Indicators

To be confirmed during contract negotiations and informed by Tender responses

Pre-Opening Period

[insert]

Operating Period – first year

[insert]

Draft

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Annexure C Pre-Opening Services

To be informed by tender responses

Draft

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Annexure D Pre-Opening Services Budget

To be informed by tender responses

Draft

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Annexure E Minimum Operating Services Specifications

To be informed by tender responses and negotiated with NPSP

Draft

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Annexure F Three Year Budget

To be informed by tender responses

Draft

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Annexure G Operating Hours

To be informed by tender responses

Aquatic Centre (excluding Café)

[insert]

Café

[insert]

Draft

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Annexure H Responsibility Matrix

Subject to negotiation

Element	Council (Owner)	Operator (Manager)	Service Contract Responsibility (where applicable)
Building Structure	Structural integrity, major repairs	Periodic inspections, reporting defects	Council
Roofing & Gutters	Repairs, replacement, waterproofing, cleaning of gutters.	Reporting issues	Council
External Walls & Cladding	Maintenance of finishes, repainting	Visual presentation, cleaning	Council
Windows & Glazing	Replacement, repairs	External & internal window cleaning	Operator
Doors (External & Internal)	Replacement, structural repairs	Cleaning, lubrication, minor adjustments	Operator (minor), Council (major)
Flooring (Tiles, Concrete, Carpet)	Replacement, major repairs	Cleaning, minor repairs	Operator (cleaning), Council (repairs)
Ceilings & Internal Walls	Structural repairs, repainting	Cleaning, touch-ups	Operator (cleaning)
Lighting (Fixed)	Replacement of fixed lighting systems	Bulb replacement, cleaning of fittings	Council (infrastructure), Operator (cleaning, bulbs)
Electrical Systems (Hardwired)	Switchboards, wiring, upgrades	Testing & tagging of plug-in equipment	Council (hardwired), Operator (plug-in)
Plumbing & Drainage	Pipes, sewer, stormwater systems	Unblocking minor drains, reporting issues	Council
HVAC Systems	Major servicing, replacement, Filter cleaning, basic maintenance	Monthly checks, reporting faults	Council
Fire Systems	Installation, compliance upgrades	Monthly checks, reporting faults	Council
Security (Infrastructure & Services)	CCTV, alarms, access control systems	Monitoring, access management, patrol coordination	Council (infrastructure) Operator (services)
ICT Infrastructure (Cabling, Wi-Fi)	Backbone infrastructure	Daily operation, troubleshooting	Council
Pool Shell & Structure	Repairs, resurfacing	Daily inspection, reporting issues	Council
Pool Plant (Pumps, Filters, Dosing)	Replacement, major servicing	Daily operation, water testing, minor maintenance	Council (plant) Operator (operation)
Water Quality Systems	Compliance systems, upgrades	Daily monitoring, chemical dosing	Operator
Water Play Area	Structural repairs, resurfacing, upgrades	Daily operation, cleaning, safety checks	Council (structure), Operator (operation)

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Element	Council (Owner)	Operator (Manager)	Service Contract Responsibility (where applicable)
Water Slides	Structural integrity, mechanical systems	Daily operation, cleaning, safety checks	Council (structure), Operator (operation)
Furniture & Fixtures (Built-in)	Replacement, upgrades	Cleaning, minor repairs	Council (capital), Operator (presentation)
Loose Furniture & Equipment	Procurement, replacement	Cleaning, testing & tagging	Operator
Signage (Permanent)	Installation, replacement	Presentation, temporary signage	Council (permanent), Operator (temporary)
Horticultural Maintenance - within fenced area	Major works, tree management, irrigation systems, weeding, presentation	Reporting issues	Council
Horticultural Maintenance – external area incl garden beds (OG Road Frontage)	Design, structural changes, irrigation systems routine maintenance, weeding, presentation	Reporting issues	Council
Car park and external perimeter paths	Surface repairs, line marking, lighting infrastructure, street sweeping	Litter removal, cleanliness, reporting defects	Council (infrastructure), Operator (presentation)
Waste Management Infrastructure	Bins, enclosures	Daily waste removal, cleanliness	Operator (waste management contract)
Cleaning & Hygiene	N/A	All internal & external cleaning incl. amenities and hygiene services	Operator (cleaning contact including supply of consumables)
Pest Control	Structural pest treatment	Routine pest control services	Operator
Compliance & Audits	Building compliance, essential safety measures	Operational compliance, daily logs	Council (building), Operator (operations)

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Annexure I Manager Equipment

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Annexure J Public Health and Safety Plan

Draft

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Annexure K User Charges

To be informed by tender responses

Draft

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Annexure L Annual Operating Subsidy

To be informed by tender responses

Draft

13.2 BUILDING FIRE SAFETY COMMITTEE ANNUAL PERFORMANCE REPORT

REPORT AUTHOR: Manager, Development Assessment
APPROVED BY: General Manager, Urban Planning & Environment
ATTACHMENTS: A

PURPOSE OF THE REPORT

The purpose of this report is to provide for the Council's information, the outcomes of the operations of the Council's Building Fire Safety Committee, for the period 1 July 2024 to 30 June 2025.

The report also seeks an amendment to the membership of the Building Fire Safety Committee to include the Council's newly appointed Development Officer – Building, Samuel Larosa and an associated change to clause 2.1 of the Terms of Reference.

BACKGROUND

Local Government plays an important role in protecting the ongoing safety of building occupiers and users, through the provisions of the *Planning, Development and Infrastructure Act 2016*.

Section 157 of the *Planning, Development and Infrastructure Act 2016*, specifically places obligations upon an "Appropriate Authority" in relation to building fire safety. Specifically, it provides powers for "Authorised Officers" to investigate whether or not building owners are maintaining proper levels of fire safety in their buildings for the protection of all occupiers, whether the occupiers are residents or workers who use the buildings regularly, or clients and visitors who use the buildings occasionally.

For the purposes of Section 157 of the *Planning, Development and Infrastructure Act 2016* ('the Act'), an *Appropriate Authority* is a body established by a Council, or by two (2) or more Councils and designated by the Council or Councils, as an *Appropriate Authority*. In the case of the City of Norwood Payneham & St Peters, the Council has established the *Building Fire Safety Committee* as the *Appropriate Authority*.

If a building is not considered to be adequate from a building fire safety perspective, Section 157 of the Act, provides powers for the *Building Fire Safety Committee* to require remedial action to rectify any problems associated with the building.

In respect to this Council's Building Fire Safety Committee, at its meeting held on 4 September 2023, the Council resolved the following:

1. *That the report on the activity of the Council's Building Fire Safety Committee during the period commencing September 2022 and ending September 2023, be received and noted.*
2. *That the following persons be appointed to the City of Norwood Payneham & St Peters Building Fire Safety Committee for a period from March 2024 to March 2027:*
 - *Mr Troy Olds as a Presiding member of the Committee and a person with expertise in fire safety;*
 - *Mr Demetrius Poupoulas as a member of the Committee;*
 - *A primary person nominated by the Chief Officer (CO) of the SAMFS;*
 - *An alternate person (proxy) nominated by the Chief Officer (CO) of SAMFS; and*
 - *Mr Mario Hlavati as a person with qualifications in Building Surveying.*
3. *That Clauses 2.2 and 2.3 in the Committee's Terms of Reference be updated to reflect the new term of appointment for the existing Committee Members, in accordance with part 2 of this recommendation.*

This report sets out the outcomes of the Committee's operations during the period 1 July 2024 to 30 June 2025, in accordance with the Committee's current Terms of Reference.

An addition to the Committee's membership is also sought.

STRATEGIC DIRECTIONS

CityPlan 2030 Alignment

Outcome 2: Cultural Vitality

A culturally rich and diverse City, with a strong identity, history and sense of place.

Objective 2.4: Pleasant, well designed, and sustainable neighbourhoods.

Strategy 2.4.1: Encourage sustainable and quality developments and urban design outcomes.

FINANCIAL AND BUDGET IMPLICATIONS

The *Building Fire Safety Committee* has no specific budget allocation. Funds required to deal with enforcement matters are drawn from General Planning and Building Legal and Contractor Budgets (as required). Costs associated with the engagement of External Independent Members of the Committee, namely Mr Troy Olds and Mr Demetrius Poupoulas, are also allocated from General Planning and Building Legal and Contractor Budgets.

The approximate annual cost of investigating building fire safety matters, taking into account the professional fees which are paid to Mr Olds and Mr Poupoulas, ranges between \$5000 - \$10,000.

If enforcement action is required (due to non-compliance by a building owner) legal costs can escalate as required, to satisfactorily resolve the matter.

RISK MANAGEMENT

The establishment and operation of the Council's *Building Fire Safety Committee* is necessary and required to ensure that the Council fulfils its statutory obligations under the *Planning, Development and Infrastructure Act 2016*, with respect to building fire safety. A properly functioning Committee is necessary to enable the Council to undertake the roles and fulfil the responsibilities of an 'Appropriate Authority', pursuant to Section 157 of the respective Act.

As Elected Members may recall, the *Building Fire Safety Committee* has developed a risk assessment process which is intended to identify and select buildings of interest, based on risk assessment criteria contained in the Risk Assessment Process, which forms part of the Committee's Terms of Reference. The Risk Assessment Process specifies which buildings are of the highest risk, based on building classification, size and use.

The application of a Risk Assessment Process is important to ensure that the Council's *Building Fire Safety Committee* performs its duties under the *Planning, Development and Infrastructure Act 2016*, by prioritising matters based on an assessment of relative risk, rather than via random selection of buildings to review without defined reasoning for its investigations or prioritisation.

The Risk Assessment Process contained within the Terms of Reference, was endorsed by the Council at its meeting held on 18 January 2021.

CONSULTATION

Elected Members

The Council considered and endorsed the current Terms of Reference at its meeting held 18 January 2021 (with updates endorsed on 4 September 2023) and receives annual reports on the operation of the *Building fire Safety Committee*.

Community

Not applicable

Staff

Senior Development Officer, Building

Other Agencies

Not applicable.

