

**MINUTES OF TOWN OF GAWLER
ORDINARY COUNCIL MEETING
HELD AT THE COUNCIL CHAMBERS, GAWLER CIVIC CENTRE, INSTITUTE BUILDING 89-91
MURRAY ST, GAWLER SA 5118, AND AVAILABLE FOR VIEWING VIA VIDEO STREAMING
AT [HTTPS://WWW.YOUTUBE.COM/USER/TOWNOFGAWLER](https://www.youtube.com/user/townofgawler)
ON TUESDAY, 28 JULY 2020 AT 7:00PM**

PRESENT: Mayor Karen Redman, Cr Cody Davies, Cr Diane Fraser, Cr Kelvin Goldstone, Cr David Hughes, Cr Paul Koch, Cr Paul Little, Cr Brian Sambell, Cr Nathan Shanks, Cr Ian Tooley, Cr Jim Vallelonga

STAFF IN ATTENDANCE: Mr Henry Inat, Mr David Barrett, Mr Sam Dilena, Ms Erin Findlay, Mr Paul Horwood, Mr Ryan Viney, Mr Jack Darzanos, Ms Chris Haynes

1 STATEMENT OF ACKNOWLEDGEMENT

We would like to acknowledge this land that we meet on today is the traditional lands for the Kaurna people and that we respect their spiritual relationship with their country. We also acknowledge the Kaurna people as the custodians of the greater Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

2 ATTENDANCE RECORD

- 2.1 Roll Call
- 2.2 Apologies
Nil
- 2.3 Motions to Grant Leave of Absence

LEAVE OF ABSENCE

RESOLUTION 2020:07:COU248

Moved: Cr B Sambell

Seconded: Cr N Shanks

That a leave of absence is granted for Cr Fraser from 26 August to 30 August 2020, inclusive.

CARRIED UNANIMOUSLY

- 2.4 Leave of Absence
Nil
- 2.5 Non-attendance
Nil

3 PUBLIC OPEN FORUM

Mr Sam Shetler thanked Ms Ebony Steadman for her help in her position as Youth Development Officer and facilitating the Skateboard workshops. He also spoke regarding the NewStart Allowance.

4 DEPUTATIONS

Nil

5 DECLARATIONS OF INTEREST

Mayor Redman declared an interest in items 11.5 and 11.6

6 ADJOURNED ITEMS

Nil

7 PETITIONS

Nil

8 CONFIRMATION OF MINUTES

RESOLUTION 2020:07:COU249

Moved: Cr P Koch

Seconded: Cr D Hughes

That the minutes of the Ordinary Council meeting held on 23 June 2020 be confirmed as a true and correct record.

CARRIED UNANIMOUSLY

RESOLUTION 2020:07:COU250

Moved: Cr C Davies

Seconded: Cr P Little

That the minutes of the Special Council meeting held on 7 July 2020 be confirmed as a true and correct record.

CARRIED UNANIMOUSLY

RESOLUTION 2020:07:COU251

Moved: Cr I Tooley

Seconded: Cr C Davies

That the minutes of the Special Council meeting held on 13 July 2020 be confirmed as a true and correct record.

CARRIED UNANIMOUSLY

9 BUSINESS ARISING FROM MINUTES

Nil

10 COUNCIL MEMBER REPORTS

Cr Davies reported on attendance at Board meeting of Gawler and District College. Discussions took place on the pedestrian crossing outside of Bunnings and travelling too fast.

Mayor Redman reported on the events and engagements she had attended since the last Council meeting.

Cr Hughes reported on the Gawler Area Health Advisory Council meeting and will forward Minutes when available.

Cr Tooley reported on the Climate Reality model change and training just completed to 10,000 people. Jack Gill (GYAC) has applied to be a mentor.

MOTION

RESOLUTION 2020:07:COU252

Moved: Cr P Little

Seconded: Cr D Fraser

That the verbal reports be received and written reports be attached to the meeting Minutes.

CARRIED UNANIMOUSLY

11 OFFICER REPORTS

11.1 BOUNDARY REFORM PROPOSAL UPDATE

RESOLUTION 2020:07:COU253

Moved: Cr C Davies

Seconded: Cr P Little

That Council:-

1. Notes that advice received from the Boundary Commission's Office indicates that none of the Communities of Interest captured in the Council's proposed Boundary Reforms are to be considered administrative therefore Council is to proceed with the proposed boundary changes as a consolidated General Proposal.
2. Notes that Council has received clarification from the Boundaries Commission in regards to the level of consultation required in Stage 2 of the Boundary Change Proposal process.
3. Notes that as a result of Town of Gawler's request for clarification on the level of consultation required for a Stage 2 General Proposal submission, the Boundaries Commission has amended Council Boundary Change Proposal - Guideline No. 3 Submitting a General Proposal to the Commission. The Boundaries Commission recognised that an expectation for Councils to consult beyond their Local Government Area presented unique challenges therefore the impost on Councils to engage with Communities of Interest which are not within their current Local Government Area has been removed. Likewise the expectation to provide information regarding how affected Councils addressed the proponent's Boundary Change Proposal has also been removed from Guideline 3.
4. Adopts the updated Consultation and Communications Plan which has been updated since previously provided to Council and supported in principle under resolution 2019:11:COU421.
5. Approves the commencement of the Stage 2 Public Consultation phase as proposed in the Consultation and Community Plan with a 6 week consultation period occurring throughout September and October 2020.
6. Approves the Boundary Reform Discussion Paper which will be used as a key communication piece during the Public Consultation phase to be undertaken as part of the development of the Stage 2 General Proposal.
7. Notes that Light Regional Council submitted a Stage 1 Proposal to the SA Boundaries Commission for consideration and that the Commission determined that the Light Regional Council submission did not align with the Section 26 Principles for Boundary Change and therefore has advised that "a general proposal as outlined in the potential proposal cannot be referred for consideration."

8. Notes that the South Australian Boundaries Commission has provided correspondence to Town of Gawler, City of Playford and Barossa Council, as affected Councils under the Light Regional Council's Stage 1 Proposal for Boundary Change, to advise of the Commission's response provided to Light Regional Council in regards to their failed submission.
9. Notes that the Town of Gawler boundary reform proposal is the only Council proposal in South Australia to be progressing to a Stage 2 submission.

CARRIED

Cr Tooley called for a division:

The Mayor declared the vote set aside.

In Favour: Crs C Davies, D Fraser, K Goldstone, D Hughes, P Koch and P Little

Against: Crs B Sambell, N Shanks, I Tooley and J Vallelonga

CARRIED 6/4

The Mayor declared the motion CARRIED

11.2 STATUTES AMENDMENT (LOCAL GOVERNMENT REVIEW) BILL 2020

RESOLUTION 2020:07:COU254

Moved: Cr N Shanks

Seconded: Cr I Tooley

That Item 11.2 be deferred to a Special Council meeting to be advised.

CARRIED UNANIMOUSLY

At 8:08 pm, Cr Ian Tooley left the meeting.

At 8:09 pm, Cr Ian Tooley returned to the meeting.

11.3 LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM

RESOLUTION 2020:07:COU255

Moved: Cr D Hughes

Seconded: Cr P Little

That Council:-

1. Notes the Local Roads and Community Infrastructure Program Report
2. Notes the Town of Gawler is eligible to receive \$405,562 from the Australian Government Department of Infrastructure, Transport, Regional Development and Communications for the Local Roads and Community Infrastructure Program (LRCI) to assist delivery of community outcomes and economic stimulus.
3. Notes the Letter of Offer received from the Australian Government and due date of 31 July 2020 to accept the Grant Agreement and submit the Project Nomination forms.
4. Supports the nominated projects for the LRCI Program as detailed in this report toward the Installation of Shade Sails to Council Playgrounds (\$155,562) and extending the New Footpath Program (\$250,000).

5. Authorises the Mayor and CEO to sign the Local Roads and Community Infrastructure Grant Agreement and execute all other Local Roads and Community Infrastructure funding agreement documentation.

CARRIED UNANIMOUSLY

At 8:11 pm, Cr Paul Little left the meeting.

11.4 MURRAY STREET UPGRADE STAGE 7 UPDATE

RESOLUTION 2020:07:COU256

Moved: Cr D Hughes

Seconded: Cr D Fraser

That Council notes:-

1. Murray Street Upgrade Stage 7 Report.
2. The scope of the roads works will extend to the Council's road boundary immediately north of the Murray Street and Tenth Street intersection.
3. The delivery program for the Murray Street Stage 7 project.
4. That despite ongoing efforts of Council staff to engage with the Department of Planning Transport and Infrastructure (DPTI) to seek State Government funding for the upgrade of their controlled Adelaide Road/Twelfth Street intersection as part of the Council's works, over many years, that this remains unfunded and will now occur at a later time as determined by DPTI.
5. That a formal request be forwarded to the relevant Minister to consider the provision of additional funding for the upgrade of the Adelaide Road/Twelfth Street intersection as part of the Murray Street Stage 7 works.

CARRIED

At 8:20 pm, Cr Paul Little returned to the meeting.

Mayor Redman declared a perceived conflict of interest in 11.5 Local Government Association – Call for Nominations for Greater Adelaide Regional Organisation of Councils (GAROC) Members as she is a candidate for nomination to a position on GAROC and dealt with it by leaving the meeting

At 8:21 pm, Mayor Karen Redman vacated the Chair and left the meeting.

Cr Davies took the Chair.

11.5 LOCAL GOVERNMENT ASSOCIATION - CALL FOR NOMINATIONS FOR GREATER ADELAIDE REGIONAL ORGANISATION OF COUNCILS MEMBERS

RESOLUTION 2020:07:COU257

Moved: Cr D Hughes

Seconded: Cr K Goldstone

That Council:-

1. Notes the Local Government Association Greater Adelaide Regional Organisation of Councils nominations information provided by the Local Government Association of SA.

2. Authorises CEO Henry Inat to complete the nomination form with the nominee as Member of the Greater Adelaide Regional Organisation of Councils.
3. Resolves that Mayor Karen Redman be nominated as a Member of the Greater Adelaide Regional Organisation of Councils.

CARRIED

At 8:27 pm, Mayor Karen Redman returned to the meeting.

Mayor Redman declared a perceived conflict at item 11.6 Local Government Association President Nominations as she has nominated for the position and dealt with it by leaving the meeting.

At 8:27 pm, Mayor Karen Redman left the meeting.

Cr Davies remained in the Chair

Cr Koch called a Point of Order regarding Cr Tooley being disrespectful to the Mayor and CEO

Cr Davies upheld the Point of Order

Cr Koch called a Point of Order regarding Cr Tooley's being disrespectful to the Mayor and CEO again

FORMAL MOTION - THAT THE QUESTION BE PUT

RESOLUTION 2020:07:COU258

Moved: Cr K Goldstone

Seconded: Cr B Sambell

That the Question be put.

CARRIED

11.6 LOCAL GOVERNMENT ASSOCIATION PRESIDENT NOMINATIONS

RESOLUTION 2020:07:COU259

Moved: Cr P Koch

Seconded: Cr K Goldstone

That Council:

1. Notes the Local Government Association (LGA) President Nominations information provided by the Local Government Association of SA.
2. Endorses Mayor Karen Redman nomination for LGA President.
3. Further consider the position of Deputy Mayor if Mayor Redman is successful.

CARRIED

Cr Davies vacated the Chair

At 8:41 pm, Mayor Karen Redman returned to the meeting and took the Chair.