DISCUSSION

Objects and Role of the Committee

The Committee essentially has an administrative function, established as a requirement pursuant to the *Planning, Development and Infrastructure Act 2016*, to administer building fire safety and acts as a compliance body in terms of enforcing the building fire safety provisions of the *Act*.

The focus of the Council's *Building Fire Safety Committee* is to ensure that buildings and its occupants within the city are adequately protected against fire. The Committee's activities are prioritised to ensure that firstly, there is a reasonable standard of safety for the occupiers of buildings. Secondly, the Committee seeks to ensure that appropriate controls are in place so that there is a minimal spread of fire and smoke within buildings. Thirdly, the Committee seeks to ensure that there is an acceptable fire-fighting environment and infrastructure provided within buildings.

The Committee applies a Risk Assessment Process (included in Terms of Reference) to identify the types of buildings that require inspections in order of priority. The Risk Assessment Process specifies which buildings are of the highest risk, based on building classification, size and use having regard to industry best practice, the Building Code of Australia (BCA) and the experience of the Committee Members in dealing with building fire safety issues.

Review of the Committee's Activities for the 2024-2025 Financial Year

In accordance with Part 3.10 of the Terms of Reference, an outline of the Committee's activities is provided in this report.

The Council's *Building Fire Safety Committee* met on five (5) occasions between July 2024 and June 2025. All Members attended all meetings of the Committee.

During the reporting period, eleven (11) buildings were subjected to fire safety investigations, some of which carried over from the previous reporting period and some newly added for investigation. Of these, six (6) fire safety matters were resolved, and two (2) buildings are currently subject to an Aluminium Composite Panel Cladding audit. In total, six (6) inspections were undertaken by the Committee during the reporting period.

Table 1 below contains specific details on the number of inspections undertaken of each building type during the reporting period. It must be noted, that some buildings required more than one inspection during the reporting period but they have not been reported separately.

TABLE 1: TYPES OF BUILDINGS INSPECTED DURING 2024-2025

Building Type	Number of Inspections
	September 2024 – September 2025
Supported Residential Facilities	0
Accommodation Buildings	3
Office Buildings	0
Hotels	0
Assembly Buildings	0
Other	3
TOTAL	6

A summary of the key statistics of the operation of the Building Fire Safety Committee during the period commencing July 2024 to end of June 2025, is set out below:

- the Committee has met on five (5) occasions;
- at the conclusion of the reporting period there were six (6) outstanding matters on the Committee's Agenda, including Aluminium Composite Panel Cladding (ACP) audit matters;
- there have been five (5) matters resolved in this reporting period;
- there were eight (8) outstanding matters in the previous reporting period (2023-2024); and
- there are two (2) buildings currently under investigation as a result of State wide Aluminium Composite Panel Cladding Audit.

Building inspections during the reporting period, focussed primarily on the environment (nature of the building use, floor layout, number of occupants, number of and distance to exits, etc.) and equipment provided within the buildings to facilitate the safe evacuation of occupants in the event of an emergency. Aspects such as fire and smoke compartmentalisation, exit provisions, smoke detection and alarm systems, emergency lighting and sprinkler protection systems were reviewed.

Currently (as at 10 January 2026), the Committee is dealing with fire safety matters associated with four (4) accommodation/residential buildings, one (1) funeral parlour building and one (1) warehouse building. Three (3) building fire safety matters were resolved during the reporting period, without the need to pursue legal action. Four (4) Fire Safety Defect Notices were issued in this reporting period under Section 157 of the *Planning, Development and Infrastructure Act 2016*. With respect to two (2) buildings containing Aluminium Composite Panel Cladding (ACP), the Committee is awaiting a report from a fire services engineer to enable it to consider the fire safety standard of acceptability for one building and another building is pending confirmation of the replacement of aluminium composite cladding.

A brief summary of the outstanding compliance matters being investigated by the Committee is set out below:

- three (3) storey residential/commercial building requiring replacement of existing aluminium composite cladding;
- a multi-storey apartment complex having ACP cladding continuous in a vertical plane;
- four (4) storey residential unit complex requiring extensive fire safety upgrades;
- short term accommodation building requiring SAMFS alarm monitoring;
- a funeral parlour pending fire defect notice due to extensive fire safety deficiencies; and
- warehouse building requiring extensive fire safety provisions installed.

The legislative requirement that allows a person two (2) months within which to provide a written response to the Committee regarding any Compliance Notices which are issued by the Committee, often makes it difficult to resolve issues within a short timeframe. Despite this limitation, the Committee continues to progress all enforcement matters with reasonable expediency and effectiveness.

In accordance with the 'Audit Methodology' contained within the current Terms of Reference, the Council's *Building Fire Safety Committee*, with the assistance and advice of suitably qualified Council Staff, is required to undertake an annual audit of buildings by systematically auditing one (1) suburb per annum. All buildings within that suburb which are identified as warranting investigation due to potential fire safety deficiencies, are required to be listed and investigated by the Committee following the audit. The investigations are required to be prioritised in accordance with risk analysis and identification as determined during the audit. However, this standard process was not followed in the 2024-2025 reporting period due primarily to a number of buildings being reported to the Committee by the SAMFS. The buildings reported by the SAMFS required investigation and this elevated the level of importance of these buildings, such that these priorities overrode the Committee's capacity to undertake their ordinary risk identification process.

Other Activities

Other than the responsibilities set out in Section 157 of the Act, the Committee has also been responsible for the recent audit of the buildings which contain a designated building product known as ACP (Aluminium Composite Panel). The audit, as initiated by the former State Government Department of Planning, Transport & Infrastructure ("DPTI"), (now PlanSA), has been primarily undertaken by the Senior Development Officer, Building and presented to the Committee for actioning.

The respective owners of all buildings which have been the subject of the Aluminium Composite Panel Cladding Audit, have received written correspondence and been advised of the audit and its outcomes. To date, the Committee is liaising with PlanSA regarding the progress of the audit and its outcomes. Two (2) matters arising from the audit and random investigations are ongoing.

Membership

As noted in the introductory section of this report, the Council has recently recruited an additional Development Officer – Building to assist in managing the assessment, inspection and building safety functions of Council.

It is appropriate for the Council's newly appointed Development Officer, Building – Mr Samuel Larosa, to be added as a member to the Building fire Safety Committee.

The recommendation below enables Mr Larosa's appointment and provides for an accompanying adjustment to clause 2.1 of the Terms of Reference.

Mr Larosa's Term of Appointment would be made to align with the expiry of the existing membership – March 2027.

OPTIONS

The Council can either choose to appoint Mr. Larosa to the Committee or it can choose not to.

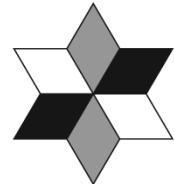
CONCLUSION

The Committee has been very efficient and effective in diligently actioning a range of on-going and complex enforcement matters. The effectiveness of the Committee's activities is reinforced by the results which have been achieved within this reporting period, being the completion of five (5) matters.

A methodical risk-assessment based approach has been applied by the Committee for several years and this has ensured that building fire safety risks have been afforded an appropriate level of attention. Whilst such risks cannot be entirely mitigated, the Committee's role and function is crucial in ensuring that buildings with vulnerable occupants are adequately protected against fire.

RECOMMENDATION

1. *That the report on the activity of the Council's Building Fire Safety Committee during the period 1 July 2024 to 30 June 2025, be received and noted;*
2. *That Mr Samuel Larosa – Development Officer, Building, be appointed as a Member to the Building Fire Safety Committee for a term up to and including 19 March 2027;*
3. *That Clause 2.1 of the Terms of Reference (Attachment A) be amended to record Mr Larosa's appointment as a Member of the Building fire Safety Committee.*



CITY OF NORWOOD PAYNEHAM & ST PETERS BUILDING FIRE SAFETY COMMITTEE

TERMS OF REFERENCE

**City of
Norwood
Payneham
& St Peters**

1. ESTABLISHMENT OF THE CITY OF NORWOOD PAYNEHAM & ST PETERS BUILDING FIRE SAFETY COMMITTEE

Pursuant to Section 157(17) of the *Planning, Development and Infrastructure 2016*, the Council establishes a body to be known as the City of Norwood Payneham & St Peters Building Fire Safety Committee ("Building Fire Safety Committee") for the purpose of acting as the "appropriate authority" (as the term is defined in the *Planning, Development and Infrastructure 2016*) in respect of all fire safety matters.

2. MEMBERSHIP

2.1 Membership of the Building Fire Safety Committee shall consist of –

- (i) Mr Troy Olds, being a person appointed by the Council as a person with expertise in the area of fire safety.
- (ii) Mr Demetrius Poupoulas, being a person appointed by the Council as a Committee member;
- (iii) a primary person nominated by the Chief Officer of the South Australian Metropolitan Fire Service;
- (iv) a person nominated by the Chief Officer of South Australian Metropolitan Fire Service to act as a proxy to the primary person; and
- (v) Mr Mario Hlavati being a person appointed by the Council and who holds prescribed qualifications in building surveying.

2.2 The Council has appointed Mr Troy Olds as the Presiding Member of the Building Fire Safety Committee for a term expiring 19 March 2027.

2.3 All members of the Building Fire Safety Committee are appointed for a term expiring 19 March 2027 or until Terms of Reference are varied under the PDI Act 2016 and endorsed by the Council.