11.7 APPOINTMENT OF COUNCIL ASSESSMENT PANEL

RESOLUTION 2020:07:COU260

Moved: Cr K Goldstone

Seconded: Cr B Sambell

That Council:-

1. Appoints Dr Michael Llewellyn-Smith, as a fit and proper person who is appropriately qualified to act as a member of the assessment panel on account of his experience in local government, to the position of Presiding Member of the Council Assessment Panel for a period of two years from 1 October 2020 to 30 September 2022.
2. Authorise the Manager Development Environment and Regulatory Services to seek expressions of interest for the positions of Council Assessment Panel Independent Members (three positions) and Deputy Independent Member (one position) for a period of two years from 1 October 2020 to 30 September 2022, and to prepare a shortlist of suitably qualified applicants.
3. Appoint the Mayor, Cr Goldstone, Cr Shanks, Cr Hughes and Manager Development Environment and Regulatory Services as the Council Assessment Panel Member Selection Panel for the purposes of recommending to Council at a future meeting a preferred candidate for the position of Council Assessment Panel Independent Member (one position), and Deputy Independent Member (one position).
4. Requests the Mayor write to Dr Susan Shannon, thanking her for her service over the past five years.

CARRIED UNANIMOUSLY

The Mayor, with approval of two-thirds of the members present suspended the meeting procedures pursuant to the Local Government (Procedures at Meetings) Regulations 2013, for a short refreshment break and will resume at the discretion of the Mayor.

At 8.47pm the meeting suspended

At 8.58pm the meeting resumed

11.8 TOWN OF GAWLER - COVID-19 UPDATE

RESOLUTION 2020:07:COU261

Moved: Cr B Sambell

Seconded: Cr P Little

That Council notes:-

1. The Town of Gawler COVID-19 Update report.
2. The ongoing actions taken by the Administration, which has focused on both ensuring the health and safety of the community, staff and Council Members while also ensuring continuity of services to the community.
3. The administration will continue to liaise with the Local Government Functional Support Group and SA Health in preparation of a second wave of COVID-19.

CARRIED

11.9 SMALL BUSINESS FRIENDLY COUNCIL ANNUAL REPORT

RESOLUTION 2020:07:COU262

Moved: Cr I Tooley

Seconded: Cr N Shanks

That Council:

1. Notes the Town of Gawler's Small Business Friendly Council Initiative Annual Report for 1 June 2019 to 31 May 2020.
2. Commissions a survey of Gawler's small business community in order to gauge the effectiveness of the Town of Gawler's initiatives, as reported in the Small Business Friendly Council Initiative Annual Report and to also gauge the "wellbeing" of our small businesses
3. Seeks the involvement of the Gawler Business Development Board in the abovementioned survey.

CARRIED UNANIMOUSLY

Cr Shanks has declared a material conflict in item 11.10 Gawler Caravan Park Upgrade Update because the company he works for may tender for the project and dealt with it by leaving the meeting.

At 9:12 pm, Cr Nathan Shanks left the meeting.

11.10 GAWLER CARAVAN PARK UPGRADE UPDATE

RESOLUTION 2020:07:COU263

Moved: Cr B Sambell

Seconded: Cr P Koch

That Council notes:-

1. The Gawler Caravan Park Upgrade Update Report.
2. The shed upgrades and remediation works proposed for the Gawler Caravan Park as part of the lease extension/renegotiation.
3. The design for the new Caravan Park Entrance way.
4. The Shed Upgrade and Remediation Works to be undertaken in the 2020/21 Financial Year and delegation made to the Chief Executive Officer which will be used to allocate \$136,850 for this work.
5. The additional remediation of the Entranceway to be undertaken in the 2021/2022 Financial Year and delegation made to the Chief Executive Officer which will be used to allocate \$22,150 for the Council's component of this work.
6. And endorses the removal of the unregulated tree adjacent to the Caravan Park entrance.

CARRIED UNANIMOUSLY

At 9:20 pm, Cr Nathan Shanks returned to the meeting.

11.11 GAWLER CIVIC CENTRE APRIL TO JUNE 2020 QUARTER UPDATE

RESOLUTION 2020:07:COU264

Moved: Cr D Fraser

Seconded: Cr D Hughes

That Council;

1. Notes the Gawler Civic Centre April to June 2020 Quarter Update report.
2. Acknowledges the importance of providing programs at the Gawler Civic Centre and the community and economic benefits that are gained from these programs.
3. Accepts that Gawler Civic Centre performance programs may not achieve cost recovery in the short to medium term due to COVID-19 impacts.

CARRIED

11.12 WAIVER TO LAND MANAGEMENT AGREEMENTS 11551398 & 11558086 TO ALLOW REMOVAL OF NON-REGULATED TREE

RESOLUTION 2020:07:COU265

Moved: Cr K Goldstone

Seconded: Cr D Fraser

That Council waive the requirements pertaining to tree protection contained within:

- a. Land Management Agreement with reference 11558086; and
- b. Land Management Agreement with reference 11551398

and thus allow for the removal of one non-regulated tree (tree 20) at lot 805 Murray Hillier Court (CT 6229/438).

CARRIED UNANIMOUSLY

12 RECOMMENDATIONS FROM COMMITTEES

12.1 RECOMMENDATIONS FROM GAWLER YOUTH ADVISORY COMMITTEE MEETING HELD ON 1 JUNE 2020

Item 7.2 - Youth Development Officer Verbal Report

RESOLUTION 2020:07:COU266

Moved: Cr N Shanks

Seconded: Cr C Davies

That Council notes the Motion from the Gawler Youth Advisory Committee made at item 7.2 of the meeting of that Committee meeting held on 1 June 2020, being:

That the Gawler Youth Advisory Committee notes the verbal update provided by the Youth Development Officer.