- 2.4 The office of a member of the Building Fire Safety Committee will become vacant if the Member –
 - (i) dies; or
 - (ii) completes a term of office and is not reappointed; or
 - (iii) resigns by written notice addressed to the Council; or
 - (iv) is removed from office by the Council for any reasonable cause.
- 2.5 The Building Fire Safety Committee as established pursuant to the *Planning, Development and Infrastructure Act 2016*, shall not meet until after the day on which the Council's Development Plan is revoked by the Minister by notice in the Gazette pursuant to Clause 9(7) of Schedule 8 of the *Planning, Development and Infrastructure Act 2016*

3. TERMS OF REFERENCE

The Terms of Reference for the Building Fire Safety Committee are as follows:

- 3.1 the Building Fire Safety Committee is charged with the responsibility for all matters arising under Section 157 of the *Planning, Development & Infrastructure Act 2016*, which are of a building fire safety nature;
- 3.2 a quorum for a meeting of the Building Fire Safety Committee shall be three (3) and one of those members shall be the person nominated by the Chief Officer of the South Australian Metropolitan Fire Service;
- 3.3 all decisions made by the Building Fire Safety Committee shall be made on the basis of a majority decision of the members present. In an event of a tied vote, the Presiding Member is entitled to and shall exercise a second (and casting) vote to determine the matter;
- 3.4 the Building Fire Safety Committee shall meet at the Council's offices at 175 The Parade, Norwood, or at such other places as determined by the Building Fire Safety Committee from time to time;
- 3.5 the Building Fire Safety Committee shall meet quarterly or alternatively may hold a special meeting at any other time, on a day and at a time nominated by the Presiding Member;
- 3.6 a member of the Building Fire Safety Committee who has a personal interest or a direct or indirect pecuniary interest in any matter before the Building Fire Safety Committee (other than an indirect interest which exists in common with a substantial class of persons) must not take part in any deliberations or decisions of the Building Fire Safety Committee in relation to that matter;
- 3.7 the following provisions apply to the call of meetings:
 - a) in the case of an ordinary meeting of the Building Fire Safety Committee, the Chief Executive Officer must give each member of the Building Fire Safety Committee notice of a meeting at least three (3) clear days before the date of the meeting;
 - b) in the case of a special meeting on the Building Fire Safety Committee, the Chief Executive Officer must give each member of the Building Fire Safety Committee notice of a meeting at least twelve (12) hours before the commencement of the meeting; and
 - c) notice may be given to a member of the Building Fire Safety Committee by one of the following ways:

- personally;
- by posting it in an envelope addressed to the person at their usual or last known place of residence or business;
- by facsimile transmission to a facsimile number known to be used by the person; and
- by email transmission to an email address known to be used by the person.

3.8 each member of the Building Fire Safety Committee present at a meeting must, subject to that person having an interest in the matter, vote on a question arising from a decision at that meeting;

3.9 the Chief Executive Officer of the Council in respect to the Building Fire Safety Committee must keep, or arrange to be kept, minutes of every meeting of the Building Fire Safety Committee. The minutes of the proceedings and meetings of the Building Fire Safety Committee must include:

- a) the names of the members present;
- b) in relation to each member present, if the member was not present for the entire meeting, the time at which the person entered or left the meeting;
- c) its motion or amendments, and the names of the mover and seconder;
- d) whether a motion or amendment is carried or lost; and
- e) any disclosure of interest made by a member; and
- f) all matters considered by the Committee, including agendas and minutes will be recorded and stored electronically in the Council's Records Management System.

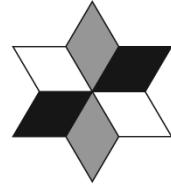
3.10 The Building Fire Safety Committee shall provide a report to the Council on an annual basis (by 31 September) outlining the Committee's activities, including the types of notices which have been issued, the outcomes of the respective notices, the number of inspections which have been undertaken and any outstanding matters that the Committee is currently pursuing.

3.11 The procedure to be observed at a meeting of the Building Fire Safety Committee insofar as the procedure is not prescribed by these Terms of Reference may be determined by the Committee.

3.12 The Committee shall follow a Risk Assessment Process (as contained in Appendix A), to assist in the selection and prioritisation of buildings which are to be inspected.

3.13 The Committee shall undertake an annual audit of buildings in accordance with the Audit Methodology specified in the Risk Assessment Process (contained in Appendix A) and include buildings identified in the audit within its inspection program.

APPENDIX A



**City of
Norwood
Payneham
& St Peters**

RISK ASSESSMENT PROCESS

CITY OF NORWOOD PAYNEHAM & ST PETERS

BUILDING FIRE SAFETY COMMITTEE

August 2020

PREFACE

The City of Norwood Payneham & St Peters Building Fire Safety Committee operates under the powers delegated by the Council to the Committee pursuant to Section 157 of the *Planning, Development & Infrastructure Act 2016*. Section 157 of the Act outlines the Council's powers to investigate whether building owners are maintaining adequate fire safety provisions in their buildings for the protection of all occupants.

The Council has delegated their responsibility under Section 157 of the Act to the City of Norwood Payneham & St Peters Building Fire Safety Committee.

The purpose of this document is to establish criteria to determine which types of buildings require an inspection in order to ensure that they maintain an adequate level of fire safety provisions to protect occupants and to also set out a framework to assist the Committee to prioritize the requirement for building fire safety investigations within the council, based on a risk assessment.

To undertake its duties as a Committee established under the *Planning, Development & Infrastructure Act 2016*, the Committee must:

- a) consider any building fire safety matters which are brought to its attention;
- b) inspect any building that the Committee has reason to believe may not contain adequate building fire safety provisions;
- c) consider the appropriateness of any submitted fire safety completion timeframes and agree to the timeframes when, in its opinion, adequate fire safety is proposed to be achieved in a timely manner;
- d) initiate and undertake enforcement or other action to ensure a building owner complies with any notices issued under Section 157 of the Act; and
- e) keep appropriate Committee records including minutes and agendas of Committee meetings.

Note: An adequate level of fire safety does not necessarily mean total compliance with the current Building Code of Australia or associated Australian Standards.

The Building Fire Safety Committee has adopted a risk based inspection regime that sets out the basis for undertaking inspections. Inspections may be carried out as a result of the following:

- a) upon request of the South Australian Metropolitan Fire Service (SAMFS);
- b) on an audit basis pursuant to the Committee's risk assessment;
- c) if a complaint is received; or
- d) if advice is received from an authorised officer of the City of Norwood Payneham & St Peters that a fire safety of a building is or may be deficient.

In determining its inspection and investigation priorities, the Building Fire Safety Committee will have regard to the types of buildings and/or occupancies within its area of jurisdiction to identify those that may constitute a high fire safety risk and need to be systematically inspected. For instance, aged care, health care and accommodation buildings, that provide overnight accommodation for unrelated persons, or buildings where large crowds congregate during operating hours, such as shops or assembly buildings may be identified as a high risk priority.

The risk of fire in any building needs to be considered in the context of the Committee's Terms of Reference in that the objective of the committee is not to make the buildings safe from fire but to ensure adequate protection of all the occupants is provided when a fire occurs. This goal is typically achieved by a combination of ensuring that the following items being correctly maintained, or if required - upgraded, replaced or installed. The most commonly occurring essential safety provisions are listed below;

- fire resistance of building materials, to ensure that the building resists the spread of fire, both externally and internally to ensure that a complete evacuation of the building can safely be carried out;
- alarm systems, sprinkler systems to ensure that occupants receive adequate warning to evacuate the building;
- egress requirements, to ensure that occupants have an unobstructed and clear exit from the building;
- exit and emergency lighting, to provide clear directions to exit the building safely; and
- fire hydrants, hose reels extinguishers, to allow the occupants if appropriate and the fire service to fight fires.

The occupants of the buildings are the people deemed to be at risk. Their resilience to risk also contributes to the level of risk to which they are exposed. Elderly, infirmed and the young are the least resilient to risk, followed by people either disorientated by sleep, alcohol or drugs. Therefore, buildings containing these vulnerable groups of people will be given the highest priority by the Committee.

In addition, the maintenance of the essential safety provisions as determined by Regulation 76 of the *Development Regulations 2008*, helps to provide a guidance on building sizes and classifications. In relation to Class 2 buildings of more than 3 storeys and a floor area greater than 200 square meters and Class 3, 4, 5, 6, 7, 8 & 9a, 9b, 9c buildings with more than 2 storeys and a floor area greater than 500 square meters, generally, the owner is required to provide a return of a completed Form 3 of Essential Safety Provisions certifying that the maintenance and testing has been carried out each calendar year. On occasions, it may be the tenant which is required to provide the return.

ARRANGEMENT FOR RISK ASSESSMENT

In order to develop a risk based inspection regime for the Building Fire Safety Committee, the following elements need to be considered against the potential risk - the size of the building, the age of the building, the use of the building, the ability of the occupants to exit the building in the event of a fire and the maintenance of the building.

If a building is for residential use or has a residential usage component, the risk increases as the time to evacuate a building is significantly increased for people which may be asleep at time of fire. This time frame and associated risk is significantly further increased if the occupants are frail or infirm and may need assistance to evacuate the building. Another factor that influences the ability of people to evacuate a building is if their mental and physical condition is affected by drugs or alcohol.

RISK MANAGEMENT PROCESS ADOPTED BY THE BFSC

Risk management is a systematic method of identifying and evaluating the risks associated with any activity or function to minimise or avoid losses.

Councils have a responsibility for protecting the ongoing safety of building occupiers and users through the provisions of the *Planning, Development & Infrastructure Act 2016*. Section 157 of the Act establishes the powers of Councils to investigate whether a building owner is maintaining proper levels of fire safety in buildings for the protection of all occupiers, whether they be residents, workers or visitors.

The risk management process set out below has been developed in line with the Council's Strategic Plan, *City Plan 2030: Shaping Our Future* to foster a strong, health and resilient community and to ensure that public buildings are safe. In developing these guidelines, AS/NZS ISO 31000:2009 (Risk Management Standard) has been closely followed.

RISK IDENTIFICATION

The risks associated with building fire safety have been based on potential risks that come under the control of the Building Fire Safety Committee, based on the experience of its members. A review of risk priorities will be continually monitored as more statistical data is recorded in the future.

TABLE 1 below sets out some examples of the risks and impacts that these may have.

TABLE 1: – RISK SOURCES

RISK SOURCE	IMPACTS	POSSIBLE CAUSES
Accommodation buildings	personal injury and property damage	inadequate fire safety provisions
Changes in use of buildings	longer evacuation times	lack of maintenance of fire safety equipment
	higher fire hazard	changes in ambulance of building occupants
Changes in number of occupants	Longer evacuation times	changes in nature of stored material
Non-maintenance ESP's	Fire safety equipment not operational	Insufficient exits
Civil liability claims	Personal injury or property damage	Lack of regular maintenance
		Incorrect advice
		Lack of resources to inspect
		Inadequate prioritisation
		Failure to follow up on referral

RISK ANALYSIS

Each issue that is brought to the attention of the Building Fire Safety Committee will be analysed to determine its urgency and assign a priority as reflected in the enclosed Building Fire Problem Flowchart based on risk analysis. Building fire safety matters which are initiated based on the risk audit process will be dealt with in the same process outlined in the Building Fire Problem Flowchart.