CARRIED UNANIMOUSLY

Item 6.1 - Appointment of Members

RESOLUTION 2020:07:COU267

Moved: Cr N Shanks

Seconded: Cr C Davies

That Council adopts the recommendation from the Gawler Youth Advisory Committee made at item 6.1 of the meeting of that Committee meeting held on 1 June 2020, being:

That the Gawler Youth Advisory Committee recommends to Council that:

1. Council accepts resignations to the Committee from Luke Mollet and Andrew Welch, and thanks Luke Mollet and Andrew Welch for their contributions to the Committee.
2. Council receives expression of interest from Jack Gill, Renee Chamberlain, Grace Gallagher and Emilia Muriti for membership to this Committee.
3. Having considered the nominations of the candidates for the four vacant Committee positions, the Gawler Youth Advisory Committee recommends to Council that:
 1. Jack Gill
 2. Renee Chamberlain
 3. Grace Gallagher
 4. Emilia Muriti

be appointed to the Gawler Youth Advisory Committee for a period of two years.

CARRIED UNANIMOUSLY

Item 7.1 - National Career Institute Partnership Grants Round One

RESOLUTION 2020:07:COU268

Moved: Cr N Shanks

Seconded: Cr D Hughes

That Council adopts the recommendation from the Gawler Youth Advisory Committee made at item 7.1 of the meeting of that Committee meeting held on 1 June 2020, being:

That the Gawler Youth Advisory Committee recommends to Council that it supports the further investigation and application to the National Careers Institute Partnership Grants Round One.

CARRIED UNANIMOUSLY

12.2 RECOMMENDATIONS FROM GAWLER YOUTH ADVISORY COMMITTEE MEETING HELD ON 6 JULY 2020

Item 7.2 - Youth Development Officer Verbal Report

RESOLUTION 2020:07:COU269

Moved: Cr D Fraser

Seconded: Cr N Shanks

That Council notes the recommendation from the Gawler Youth Advisory Committee made at item 7.3 of the meeting of that Committee meeting held on 6 July 2020, being:

That the Youth Development Officer's verbal report be noted.

CARRIED UNANIMOUSLY

Item 6.1 - Youth Portal content transition and opportunities via the Town of Gawler website

RESOLUTION 2020:07:COU270

Moved: Cr C Davies

Seconded: Cr N Shanks

That Council adopts the recommendation from the Gawler Youth Advisory Committee made at item 6.1 of the meeting of that Committee meeting held on 6 July 2020, being:

That the Gawler Youth Advisory Committee (GYAC) recommends to Council that:

1. Use of the Youth Portal cease and relevant information from the portal be transferred to the Town of Gawler website.
2. That the domain name is to be kept and that traffic to the Youth Portal be redirected to the Youth page on the Town of Gawler website

.CARRIED UNANIMOUSLY

12.3 RECOMMENDATIONS FROM GAWLER HERITAGE COLLECTION COMMITTEE MEETING HELD ON 9 JULY 2020

Item 6.1 - Deductible Gift Recipient and Donation Options Update

RESOLUTION 2020:07:COU271

Moved: Cr B Sambell

Seconded: Cr D Fraser

That Council adopts the recommendation from the Gawler Heritage Collection Committee made at item 6.1 of the meeting of that Committee meeting held on 9 July 2020, being:

That the Gawler Heritage Collection Committee recommends to Council that it notes that:

1. The Cultural Heritage Centre has been endorsed as a Deductible Gift Recipient by the Australian Taxation Office.
2. A Donation Point Go contactless payment system will be installed in the Heritage Gallery to allow visitors to financially support the work of the Cultural Heritage Centre.
3. A traditional acrylic donation box will also be placed in the Heritage Gallery for those visitors who prefer cash donations.

CARRIED UNANIMOUSLY

12.4 RECOMMENDATIONS FROM SPECIAL CEO PERFORMANCE MANAGEMENT PANEL MEETING HELD ON 13 JULY 2020

At 9.45pm Mr Inat declared a conflict left the meeting

Item 6.1 - Chief Executive Officer Performance Review Survey Update and Process

RESOLUTION 2020:07:COU272

Moved: Cr D Hughes

Seconded: Cr K Goldstone

That Council notes the adopted recommendations from the CEO Performance Management Panel made at item 6.1 of the meeting of that Panel meeting held on 13 July 2020, being:

Item - Close Council to Public - Item 6.1

That:

1. Pursuant to Section 90(3) (a) of the Local Government Act 1999 (the Act), the CEO Performance Management Panel orders that the public be excluded from attendance at this part of the meeting relating to Item 6.1, excepting the following persons:

- Acting Chief Executive Officer
- Minute Taker

to enable the CEO Performance Management Panel Meeting to consider Item 6.1 in confidence on the basis that CEO Performance Management Panel Meeting considers it necessary and appropriate to act in a meeting closed to the public (excepting those persons listed above) in order to receive, discuss or consider in confidence the following information or matter relating to Item 6.1:

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

Specifically, the matter relates to CEO Mr Henry Inat

2. Accordingly, on this basis, the principle that meetings of the CEO Performance Management Panel Meeting should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential.

6.1 Chief Executive Officer Performance Review Survey Update and Process

1. That the Chief Executive Officer Performance Review Panel notes the discussions regarding the Chief Executive Officer Performance Review Survey Update and Process.
2. That the Chair of the CEO PMP discuss with the external consultant undertaking the review a potential date for the next CEO PMP meeting to receive an update report.

CARRIED UNANIMOUSLY

At 9.49pm Mr Inat returned to the meeting

12.4 RECOMMENDATIONS FROM CORPORATE & COMMUNITY SERVICES COMMITTEE MEETING HELD ON 14 JULY 2020

RESOLUTION 2020:07:COU273

Moved: Cr D Hughes

Seconded: Cr J Vallelonga

That Council notes the adopted Motions from the Corporate & Community Services Committee made under Delegated Authority at the meeting held on 14 July 2020, being:

Item 7.4 - Gawler Reconciliation Action Plan Update IC20/408

That the Corporate & Community Services Committee notes the Gawler Reconciliation Action Plan Update report.

Item 7.5 - Community Connect Program (COVID-19 response initiative) IC20/407

That the Corporate & Community Services Committee:

1. Notes the Community Connect Program report.
2. Notes that a further update report regarding the Community Connect Program will be presented to a future Corporate and Community Services Committee meeting.