AUDIT METHODOLOGY

Implementing a proactive approach, the Building Fire Safety Committee with the assistance and advice of qualified Council staff, will undertake an annual audit of buildings and prioritise buildings of concern based on their use, classification and general fire safety in accordance with Council's risk analysis and identification. An audit will consist of a desktop or an

inspection based audit of buildings in each suburb of the City of Norwood Payneham & St Peters.

One (1) suburb will be systematically audited per annum, generally in January each year. All buildings of concern which are identified as warranting investigation due to potential fire safety deficiencies will be listed and investigated by the Committee following the audit. The investigations will be prioritised in accordance with risk analysis and identification as determined during the audit.

INSPECTION POLICY

The Building Fire Safety Committee has developed a risk based approach (as opposed to the random inspection approach) to Building Fire Safety Inspections. Such an approach is complementary to one of the main aims of the *Local Government Act 1999*, which is to provide an overarching framework that, amongst other matters, establishes a structure for accountability, transparency and autonomy in decision making. Additionally, a risk based approach is considered more appropriate than a random approach as it identifies the level of risk to life, safety and property in that order of importance.

The following Risk Matrix has been developed by the Committee to identify the types of buildings that require inspections in order of priority. The Matrix priority has been determined having regard to industry best practice, the Building Code of Australia (B.C.A.) and the experience of the Committee members in dealing with building fire safety issues.

TABLE 2 below identifies the priority ranking of inspections that will be undertaken by the Committee:

TABLE 2: PRIORITY RANKING BASED ON BUILDING USE AND CLASSIFICATION

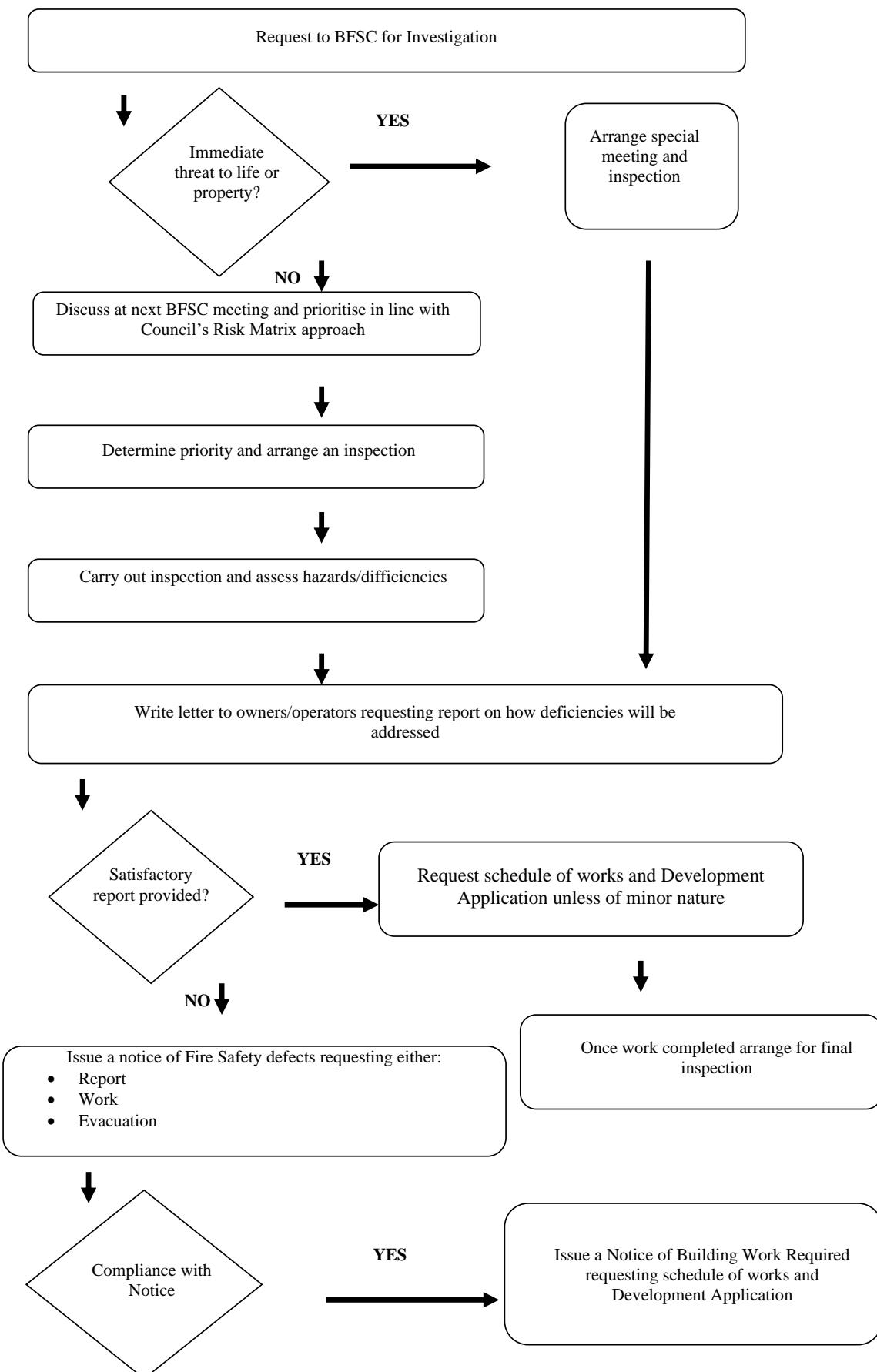
Building Types (Class'n in accord with BCA)	B.C.A. Classification	Priority Ranking for Inspections (Risk to life and property)
Accommodation Buildings	Class 1b, 2 & 3	3
Caretakers Flat (In association with Class 5–9)	Class 4	5
Office Buildings	Class 5	9
Shop Buildings (re Note 1)	Class 6	8
Storage Type Buildings	Class 7a & 7b	6
Production (Workshop) Buildings	Class 8	7
Health Care Buildings	Class 9a	1
Assembly Buildings	Class 9b	4
Aged Care Buildings	Class 9c	2

Notes:

1. Where shops are part of a large Shopping Centre Complex, a much higher priority will be given as determined by the Committee, similar to Assembly Buildings.
2. Class 1a buildings (Domestic Dwellings) are generally not inspected as they are not accessible to the public and hence have a lower risk to life and property than other classes of buildings.
3. The priority ranking system is based on a score of "1" representing the highest risk to life and property, and a score of "9" represents the lowest risk to life and property.

The Committee reserves the right to change the order of inspection priority on a case by case basis, but recognises that it will perform its duty on the basis of the risk based approach to its inspection regime.

BUILDING FIRE SAFETY PROBLEM FLOWCHART



13.3 COUNCIL ASSESSMENT PANEL ANNUAL PERFORMANCE REPORT

REPORT AUTHOR: Manager, Development Assessment
APPROVED BY: General Manager, Urban Planning & Environment
ATTACHMENTS: Nil

PURPOSE OF THE REPORT

The purpose of this report is to provide general commentary on the Council Assessment Panel's activities and performance for the period 1 July 2024 to 30 June 2025.

BACKGROUND

On 1 August 2017, the provisions of the *Planning, Development and Infrastructure Act (PDI Act) 2016*¹ relating to Council Assessment Panels commenced operation. As a result, all Councils were required to replace Development Assessment Panels with Council Assessment Panels comprising up to five Members, one (1) of whom may be an Elected Member.

The current membership of the Council Assessment Panel comprises:

- Mr Stephen Smith (Presiding Member)
- Mr Mark Adcock (Independent Member)
- Mr Ross Bateup (Independent Member)
- Mr Julian Rutt (Independent Member)
- Cr Christel Mex (Council Member)
- Mr Paul Mickan (Deputy Independent Member)
- Cr Kester Moorhouse (Deputy Council Member)

The current Members were appointed to the Council Assessment Panel by the Council at its meeting held on 2 April 2024, with their membership term expiring on 1 May 2026.

The Council has endorsed Terms of Reference for the operation of the Council Assessment Panel, which are available via the following web link:

https://www.npsa.sa.gov.au/files/12330_council_assessment_panel_terms_of_reference.pdf?v=226

In addition, the Council Assessment Panel has established its own Meeting Procedures, which are available via the following web link:

https://www.npsa.sa.gov.au/files/17660_final_version_cap_meeting_procedures_adopted_19_june_2023.pdf?v=312

STRATEGIC DIRECTIONS

CityPlan 2030 Alignment

Outcome 2: Cultural Vitality

A culturally rich and diverse City, with a strong identity, history and sense of place.

Objective 2.4: Pleasant, well designed, and sustainable neighbourhoods.

Strategy 2.4.2: Facilitate a mix of land uses in appropriate locations in balance with amenity and character.

FINANCIAL AND BUDGET IMPLICATIONS

Specialist External Members of the Panel receive a sitting fee of \$450 per scheduled Panel meeting and the Presiding Member receives a sitting fee of \$550 per meeting. The Council has also resolved that Elected Members who are appointed to the Panel will receive a sitting fee of \$450.

In this context, the cost of providing sitting fees to Panel Members is currently \$2,350 per meeting.

RISK MANAGEMENT

A *Code of Conduct for Assessment Panel Members* commenced operation on 1 October 2017. The Code of Conduct imposes Conflict of Interest provisions which are similar to those which existed previously under the *Development Act 1993*. To this end, in summary the new Code of Conduct prohibits Panel Members from:

1. engaging in consultation outside of the panel process with any party on a proposed Development Application that is likely to be heard by the Panel;
2. giving advice to an Applicant or other third party on a Development Application after it has been lodged outside of a panel meeting;
3. speaking at a public meeting for or against a proposal where the purpose of the meeting is to discuss either a proposed development or a Development Application unless required by the *Act*;
4. expressing an opinion on a Development Application or a proposed development outside of a panel meeting; and
5. engaging in any other act or omission which may give rise to a reasonable presumption that they have prejudged a development proposal or Application.

All Code of Conduct complaints concerning CAP Members are required to be made to and addressed by the State Planning Commission. Unlike the previous requirement under the *Development Act 1993*, Councils are not required to have a Public Officer for a Council Assessment Panel.

In addition to the *Code of Conduct*, several other measures are in place to effectively manage and where possible, mitigate risks associated with membership of, and the activities undertaken by, Council Assessment Panel members, including:

- Accredited Professionals Scheme – All Specialist Independent Members are required to be accredited at Level 2. The accreditation requirements impose ongoing professional development obligations. A *Code of Conduct* is also applicable to Accredited Professionals;
- Training – Training is regularly scheduled and available for Panel Members. Independent training providers offer relevant training courses, and generally, during each two (2) year Membership term, the Council will provide a tailored training session to Council Assessment Panel Members through Council's solicitors;
- Terms of Reference and Meeting Procedures – Both the Terms of Reference and Meeting Procedures for the Council Assessment Panel were reviewed and updated in the 2023 calendar year, providing an updated and detailed framework for Panel conduct and decision making.

CONSULTATION

Elected Members

Not Applicable.

Community

Not Applicable.

Staff

General Manager, Urban Planning & Environment.

Other Agencies

Not Applicable.

DISCUSSION

The Panel's Activities and Performance

The Panel met on eleven (11) occasions between 1 July 2024 and 30 June 2025. One (1) scheduled Ordinary Meeting (April 2025), was cancelled due to there being no items for determination.

During the twelve (12) month reporting period, eight hundred and eleven (811) Development Applications were lodged for development within the City of Norwood Payneham & St Peters.

The Panel considered thirty-one (31) items during the reporting period (twenty-six (26) of which were "new" Development Applications), which equates to approximately 3.8% of all Development Applications that were lodged. All other Development Applications were determined by the Assessment Manager as the relevant authority (and staff under delegation) or by the Assessment Manager (and staff under delegation) acting under the delegation of the Council Assessment Panel. A small number of applications were also determined by the State Commission Assessment Panel or private accredited professionals. It is also important to note that five (5) of the items considered by the Panel related to Environment Resources & Development Court Appeals and Reviews of Decisions made by the Assessment Manager.

The Panel considered eleven (11) Development Applications for commercial developments and fifteen (15) Development Applications for residential developments.

Some of the larger scale and/or more complex Development Applications which were considered by the Panel during the reporting period included:

- a mixed use, four (4) storey development at 263-277 Payneham Rd, Royston Park;
- the division of land and future use affecting a Local Heritage Place at 81 Osmond Tce, Norwood;
- demolition of an existing dwelling in a Historic Area at 48 Sixth Ave, St Peters; and
- demolition of a Local Heritage Place at 69 High St, Kensington.

Of the twenty-six (26) Development Applications that were considered by the Panel during the reporting period, three (3) Applications were refused by the Panel. Of the three (3) Applications which were refused, all were recommended for Planning Consent to be granted by the Assessing Planner.

Of the twenty-three (23) Applications that were approved by the Panel, all were determined in accordance with the recommendations made by the Assessing Planner. Overall, 12.9% of decisions made by the Panel, were contrary to staff recommendations. Accordingly, the vast majority of decisions made by the Panel are consistent with staff recommendations, which demonstrates a close alignment between the way in which staff and the Panel are interpreting and applying the provisions of the *Planning & Design Code*). This has remained consistent for several years.

Three (3) of the decisions that were made by the Panel during the reporting period, were appealed to the Environment Resources & Development (ERD) Court. Two (2) of those appeals have been resolved via a compromise, without proceeding to a Full Hearing. The remaining one (1) appeal has not yet been finalised, but the applicant is progressing a compromise proposal which will be considered by the Panel in due course.

Over the reporting period, the Panel considered two (2) reviews of the decisions made by the Assessment Manager. In both cases, the Panel determined to affirm the decision of the Assessment Manager. The process of reviewing the decisions of an Assessment Manager (where requested by an Applicant and allowed for under the *Planning, Development & Infrastructure Act 2016*) is considered to be functioning well, with applicants receiving a fair hearing and decisions being set aside where that is considered appropriate by the Council Assessment Panel.

In October 2024, the Panel resolved to adopt an updated Policy to guide the process for reviews of a decision of the Assessment Manager. Accordingly, the Panel no longer deliberates these matters in confidence and both the Applicant (and / or their representative) and the Assessment Manager are afforded the opportunity to be heard. These process improvements have been beneficial and enhances the transparency of the Panel's decision-making process.

Review of Delegations

The most recent review of delegations was undertaken by the Panel at its meeting held on 21 July 2025. While this is outside of the reporting period, it is still worth noting. The delegations from the Panel to the Assessment Manager had not been reviewed since initial implementation of the delegations in February 2021 and accordingly, a review was considered necessary and timely.

The Panel is the relevant authority for Development Applications that require public notification. However, the Panel is able to delegate authority to determine applications that require public notification to the Assessment Manager, in such circumstances as the Panel sees fit.

Prior to the most recent review, the Panel delegated decisions on all Applications for which it was the relevant authority, to the Assessment Manager, other than where valid representations were received which were in opposition to the proposal.

Following the review, the Panel determined to delegate authority to the Assessment Manager, to determine applications for which it is the relevant authority, in circumstances where:

1. no valid representations are received;
2. all valid representations are withdrawn (prior to the publication of the agenda);
3. no representor who has lodged a valid representation wishes to be heard (prior to the publication of the agenda);
4. a deemed consent notice has been served on the Panel under Section 125(2) of the Act;
5. the applicant has not agreed to extend the statutory timeframe within which the Panel must determine the development application pursuant to Regulation 53 of the Regulations and that timeframe will expire before the next meeting of the Panel is scheduled to occur.

In addition, and for the avoidance of doubt, the Panel further noted that the Assessment Manager may not exercise the power pursuant to Section 102(1)(a) of this Act (i.e. to grant Planning Consent) where the following apply:

- the application is proposed by the City of Norwood Payneham & St Peters unless it is contextually minor in nature such as street tree removals, reserve works, building alterations / additions, street and park furniture, signage, public toilets or other associated infrastructure works;
- the application is proposed by an Elected Member or Staff Member of the City of Norwood Payneham & St Peters and is, in the opinion of the Assessment Manager, for a significant form development (such as dwelling additions, a new dwelling or other more major forms of development);
- where the Assessment Manager determines that the nature of the application is best determined by the Panel, having regard to the type of application, the public interest, and the extent to which the proposed application meets the provisions of the Planning & Design Code.

It is considered that the above-mentioned delegations will maintain an effective decision-making framework. The delegations will continue to be reviewed periodically to ensure they are fit for purpose.

Procedural Issues and Meeting Efficiency

The Meeting Procedures for the Panel were reviewed in late 2024 / early 2025. An amended version of the Meeting Procedures was endorsed by the Panel at its meeting held on 17 February 2025.

The updated Meeting Procedures provided for minor changes only.

There were no significant procedural issues identified during the reporting period.

Planning Policy Issues / Trends

The Council Assessment Panel, as a relevant authority under the *Planning, Development & Infrastructure Act 2016*, is charged with undertaking assessments and making decisions in respect to Development Applications presented to it. Accordingly, the Panel is in an ideal position to take into account trends or issues with planning policy which may need to be presented to the Council for its consideration in respect to the relevant planning policy.

The Panel did encounter several anomalies in the planning policy applicable to its assessment activities, but none of such significance that would warrant immediate attention. However, there were several general observations about the relevant planning policy and the planning system that are worthy of consideration. Some of these are consistent with the observations and reporting of previous years, and others are more recent observations:

1. Loss of Tailored Policy – The shift from Development Plans (which contained bespoke policy that had been developed by Council over a number of years) to one over-arching policy framework applicable across the State has resulted in the loss of localised and specific policy, which had been tailored to particular localities and contexts.

As a result, the applicable planning policy is often very generalised, with numerical measures which may not suit particular localities and qualitative provisions which are too general in nature to provide for a useful guide. This has made assessment and decision making more problematic and more open to interpretation and challenge.

2. Planning for Context – As a result of a more generalised policy framework, the concept of “planning for context” has arisen during some of the Panel’s deliberations. That is, the importance of considering the Performance Outcomes in the Planning & Design Code in the context of the particular site and locality within which the development is proposed has informed the Panel’s decisions.

For example, a Performance Outcome may suggest “development should be compatible with the surrounding built form”. Whether that Performance Outcome will be achieved could be different depending on where the development is proposed and potentially different outcomes could result between two separate sites even if both are within the same zone.

To a certain extent, “planning for context” has always been required as part of development assessment, but the nature of the generalised policy framework now makes that more critical. The level of uncertainty this can create has done little to provide for a “simplified system” as per one of the goals of the original Expert Panel on Planning Reform in 2013.

3. Loss of Third Party Appeal Rights – The implementation of the new planning system has resulted in third party’s no longer having a right of appeal to the Environment Resources & Development Court should they disagree with a decision made by the Panel. As knowledge of the lack of appeal rights has spread, Council Assessment Panels are beginning to see a trend of more detailed and assertive representations.

It is also resulting in increased interest in procedural challenges through the judicial review process (where the decision-making process is challenged as opposed to the merits of the proposal).

4. Deferrals – As part of the planning system applicable under the *Development Act 1993*, it was not uncommon for the Panel to defer items for further information, or to enable reconsideration or negotiation of particular elements of the proposal, before the proposal was put back before a future meeting of the Panel.

This was often done to address a problematic element in a proposal, and in many cases, resulted in an enhanced development outcome. The Panel was unable to “re-design” a proposal, but the deferral process could be used effectively to address problematic issues.

The introduction of Deemed Consents in the new planning system established under the *Planning, Development & Infrastructure Act 2016* has unfortunately now meant that the Panel is generally unable to defer a matter – as doing so will often result in the exceedance of the legislated timeframe and result in the potential for a deemed consent to be issued.

Accordingly, where applicants previously may have been afforded an opportunity through a deferral to provide additional information / amendments, that opportunity now rarely exists and applications are instead being refused.