Item 7.6 - Library & Community Service - COVID19 Response Update IC20/449

That the Corporate & Community Services Committee notes the Library & Community Service – COVID-19 response report.

Item 7.9 - Policy Review IC20/69

That the Corporate & Community Services Committee:

1. Adopts the following policies:
 - a. Ombudsman Enquiry and Investigation Management
 - b. By-Law Enforcement – Fines
 - c. Library Service

CARRIED UNANIMOUSLY

Item 7.1 - Gawler Aquatic Centre 2019/2020 Season Review

RESOLUTION 2020:07:COU274

Moved: Cr C Davies

Seconded: Cr J Vallelonga

That Council adopts the recommendation from the Corporate & Community Services Committee made at item 7.1 of the meeting of that Committee meeting held on 14 July 2020, being:

That the Corporate & Community Services Committee recommends to Council that:

1. The Gawler Aquatic Centre 2019/2020 Season Review Report is noted.
2. Council notes the arrangements being made and scope of services to be provided as part of the 2020/21 season.
3. The Mayor and Chief Executive Officer be authorised to approve the final wording, location and size of a Memorial plaque for Mr Derek Sankey.

CARRIED UNANIMOUSLY

Item 7.2 - CHANGE Original Music Festival

RESOLUTION 2020:07:COU275

Moved: Cr K Goldstone

Seconded: Cr D Hughes

That Council adopts the recommendation from the Corporate & Community Services Committee made at item 7.2 of the meeting of that Committee meeting held on 14 July 2020, being:

That the Corporate & Community Services Committee recommends to Council that the promotional material for the 2020 CHANGE Original Music Festival totalling \$2,285 is provided for by the 2020/21 Activation Budget residual component.

CARRIED UNANIMOUSLY

Cr Davies sought and was granted leave of the Council to speak a second time.

At 9:57 pm, Cr Kelvin Goldstone left the meeting.

At 9:59 pm, Cr Kelvin Goldstone returned to the meeting.

Item 7.3 - 2021 Gawler Fringe

RESOLUTION 2020:07:COU276

Moved: Cr D Fraser

Seconded: Cr D Hughes

That Council adopts the recommendation from the Corporate & Community Services Committee made at item 7.3 of the meeting of that Committee meeting held on 14 July 2020, being:

That the Corporate & Community Services Committee recommends to Council that:

1. The 2021 Gawler Fringe encompasses a program of events and activities as outlined in this report, but subject to the status of COVID-19, including:

-
- a. A weekend opening event at Walker Place on Friday 19 February 2021, and subsequent options for busking and entertainment in Walker Place that don't require security and fencing with some smaller activities/performances occurring across the month of Fringe.
 - b. Events in the Gawler Civic Centre on Saturday 20 & Sunday 21 February and across the month of Fringe including, but not limited to, the SAGA Gawler Women's International Film Festival, a comedy show, a children's show, Nunga Fringe, acoustic performances, art exhibitions and demonstrations.
 - c. One Fringe in the Park Event to occur at a local reserve.
 - d. Marketing campaign for all Fringe activities occurring across the Town including local businesses that may register as stand-alone Adelaide Fringe venues/events.
2. The 2021 Gawler Fringe is implemented within the 2020/21 Activation Budget allocation of \$30,000 plus \$26,700 in kind.
 3. Walker Place and the Gawler Civic Centre are registered as Adelaide Fringe venues for the 2021 Gawler Fringe.

CARRIED

Item 7.7 - Customer Service Strategy

RESOLUTION 2020:07:COU277

Moved: Cr D Fraser

Seconded: Cr P Little

That Council adopts the recommendation from the Corporate & Community Services Committee made at item 7.7 of the meeting of that Committee meeting held on 14 July 2020, being:

That the Corporate & Community Services Committee recommends to Council that it approves the release of the draft Customer Service Strategy for public consultation.

CARRIED UNANIMOUSLY

EXTENSION OF MEETING TIME

RESOLUTION 2020:07:COU278

Moved: Cr B Sambell

Seconded: Cr N Shanks

That the meeting time be extended to 11.00pm.

CARRIED

Item 7.8 - Heritage Buildings Information - Mobile Device Interactive Links Update

RESOLUTION 2020:07:COU279

Moved: Cr D Hughes

Seconded: Cr D Fraser

That Council adopts the recommendation from the Corporate & Community Services Committee made at item 7.8 of the meeting of that Committee meeting held on 14 July 2020, being:

That the Corporate & Community Services Committee recommends to Council that:

1. The ArcGIS solution outlined in this report be used to provide the community with access to information regarding both Council and other significant buildings, locations and sites within Gawler that link to Council's eHive platform and that QR codes affixed to such buildings, locations and sites will not be pursued.
2. It requests Council Staff to notify the Gawler History Team of this decision.

CARRIED UNANIMOUSLY

Item 7.10 - Karbeethan Reserve Master Plan

RESOLUTION 2020:07:COU280

Moved: Cr D Hughes

Seconded: Cr D Fraser

That Council adopts the recommendation from the Corporate & Community Services Committee made at item 7.10 of the meeting of that Committee meeting held on 14 July 2020, being:

That the Corporate & Community Services Committee recommends to Council that:

1. It adopts the Karbeethan Reserve Master Plan including final project cost estimate to guide the redevelopment of Karbeethan Reserve as a high quality Regional Sporting and Community Precinct.
2. Council notes that the latest cost estimate to deliver the entire Karbeethan Reserve Master Plan is \$46.7m – excluding any project cost escalations. The capacity of Council to deliver such a significantly costly project at this point is beyond its means and as such a staged approach to the implementation of the Master Plan is considered a more prudent approach.
3. The implementation of the Karbeethan Reserve Master Plan be progressed, subject to Council's Long Term Financial Plan, Prudential Reporting and Annual Budget deliberations, including the need for external funding to be provided, such that capital upgrades are undertaken in a staged manner.
4. It notes Councils financial capacity to deliver its next 'iconic community project' as provided for within the latest update of its Long Term Financial Plan is estimated at a net \$20m (gross \$40m less 50% external grant funding), split over two years, commencing from the 2025/26 financial year.
5. Staff progress the development of plans, to a shovel ready position, for the delivery of Stage 1 comprising 1A, 1B, and 1C, so allowing for Council to be in best position to take advantage of external funding opportunities as they arise. The current cost estimate, as presented within the report, for Stage 1 is \$17.9m.
6. It confirms the ongoing need, in particular in the COVID-19 influenced financial environment, for Council to maintain flexibility in relation to the implementation of strategic community sporting and active recreation infrastructure projects such as the Karbeethan Reserve Master Plan.
7. Staff liaise with key stakeholders and investigate opportunities to collaboratively attract external funding for the implementation of the Karbeethan Reserve Master Plan.
8. A further update report regarding the Karbeethan Reserve Master Plan be presented to the September 2020 Corporate & Community Services Committee meeting.

CARRIED UNANIMOUSLY

12.4 RECOMMENDATIONS FROM AUDIT COMMITTEE MEETING HELD ON 20 JULY 2020

RESOLUTION 2020:07:COU281

Moved: Cr D Fraser

Seconded: Cr P Little

That Council notes the adopted Motions from the Audit Committee made under Delegated Authority at the meeting held on 20 July 2020, being:

Item 6.1 - Internal Audit Workplan IC20/183

That the Audit Committee:

1. Notes the Internal Audit Workplan update report.
2. Seeks consideration be given in the 2020/21 budget deliberations to incorporate a budget provision as advised by staff and in response to the soon to be developed Internal Audit Workplan

Item 6.2 - 2019/20 Internal Controls Review Report IC20/52

That the Audit Committee notes the 2019/20 Internal Controls Review Report

Item 6.3 - 2020/21 Draft Budget / Business Plan (incorporating annual review of the Long Term Financial Plan) IC20/181

That:

1. The Audit Committee notes the 2020/21 Draft Budget (incorporating the annual review of the Long Term Financial Plan) Report.
2. The Audit Committee notes the draft budget, as endorsed by Council for the purposes of public consultation, represents an estimated end of 2020/21 financial year position of an operating deficit of \$1,690,000.
3. The Audit Committee notes that, excluding the 'one-off' financial measures provided to reduce the financial impact of the COVID-19 pandemic on our community (i.e. targeted Rates remissions of \$530,000 and \$615,000 of the \$2m Economic Stimulus Package), then the estimated operating deficit would be \$545,000, consistent with pre COVID-19 estimates.
4. The Audit Committee notes the eligibility criteria, as outlined in this report, pertaining to the provision of targeted 2020/21 Rates remissions to those ratepayers who have been adversely financially impacted from the COVID-19 pandemic. Further, the Audit Committee notes the targeted Rate remissions are to be provided, upon application, subject to the eligibility criteria being met.
5. The staff collate the feedback as discussed from the Audit Committee regarding the draft 2020/21 Budget and annual review of the Long Term Financial Plan.
6. The feedback provided by the Audit Committee pertaining to the draft 2020/21 Budget and annual review of the Long Term Financial Plan be considered by Council at the Special Council meeting to be held on 11 August 2020, at which public submissions during the public consultation period will also be considered.

Item 6.5 - 2019/20 Audit Committee Workplan - Progress Report IC20/380

That the Audit Committee notes the 2019-20 Audit Committee Workplan Progress Report.

Item 6.6 - 2020/21 Draft Audit Committee Work Plan IC20/381

That the Audit Committee adopts the draft 2020/21 Audit Committee Workplan.

Item 6.7 - Statutes Amendment (Local Government Review) Bill 2020 IC20/440

That:

1. The Audit Committee notes the Statutes Amendment (Local Government Review) Bill 2020 report, including comments from the Local Government Association of SA and Council's Administration, in response to the substantive changes proposed.
2. Feedback from the Audit Committee relative to the proposed legislative changes be used to inform a further report being presented to the Council meeting on 28 July 2020.

Item 6.8 - Debtor Analysis Report as at 30 June 2020 IC20/382

That the Audit Committee notes the Debtor Analysis Report as at 30 June 2020

CARRIED UNANIMOUSLY

13 EXTERNAL BODIES REPORTS

13.1 CLIMATE EMERGENCY ACTION PLAN WORKING GROUP HELD ON 18 JUNE 2020

RESOLUTION 2020:07:COU282

Moved: Cr D Fraser

Seconded: Cr P Koch

That Council notes the Minutes of the Climate Emergency Action Plan Working Group meeting held on 18 June 2020.

CARRIED UNANIMOUSLY

13.2 NORTHERN ADELAIDE WASTE MANAGEMENT AUTHORITY MINUTES OF MEETING 25 JUNE 2020

RESOLUTION 2020:07:COU283

Moved: Cr P Koch

Seconded: Cr P Little

That Council notes the Minutes of the Northern Adelaide Waste Management Authority meeting held on 25 June 2020.

CARRIED UNANIMOUSLY

13.3 RECONCILIATION ACTION PLAN WORKING GROUP MEETING 10 JULY 2020

RESOLUTION 2020:07:COU284

Moved: Cr D Fraser

Seconded: Cr P Little

That Council notes the Reconciliation Action Plan Working Group notes from the meeting held on 10 July 2020.

CARRIED UNANIMOUSLY

14 QUESTIONS ON NOTICE

Nil

15 QUESTIONS WITHOUT NOTICE**15.1 RV FRIENDLY SIGNAGE**

Cr Brian Sambell asked a question about RV Friendly signage, 2 hour parking time zones. The question was taken on notice.

15.2 SCHOOL CROSSING - BARNET STREET

Cr Cody Davies asked a question regarding school crossing on Barnet Road, near Bunnings. The question was taken on notice

15.3 RV FRIENDLY ZONES

Cr Diane Fraser asked if RV Parking only zones could be placed outside Caravan Park. The question was taken on notice.