5. Demolition and Heritage – During the reporting period, the Panel was tasked with making decisions on several Development Applications which proposed the demolition of dwellings / buildings within the Historic Area Overlay.

There are numerous Performance Outcomes (PO) in the Planning & Design Code which such proposals are assessed against, but PO 7.1 is particularly relevant:

PO 7.1 – Buildings and structures, or features thereof, that demonstrate the historic characteristics as expressed in the Historic Area Statement are not demolished, unless:

- (b) *The front elevation of the building has been substantially altered and cannot be reasonably restored in a manner consistent with the building's original style or*
- (b) *The structural integrity or safe condition of the original building is beyond reasonable repair.*

The words “beyond reasonable repair” (and in the context of the Local Heritage Place Overlay – *irredeemably beyond repair*) have been the subject of considerable debate. Applicants and Council staff often source structural engineering reports to assist the Panel in their deliberations. The Panel has refused several Development Applications proposing demolition in the Historic Area Overlay and there is currently one (1) case on-going in the Environment Resources & Development Court regarding such decisions.

6. Multi-Storey Mixed-Use Development – The Council Assessment Panel has recently considered two (2) Development Applications for multi-storey mixed-use developments (one {1} of which was considered outside of the reporting period).

The State Planning Commission is the relevant authority for making decisions on buildings exceeding four (4) storeys in height where the Design Overlay applies – however that overlay does not apply in the Suburban Business Zone for example, where such development proposals are becoming more frequent.

The assessment of these proposals by the Panel has been comprehensive, with sensitive elements such as building height being carefully considered. It is likely the Panel will see additional proposals for such developments into the future

7. Historic and Character Area Statements – The Panel was tasked with numerous assessments of developments against the Historic and Character Area Overlay where Historic and Character Area Statements were applicable. Those statements apply to a specific portion of the Overlays and are intended to describe the attributes that create and contribute to the unique heritage or character value of an area.

The statements themselves are supported as a useful tool in the Code, but they often lack detail making their applicability in development assessment more complex.

The Panel noted that a greater level of detail and clarity in the statements would be ideal and would likely enhance the quality of future development outcomes, as well as providing clearer guidance to the development industry.

OPTIONS

This report is provided for information purposes only.

CONCLUSION

The Council Assessment Panel has discharged its responsibilities well, with meetings running efficiently and with a high degree of professionalism.

The Panel determined a vast majority of Development Applications in accordance with the staff recommendation, reflecting a continued high degree of consistency between staff and Panel assessment approaches, recommendations and final decisions.

Overall, the Council can be justifiably satisfied with the results which have been achieved and the Panel's operation during the reporting period.

RECOMMENDATION

That the report on the activities and performance of the Council Assessment Panel for the period 1 July 2024 to 30 June 2025, be received and noted.

13.4 PROCEDURAL AMENDMENT BY-LAW

REPORT AUTHOR: Manager Governance
APPROVED BY: General Manager, Governance & Civic Affairs
ATTACHMENTS: A

PURPOSE OF THE REPORT

The purpose of this report is to provide information to the Council to enable the Council to make the Amendment By-law, as requested by the Legislative Review Committee of the South Australian Parliament (the Legislative Review Committee).

BACKGROUND

Elected Members will recall that at its meeting held on 4 August 2025, the Council made the following By-laws:

- By-law 1 – Permits and Penalties 2025;
- By-law 2 – Moveable Signs 2025;
- By-law 3 – Roads 2025;
- By-law 4 – Local Government Land 2025;
- By-law 5 – Dogs 2025;
- By-law 6 – Waste Management 2025; and
- By-law 7 – Cats 2025.

The By-laws were subsequently published in the South Australian Government Gazette and commenced operation on 15 December 2025. The By-laws were also provided to the Legislative Review Committee, as required by the *Legislative Instruments Act 1978*.

On 24 October 2025, the Legislative Review Committee subsequently brought to the Council's attention, two minor typographical errors (in the *By-law 4 – Local Government Land 2025* and in the *By-law 6 – Waste Management 2025*).

To remedy these typographical errors, the Legislative Review Committee has requested that the Council make an Amendment By-law which will be *By-law 8 – Amendment By-law 2026* (Amendment By-law) as contained within **Attachment A**.

STRATEGIC DIRECTIONS

***CityPlan 2030* Alignment**

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

Not Applicable.

RISK MANAGEMENT

Not Applicable.

CONSULTATION

Elected Members

Elected Members were advised of the need for an Amendment By-law through a Memorandum dated 29 October 2025.

Community

As required by Section 249(1) of the *Local Government Act 1999* (the Act), community consultation has been undertaken on the Amendment By-law.

Staff

Nil.

Other Agencies

The draft Amendment By-law has been provided to the Secretariat of the Legislative Review Committee, who has confirmed that the Legislative Review Committee has noted the Council's commitment to progress an amendment to the *By-law 4 – Local Government Land 2025* and *By-law 6 – Waste Management 2025*, via the Amendment By-law and has determined not to take any action based on this position.

DISCUSSION

While the Amendment By-law is required only on the basis of correcting two (2) minor typographical errors as requested by the Legislative Review Committee, the Council is still required to follow the legislative process contained within Section 249 of the Act when making the By-law.

To this end, in accordance with Section 249(1) of the Act, community consultation was undertaken from 28 October 2025 until 19 November 2025. During this period no submissions were received.

Before the Council can make the Amendment By-law and in accordance with Section 249(4) of the Act, a legal practitioner must certify that the By-law can be made by virtue of the statutory powers available to the Council and that the By-law is not in conflict with the Act. In addition, Section 247(c) of the Act requires that a By-law made by a Council must avoid restricting competition to any significant degree.

In accordance with this requirement, a legal practitioner has certified the Amendment By-law and has confirmed, that there are no implications in respect to the National Competition Policy given that the By-law only serves to make minor amendments to existing Council By-laws for the purposes of correcting typographic errors (as requested by the Legislative Review Committee) and would not operate to restrict competition.

When the Council formally considers making the Amendment By-law, Section 249(3) of the Act requires that a resolution is passed by the Council at a meeting where at least two thirds of the Members of the Council are present and by an absolute majority of all Members of the Council. Since the Council currently comprises 14 Elected Members, at least 9 Elected Members must be present and the resolution must be supported by at least 8 Elected Members.

Once the Amendment By-law is made, the Chief Executive Officer will sign the By-law and the By-law will be published in the SA Government Gazette (the Gazette). The Council must also publish a notice of the making of the By-law in *The Advertiser*.

The Amendment By-law will then be referred to the Legislative Review Committee as required by the *Legislative Instruments Act 1978*.

OPTIONS

Not Applicable. The Amendment By-law has been requested by the Legislative Review Committee.

CONCLUSION

The Amendment By-law is being progressed to correct two (2) typographical errors in the Council's current By-laws. Once the Amendment By-law is made and Gazetted, the Amendment By-law will be included on the Council's website and in the Council's By-law Register.

To ensure that the public can review the *By-law 4 – Local Government Land 2025* and *By-law 6 – Waste Management 2025*, as amended, updated versions of these two (2) By-laws will be available on the Council's website. The Council's Register of By-laws will contain the original versions as well as *By-law 8 – Amendment By-law 2026*.

RECOMMENDATION

1. *In the exercise of the power contained in section 246 of the Local Government Act 1999, having satisfied the consultation requirements of that Act and after having had regard to the outcome of public consultation in relation to the proposed amending by-law (noting that no submissions were received and the Certificate of Validity provided by the Council's legal practitioner, the majority of Council, in the presence of at least two thirds of its members hereby makes and passes Amendment By-law 2026-By-law No. 8 contained in Attachment A.*
2. *That the Chief Executive Officer be authorised to take all necessary steps to give effect to the amending by-law including making any minor editorial or formatting amendments that may be necessary prior to it being published in the Government Gazette.*



Mr Mario Barone
Chief Executive Officer
City of Norwood Payneham & St Peters
(by email)

24 October 2025

Dear Mr Barone,

**Re: City of Norwood Payneham & St Peters Local Government Land By-law and
Waste Management By-law**

On Wednesday 15 October 2025, the Legislative Review Committee ('the Committee') considered the City of Norwood Payneham & St Peters Local Government Land By-law No 4 of 2025 ('the Local Government Land by-law') and the City of Norwood Payneham & St Peters Waste Management By-law No 6 of 2025 ('the Waste Management by-law'). The Committee took no action in relation to the by-laws but wanted to bring the typographical errors set out below to the attention of the Council.

The Committee noted a typographical error in subclause 9.5.1 of the Local Government Land by-law. The subclause states '... *this clause applies and* provided ...'.

The Committee also noted a typographical error in clause 10.8 of the Waste Management by-law, which states '... *an auhtoised* person ...'.

The Committee asks and would appreciate that the Council take steps to amend the by-law to address the errors or omissions mentioned above.

If you have any questions about the above or if the Committee can be of any assistance, please contact the Committee Secretary on 8237 9415.

Your sincerely,

**Hon. Reggie Martin MLC
PRESIDING MEMBER**

cc Ms Cimon Burke, Legal Practitioner, Kelledy Jones

13.5 PLANNING DELEGATIONS - LEGISLATIVE CHANGE UPDATES

REPORT AUTHOR: Manager Governance
APPROVED BY: General Manager, Governance & Civic Affairs
ATTACHMENTS: A - B

PURPOSE OF THE REPORT

The purpose of this report is to present the updated delegations for new provisions under the *Planning, Development and Infrastructure Act 2016* (the PDI Act) and statutory instruments, to the Council for approval.

BACKGROUND

Under the PDI Act and related statutory instruments (including the Regulations and Practice Directions), there are various functions and powers, which are vested in the Council, a Designated Authority, a Designated Entity or a Relevant Authority.

The Council has the ability to delegate many of its decision-making powers and functions under various pieces of legislation, including the PDI Act. The primary purpose of delegating powers and functions is to facilitate an efficient and effective organisation by allowing decisions to be made by the staff who carry out the day-to-day operations and to ensure that decisions are made at the appropriate level within the organisation and the decision making process.

Following recent legislative changes, new provisions associated with delegations are now presented to the Council for consideration and approval, namely:

- Instrument A, the *Instrument of Delegation under the PDI Act, Regulations, Planning & Design Code and Practice Directions of Powers of the Council as a Council, a Designated Authority and a Designated Entity* is contained within **Attachment A**.
- Instrument B, the *Instrument of Delegation under the PDI Act, Regulations, Planning & Design Code and Practice Directions of Powers of the Council as a Relevant Authority* is contained within **Attachment B**.

STRATEGIC DIRECTIONS

***CityPlan 2030* Alignment**

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

Not Applicable.

RISK MANAGEMENT

Not Applicable.

CONSULTATION

Elected Members

Not Applicable.

Community

Not Applicable.

Staff

Consultation on the delegation of the new provisions has been undertaken with the Council's Manager, Development & Regulatory Services.

Other Agencies

Nil.

DISCUSSION

Section 44(1) of the *Local Government Act 1999* (the LG Act), enables the delegation by the Council of powers and functions under the Act or any other Act or Regulations. Therefore, in general, if an Act does not contain an express power for the Council to delegate its powers and functions under that Act, then Section 44 of the LG Act may be used.

For the purposes of the PDI Act and statutory instruments, Section 44 (1) of the LG Act is used to delegate the powers and function of a Council, a Designated Authority or a Designated Entity. The powers and functions of the Council as Relevant Authority are delegated under Section 100(1) of the PDI Act.

Section 44(4) of the LG Act, provides that a delegation:

- is subject to conditions and limitations determined by the Council or specified by the Regulations;
- if made to the Chief Executive Officer, authorises the sub-delegation of the delegated power or function unless the Council directs otherwise and if made to anyone else authorises the sub-delegation of the delegated power or function with the approval of the Council; and
- is revocable at will and does not prevent the Council from acting in a matter.

Section 100(2) of the PDI Act provides that a delegation by the Council as a Relevant Authority:

- may be made subject to conditions or limitations specified in the Instrument of delegation; and
- if the Instrument of delegation so provides, may be further delegated by the delegate; and
- is revocable at will and does not derogate from the power of the relevant authority to act in any matter.

For a delegation to be granted under a statutory power of delegation, the Council must pass a resolution:

- identifying the delegate;
- identifying the powers and functions which are delegated; and
- specifying any conditions or limitations on the delegation.

The recommendation and Instruments attached have been prepared to ensure the Council appropriately delegates the new legislative provisions. The new provisions relate to various Council powers contained in the Regulations associated with the PDI Act which are specific to operational or administrative matters, for example binding arrangements in relation to the division of land by Community Title or Strata Title and the collection of fees for development assessed by an Accredited Professional. In addition, there are changes to various State Planning Commission Practice Directions which specify procedural requirements under the PDI Act:

Only the new legislative provisions that need to be delegated by the Council are included in the attached Instruments and other current delegations previously made by the Council remain in place.

OPTIONS

Delegations are an essential component in the operations of any organisation and an important governance requirement. Without the appropriate delegation of the Council's powers under the PDI Act, matters requiring decision under the PDI Act would need to be referred to the Council for decision and the task of running the Council's operations efficiently and effectively, would be made unnecessarily more difficult, complex, unwieldy and unsustainable.

It is recommended that the Council delegates the new powers and functions under the PDI Act and statutory instruments to the Chief Executive Officer to ensure that decisions under the PDI Act continue to be lawful.

The respective powers and functions may be sub-delegated by the Chief Executive Officer under Sections 44 and 101 of the Act or under Section 100(2)(c) of the PDI Act.

CONCLUSION

The Council's delegation of the new delegable powers and functions under the PDI Act, Regulations and Practice Directions is sought to ensure the Council complies with the PDI Act Objects and Functions.

RECOMMENDATION

1. *In exercise of the power contained in Section 44 of the Local Government Act 1999 the powers and functions under the Planning, Development and Infrastructure Act 2016 and statutory instruments made thereunder contained in the proposed Instrument of Delegation under the PDI Act, Regulations, Planning & Design Code and Practice Directions of Powers of the Council as a Council, a Designated Authority and a Designated Entity provided as Attachment A, are hereby delegated to the person occupying or acting in the office of Chief Executive Officer of the Council effective from 21 January 2026 and subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.*
2. *The Council notes that such powers and functions may be further delegated by the Chief Executive Officer in accordance with Sections 44 and 101 of the Local Government Act 1999 as the Chief Executive Officer sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.*
3. *In exercise of the power contained in Section 100 of the Planning, Development and Infrastructure Act 2016 the powers and functions under the Planning, Development and Infrastructure Act 2016 and statutory instruments made thereunder contained in the proposed Instrument of Delegation under the PDI Act, Regulations, Planning & Design Code and Practice Directions of Powers of the Council as a Relevant Authority provided as Attachment B, are hereby delegated to the person occupying or acting in the office of Chief Executive Officer of the Council effective from 21 January 2026 and subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.*
4. *The Council notes that such powers and functions may be further delegated by the Chief Executive Officer in accordance with Section 100(2)(c) of the Planning, Development and Infrastructure Act 2016 as the Chief Executive Officer sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.*

INSTRUMENT A

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING & DESIGN CODE AND PRACTICE DIRECTIONS OF POWERS OF A COUNCIL AS:

- **A COUNCIL;**
- **A DESIGNATED AUTHORITY;**
- **A DESIGNATED ENTITY**

Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

PLANNING, DEVELOPMENT AND INFRASTRUCTURE (TRANSITIONAL PROVISIONS) REGULATIONS 2017

1. Adoption of DPAs
1.1 The power pursuant to Regulation 8(1)(c) of the Planning, Development and Infrastructure (Transitional Provisions) Regulations 2017 (the Transitional Provisions Regulations) to apply to the Minister under Regulation 8 of the Transitional Provisions Regulations in accordance with any requirement determined by the Minister.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE (GENERAL) REGULATIONS 2017

2. Division of Land by Community Title or Strata Title
2.1 The power pursuant to Regulation 88(3) of the General Regulations to hold the security supporting a binding arrangement entered into by an applicant under Regulation 88 of the General Regulations.
2.2 The power pursuant to Regulation 88(4) of the General Regulations to return the security to the applicant as soon as reasonably practicable after its return is requested by the applicant if:
2.2.1 the Council or delegate is satisfied that the condition or requirement in relation to which the arrangement was entered into has been satisfied; and
2.2.2 the security has not been transferred to the relevant community corporation or strata corporation in accordance with Regulation 88(5) of the General Regulations.

INSTRUMENT A
INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING &
DESIGN CODE AND PRACTICE DIRECTIONS OF POWERS OF A COUNCIL AS: A COUNCIL, A
DESIGNATED AUTHORITY, A DESIGNATED ENTITY

2.3	The power pursuant to Regulation 88(4)(a) of the General Regulations to form the opinion and be satisfied that the condition or requirement in relation to which the arrangement was entered into has been satisfied.
2.4	The power pursuant to Regulation 88(5) of the General Regulations, if a condition or requirement in relation to which a binding arrangement was entered into has not been satisfied before the end of the developer control period, to, after the developer control period, transfer the security to the relevant community corporation or strata corporation for the purposes of the corporation using that amount to satisfy the condition or requirement.

January 2026 (for legislative provisions current - September 2025)

INSTRUMENT A
INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING &
DESIGN CODE AND PRACTICE DIRECTIONS OF POWERS OF A COUNCIL AS: A COUNCIL, A
DESIGNATED AUTHORITY, A DESIGNATED ENTITY

**STATE PLANNING COMMISSION PRACTICE DIRECTION 2 - PREPARATION AND
AMENDMENT OF DESIGNATED INSTRUMENTS**

3. Proposal to Initiate
3.1 The power pursuant to clause 6(1) of PD2 to include the following in the Proposal to Initiate:
3.1.1 Strategic Alignment
3.1.1.1 identification of the relevant principles or objectives of applicable State Planning Policies, Regional Plan, or other strategic directions, along with an assessment of how the proposed Amendment aligns with those strategies and policies;
3.1.2 Scope of amendment
3.1.2.1 an outline of the scope of the proposed changes to the designated instrument;
3.1.3 For Code Amendments an outline of:
3.1.3.1 any overlay, general development policy, zone, subzone or technical or numeric variation in the Code being proposed for amendment; and/or
3.1.3.2 the intended spatial application of an overlay, zone, subzone or technical or numeric variation in the Code over an identified area;
3.1.4 For Regional Plan Amendments:
3.1.4.1 an outline of any existing text, policies, actions/recommendations or other content in the Regional Plan that is proposed to be amended or inserted; and/or
3.1.4.2 details of any proposed changes to existing spatial layers, or the inclusion of new spatial layers;
3.1.5 A map or description of the Affected Area;
3.1.6 Consultation Requirements
3.1.6.1 Information regarding any consultation that has already

January 2026 (for legislative provisions current - September 2025)

INSTRUMENT A
INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING &
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	occurred with respect to the proposed Amendment;
3.1.6.2	Details of further consultation proposed to be undertaken with respect to the proposed Amendment;
3.1.7	Planning Merit Statement
3.1.7.1	A statement detailing how the proposed Amendment relates to strategic directions and outlines desired policy/development outcomes and anticipated residential/ employment yields;
3.1.8	Investigation Information
3.1.8.1	Information regarding any investigations which have already been undertaken with respect to the proposed Amendment;
3.1.8.2	For the purposes of a Code Amendment, or where a Regional Plan is proposing a recommendation to alter spatial application of Zones, Overlays or Subzones: (a) infrastructure (road, civil, corridor); (b) service infrastructure (water, wastewater, stormwater, electricity, gas, telecommunications); (c) cultural and heritage significance (search of the Register of Aboriginal Sites and Objects); (d) hazard risk (analysis of relevant policy and site conditions); and/or (e) the extent to which there are social, economic, land use, built form or environmental features that present a barrier to the outcomes sought;
3.1.9	High-level details of any infrastructure required to support development arising through the proposed Amendment and how that infrastructure will be provided (for example potable water and sewerage connection requirements);
3.1.10	Where known, details of any infrastructure agreement (or agreements) or infrastructure scheme which will need to be established or entered into in connection with the proposed Amendment.
4.	Publication Instructions