15.4 JULIAN TCE TOILETS

Cr Jim Vallelonga asked a question about refurbishment of toilets in Julian Terrace instead of rebuilding. The question was taken on notice.

15.5 QUESTIONS WITHOUT NOTICE

Cr Ian Tooley asked a question regarding the 7 July 2020 Council meeting questions and having not received responses yet. Answers to be provided as soon as possible.

15.6 ADELAIDE ROAD GAWLER BRIDGE SAFETY SCREEN

Cr Ian Tooley asked a question regarding Adelaide Road, Gawler Mill Inn Bridge safety screen. A response was provided.

15.7 LEGAL ADVICE COSTS

Cr Ian Tooley asked a question regarding how much money has been spent on legal advice regarding his questions.

Cr Fraser called a Point of Order under the Code of Conduct regarding Cr Tooley being disrespectful. Mayor Redman upheld the Point of Order.

15.8 ADELAIDE ROAD, GAWLER MILL INN BRIDGE

Cr Paul Koch asked a question regarding Adelaide Road Gawler Mill Inn Bridge use of perspex as opposed to other types of screening. The answer was provided.

16 MOTIONS ON NOTICE

At 10.22pm Mr Inat declared a conflict and left the meeting.

Cr Koch called a Point of Order against Cr Tooley being disrespectful by giving misinformation
Mayor did not uphold the Point of Order

Cr Tooley called a Point of Order against Cr Koch being disrespectful by calling up previous issues.
Mayor Redman upheld the Point of Order

Cr Tooley called a Point of Order against Cr Koch was being disrespectful to him
Mayor Redman upheld the Point of Order

16.1 NOTICE OF MOTION - CR TOOLEY - OMBUDSMAN REPORT

RESOLUTION 2020:07:COU285

Moved: Cr I Tooley

Seconded: Cr J Vallelonga

That Council:-

1. Notes the Ombudsman Investigation Report into the allegation that Cr Tooley leaked a confidential CEO PMP document to the media.
2. Tables the Ombudsman's Investigation Report for inclusion in the minutes/public record.

CARRIED

Cr Toley called for a division:

The Mayor / Chairperson declared the vote set aside.

In Favour: Crs C Davies, D Fraser, K Goldstone, D Hughes, P Little, B Sambell, N Shanks, I Tooley and J Vallelonga

Against: Cr P Koch

CARRIED 9/1

The Mayor / Chairperson declared the motion CARRIED

At 10.42pm Mr Inat returned to the meeting

16.2 NOTICE OF MOTION - CR TOOLEY - OBTAINING LEGAL ADVICE BY MEMBERS

RESOLUTION 2020:07:COU286

Moved: Cr I Tooley

Seconded: Cr J Vallelonga

That Council:-

- 1) Acknowledges that Regulation 78A of the Act states that 'The regulations may establish a scheme under which a member of a council may directly obtain legal advice at the expense of the council to assist the member in performing or discharging official functions and duties.'
- 2) Obtains exemplars of 'Obtaining Legal Advice by Members' schemes/policies that other councils have developed and:-
 - a) tables those exemplars for consideration by members,
 - b) uses the exemplars to develop a draft policy for members consideration,
 - c) the exemplars and draft policy be provided to members by and at the 22 September Ordinary Council Meeting.

LOST ON THE CASTING VOTE OF THE MAYOR

The meeting closed at 11.02pm

The minutes of this meeting were confirmed at the Ordinary Council Meeting held on 25 August 2020.

.....
CHAIRPERSON

2020 List of Events and/or Invitations attended by Mayor Redman

Date	Name of Event / Invitation / Meeting
24 June 2020	<ul style="list-style-type: none"> • GAROC COVID-19 Recovery Webinar Series • Mayor's Weekly Video Shoot
25 June 2020	<ul style="list-style-type: none"> • Meeting with Chris Butler – GMF Debate • ALGA Board Forum
29 June 2020	<ul style="list-style-type: none"> • Mayor and CEO – Weekly catch up meeting • Gawler Cultural Heritage Foundation – presentation of cheque for Institute Banner • An evening with Sara Di Lauro – Rotary Club Meeting
1 July 2020	<ul style="list-style-type: none"> • GAROC COVID-19 Recovery Webinar Series • Mayor's Weekly Video Shoot • Discussion on Carnival of Cups • Mainstreet SA Street Corner Catch up – Gawler and Tanunda
2 July 2020	<ul style="list-style-type: none"> • Meeting with Debbie Nelson and Di Fraser to discuss Community Garden
5 July 2020	<ul style="list-style-type: none"> • MAP Festival
6 July 2020	<ul style="list-style-type: none"> • GAROC Committee Meeting • Mayor and CEO – Weekly catch up meeting • Mayor's Weekly Video Shoot • Gawler Civic Centre Update
7 July 2020	<ul style="list-style-type: none"> • GAROC COVID-19 Recovery Webinar Series • LGA Audit and Risk Committee – Special Meeting
9 July 2020	<ul style="list-style-type: none"> • Gawler Heritage Collection Committee Meeting
13 July 2020	<ul style="list-style-type: none"> • SA Healthy Towns Grant Assessment Panel • Mayor and CEO – Weekly catch up meeting • Special Council Meeting • Special CEO Performance Management Panel Meeting
14 July 2020	<ul style="list-style-type: none"> • Corporate and Community Services Committee Meeting
16 July 2020	<ul style="list-style-type: none"> • Meeting with Embroiders Guild
20 July 2020	<ul style="list-style-type: none"> • Radio Italiana 531am session with John DiFede • Mayor and CEO – Weekly catch up meeting • Town of Gawler/Gawler Business Development Group Liaison Meeting • Audit Committee Meeting
21 July 2020	<ul style="list-style-type: none"> • Council Assessment Panel
22 July 2020	<ul style="list-style-type: none"> • Mayor's Weekly Video Shoot
23 July 2020	<ul style="list-style-type: none"> • LGA Board of Directors Meeting
24 July 2020	<ul style="list-style-type: none"> • Rotary Club of Gawler Light Presidential Changeover Dinner
27 July 2020	<ul style="list-style-type: none"> • Viewing of Fire the Cannon Exhibition • Mayor and CEO – Weekly catch up meeting • Podcast for St Brigid's Catholic School – 50th Birthday
28 July 2020	<ul style="list-style-type: none"> • Council Meeting