January 2026 (for legislative provisions current - September 2025)

INSTRUMENT A
INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING &
DESIGN CODE AND PRACTICE DIRECTIONS OF POWERS OF A COUNCIL AS: A COUNCIL, A
DESIGNATED AUTHORITY, A DESIGNATED ENTITY

4.1	The power pursuant to clause 8(1) of PD2 to set out the following in the SA Planning Portal Publication Instructions – for Initiation:
4.1.1	a plain English summary of the proposed Amendment which will be published on the SA Planning Portal; and
4.1.2	where possible, an indicative timeframe for the commencement of public consultation.
5. The draft Amendment	
5.1	The power pursuant to clause 11.2 of PD2 where an amendment to a Regional Plan contemplates a complying change under Section 75(1) of the PDI Act, to include in any recommendation in the Regional Plan Amendment, where applicable:
5.1.1	any existing overlay, zone, subzone in the Code within the Affected Area which is proposed to be amended; and
5.1.2	where relevant to the proposed change, an indication of development density and minimum and maximum building heights that may be applied to the Affected Area.
6. Preparation of an Engagement Plan	
6.1	The power pursuant to clause 12(2) of PD2 to submit an engagement plan to the Commission or the Minister for approval, if a condition has been imposed by the Minister under Section 73(5) of the PDI Act which requires such approval or an outline consent is being assessed against a relevant amendment in accordance with Practice Direction 18 – Outline Content.
7. Required Documentation	
7.1	The power pursuant to clause 13(1) of PD2 to, at the completion of engagement on a proposal to prepare or amend a Designated Instrument, provide the Department with:
7.1.1	if amendments to the proposal are required:
7.1.1.1	written instructions (in a form acceptable to the Department) that set out any changes to the draft Designated Instrument for the purposes of the Department updating and providing the draft policy for inclusion in the draft Designated Instrument; and/or
7.1.1.2	mapping instructions or a description of the Affected Area (in a

January 2026 (for legislative provisions current - September 2025)

INSTRUMENT A
INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING &
DESIGN CODE AND PRACTICE DIRECTIONS OF POWERS OF A COUNCIL AS: A COUNCIL, A
DESIGNATED AUTHORITY, A DESIGNATED ENTITY

	form acceptable to the Department) in order to enable the Department to prepare and provide to the Designated Entity, mapping which is suitable for inclusion in the draft Designated Instrument;
7.1.2	the updated draft Designated Instrument(s) or amendment to the Designated Instrument(s) in the form of amendment instructions (once finalised by the Designated Entity, incorporating any amendments); and
7.1.3	a final engagement report as required under Section 73(7) of the PDI Act and prepared in accordance with PD2, for the purpose of the Department arranging for the engagement report and draft Designated Instrument to be furnished to the Minister.
8. Engagement Report	
8.1	The power pursuant to clause 15(1) of Part 4 of PD2 to set out in an engagement report required under Section 73(7) of the PDI Act:
8.1.1	details of the engagement undertaken and how that engagement met the engagement plan and reasons for variations (if any) to the engagement plan;
8.1.2	the outcome of the engagement including a summary of the written submissions or feedback received;
8.1.3	any proposed changes to the proposal to prepare or amend a Designated Instrument(s) (when compared with the proposal that was engaged on) and the reasons for those proposed changes which specifically indicates:
8.1.3.1	where changes are proposed to the Designated Instrument(s) based on or as a result of the engagement; and
8.1.3.2	any other changes which are proposed based on or as a result of additional investigations or information which was not available when the proposal was released for engagement.
8.2	The power pursuant to clause 15(2) of PD2 to also include in the engagement report an evaluation of the effectiveness of the engagement that considers whether:
8.2.1	the principles of the Charter have been achieved; and
8.2.2	all mandatory requirements identified in the Charter have been met (where the consultation category is applicable).

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INSTRUMENT A
INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING &
DESIGN CODE AND PRACTICE DIRECTIONS OF POWERS OF A COUNCIL AS: A COUNCIL, A
DESIGNATED AUTHORITY, A DESIGNATED ENTITY

9. Lodgement Documentation
9.1 The power pursuant to clause 16(3) of PD2 to submit a completed Lodgement Form with the Department via the SA Planning Portal, to commence the process for a proposed Complying Change.
9.2 The power pursuant to clause 16(4) of PD2 to set out in the Lodgement Form:
9.2.1 <i>Affected Area</i>
9.2.1.1 a map of the Affected Area (confirming its consistency with the boundaries of the map(s) relating to the relevant Regional Plan recommendation);
9.2.2 <i>Code Mapping</i>
9.2.2.1 an outline of:
(a) any existing overlay, zone, subzone, concept plan or technical and numeric variation in the Code within the Affected Area which is proposed to be amended;
(b) the proposed spatial application of any overlay/s and/or amendment/s to the boundary of a zone or subzone; and
(c) any associated proposed application of a concept plan/s and/or all relevant technical or numeric variation/s within the Affected Area in connection with the proposed change outlined in clause 16(4)(c)(ii) of PD2;
9.2.3 <i>Regional Plan Recommendation</i>
9.2.3.1 a description of the relevant recommendation/s in the Regional Plan;
9.2.3.2 confirmation that the details outlined in clauses 16(4)(c)(ii) and (iii) of PD2 are consistent with the recommendation in the Regional Plan (where relevant); and
9.2.3.3 confirmation that a time period of not more than two years has elapsed since the relevant recommendation in the Regional Plan was given effect pursuant to Section 73(12) of the PDI Act (unless the Commission considers that a longer period shall apply for the purposes of clause 16 of PD2).

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10. Final Determination of the Minister	
10.1	The power pursuant to clause 18(1) of PD2 when consultation on a proposed Complying Change is complete, to provide the Department with:
10.1.1	if amendments to the proposal are required:
10.1.1.1	written instructions (in a form acceptable to the Department) that set out any changes to the Complying Change as it was initially proposed; and/or
10.1.1.2	mapping instructions or a description of the Affected Area (in a form acceptable to the Department) in order to enable the Department to prepare mapping which is suitable for inclusion in the Code;
10.1.2	the updated draft proposed Complying Change in the form of amendment instructions (once finalised by the Council, incorporating any changes); and
10.1.3	if any submissions were received, a consultation report to be furnished to the Commission.
10.2	The power pursuant to clause 18(2) of PD2 to set out in the consultation report in clause 18(1)(c) of PD2 all of the following:
10.2.1	the outcome of the consultation, including a summary of the written submissions or feedback received; and
10.2.2	any proposed changes to the Complying Change (when compared with the proposal that was consulted on) and the reasons for those proposed changes and specifically indicate:
10.2.2.1	where changes are proposed to the Complying Change as a result of the consultation; and
10.2.2.2	any other changes proposed as a result of additional investigations or information that was not available when the proposal was released for consultation.

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**STATE PLANNING COMMISSION PRACTICE DIRECTION – (COUNCIL SWIMMING
POOL SAFETY INSPECTIONS) 2025**

11. The power pursuant to clause 1(2) of Part 3 of the State Planning Commission Practice Direction (Council Swimming Pool Safety Inspections) 2025 (PD8) to ensure that an inspection under clause 2(1) of Part 2 of PD8 is carried out by a person who has the appropriate qualification, skills, knowledge and experience to carry out an inspection assigned to that officer under PD9.

SCHEDULE OF CONDITIONS

**CONDITIONS OR LIMITATIONS
APPLICABLE TO DELEGATIONS
CONTAINED IN THIS INSTRUMENT**

NIL

January 2026 (for legislative provisions current - September 2025)

INSTRUMENT B
INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS, PLANNING
AND DESIGN CODE AND PRACTICE DIRECTIONS
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INSTRUMENT B

INSTRUMENT OF DELEGATION UNDER THE
PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016, REGULATIONS,
PLANNING AND DESIGN CODE AND PRACTICE DIRECTIONS
OF POWERS OF A COUNCIL AS A RELEVANT AUTHORITY

Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

**PLANNING, DEVELOPMENT AND INFRASTRUCTURE (FEES, CHARGES AND
CONTRIBUTIONS) REGULATIONS 2019**

1. Development to be Assessed by Accredited Professional
1.1 The power pursuant to Regulation 13(3a) of the Fees Regulations, if an accredited professional has not elected to collect the compliance fee in accordance with Regulation 13(2)(a)(ii) of the Fees Regulations in respect of an application, to collect the fee.

STATE PLANNING COMMISSION PRACTICE DIRECTION 12 - CONDITIONS

2. Notification of Deemed Planning Consent Notice
2.1 The power pursuant to clause 6 of the State Planning Commission Practice Direction 12 – Conditions Consent (PD12), where a person has issued a Deemed Planning Consent Notice (the Notice) to the relevant authority pursuant to Section 125(2) of the PDI Act, to upon receipt of the Notice, provide a copy of the Notice to:
2.1.1 any other relevant authority that has given or is considering another development authorisation relating to the same development; and
2.1.2 if the application was referred to a prescribed body under Section 122 of the PDI Act – to that prescribed body or bodies; and
2.1.3 if the owner of land to which the application related is not a party to the application – to the owner of the land; and
2.1.4 if any person has made a representation to the relevant authority in

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respect of the proposed development – to that person or persons; and
2.1.5 in the case of restricted development, the Environment, Resources and Development Court.

SCHEDULE OF CONDITIONS

**CONDITIONS OR LIMITATIONS
APPLICABLE TO DELEGATIONS
CONTAINED IN THIS INSTRUMENT**

NIL

14 COMMITTEE REPORTS & RECOMMENDATIONS

Nil

15 OTHER BUSINESS

16 CONFIDENTIAL REPORTS

16.1 COMMUNITY RENEWABLE ENERGY OPPORTUNITIES INVESTIGATIONS

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -

- (i) 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
- (ii) would, on balance, be contrary to the public interest.

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 3

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report, discussion and minutes be kept confidential for a period of twelve (12) months, after which time the order will be reviewed.

17 CLOSURE