Report

Preliminary investigation pursuant to referral under section 24(2)(a) of the *Independent Commissioner Against Corruption Act 2012*

Public Authority	Town of Gawler
Public Officer	Cr Ian Tooley
Ombudsman reference	2019/10076
ICAC reference	2020/002464
Date of referral	23 December 2019
Issues	Whether Cr Tooley committed misconduct in public administration by disclosing information that was ordered to be kept confidential

Jurisdiction

This matter was referred to the Ombudsman by the Commissioner pursuant to section 24(2)(a) of the *Independent Commissioner Against Corruption Act 2012* (the ICAC Act), as raising a potential issue of misconduct within the meaning of that Act (the referral).

Section 14B of the Ombudsman Act provides:

14B—Referral of matter by OPI or ICAC

- (1) If a matter is referred to the Ombudsman under the ICAC Act, the matter—
 - (a) will be taken to relate to administrative acts for the purposes of this Act; and
 - (b) must be dealt with under this Act as if a complaint had been made under this Act and—
 - (i) if the matter was the subject of a complaint or report under the ICAC Act—as if the person who made the complaint or report under that Act was the Complainant under this Act; or
 - (ii) if the matter was assessed under that Act after being identified by the Commissioner acting on the Commissioner's own initiative or by the Commissioner or the Office in the course of performing functions under any Act—as if the Commissioner was the complainant under this Act.

- (2) In this section—

Commissioner means the person holding or acting in the office of the Independent Commissioner Against Corruption under the ICAC Act;

ICAC Act means [Independent Commissioner Against Corruption Act 2012](#);

Office means the Office for Public Integrity under the ICAC Act.

The issue concerns an alleged breach by Cr Tooley of clause 3.3 of Part 3 of the Code of Conduct for Council Members (**the Code**). Failure by a council member to comply with Part 3 of the Code constitutes misconduct. As a contravention of Part 3 can constitute grounds for disciplinary action under the *Local Government Act 1999*, I have considered this matter under section 5(3)(a) of the ICAC Act.

Investigation

My investigation has involved:

- assessing the information provided by the reporter
- seeking a response from Mr Colin James, Chief Messenger Reporter, News Corp
- seeking a response from Ms Sara Gilligan, Editor, The Bunyip Newspaper
- seeking a response from Cr Jim Vallelonga, Town of Gawler
- seeking a response from Cr Tooley
- considering the Ombudsman Act and the ICAC Act
- preparing a provisional report, and seeking a response from the interested parties
- preparing this report.

Standard of proof

The standard of proof I have applied in my investigation and report is on the balance of probabilities. However, in determining whether that standard has been met, in accordance with the High Court's decision in *Briginshaw v Briginshaw* (1938) 60 CLR 336, I have considered the nature of the assertions made and the consequences if they were to be upheld. That decision recognises that greater care is needed in considering the evidence in some cases.¹ It is best summed up in the decision as follows:

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issue has been proved ...²

Procedural fairness

I received a response to my provisional report from Cr Tooley. Cr Tooley's submissions primarily centred on the initial report to the Office for Public Integrity (**OPI**), as he disputed the decision to investigate the allegations concerning his conduct, on the basis that the information provided to the OPI was, in his view, insufficient to raise a reasonable suspicion that he had leaked confidential information. While I have considered Cr Tooley's submissions, and I acknowledge that Cr Tooley takes a contrary view, my view remains that the report was based on a reasonable suspicion.

I have not discussed those submissions in this report, as , for the reasons below, my view remains that it was appropriate to conduct a preliminary investigation.

Under section 23(1)(b) of the ICAC Act, the OPI is required to assess whether a matter reported to it raises a potential issue of misconduct, and a determination must be made, in consultation with my Office pursuant to section 37 of the Act, as to whether or not action should be taken to refer the matter.

¹ This decision was applied more recently in *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 110 ALR 449 at pp449-450, per Mason CJ, Brennan, Deane and Gaudron JJ.

² *Briginshaw v Briginshaw* at pp361-362, per Dixon J.

Ultimately, it was determined that information provided by the reporter raised a potential issue of misconduct, and I investigated those issues accordingly.

Cr Tooley also made submissions that reflect the conclusions reached in my provisional report. In summary, Cr Tooley submitted that the confidential information reported in the media could have been passed on verbally, or sent as a screenshot of an image from a computer screen, rather than as a hard copy as was suggested by the reporter.

Cr Tooley also suggested that a 'Text to the Editor' in the Bunyip Newspaper was likely another resident of Gawler, rather than himself, who is well known to the editor and often provides commentary to the newspaper. As my provisional report did not give significant weight to this issue, and in fact noted Cr Tooley's denial that he authored the relevant comments, I have not made further reference to this submission in this report.

Cr Tooley also expressed concerns in relation to a number of unrelated issues, which I have not considered in this report.

Ultimately, Cr Tooley's submissions did not alter my provisional view that further investigation in regard to the allegations of misconduct by him was necessary or justifiable.

I did not receive a response to the provisional report from the reporter.

Background

1. A report was made to the OPI alleging that Cr Tooley had improperly disclosed confidential information to the media in regard to employment contract negotiations between Mr Henry Inat, Chief Executive officer, and the council.
2. Information regarding Mr Inat's employment contract negotiations, including the contents of a report submitted by Mr Inat, were discussed during a meeting of a CEO Performance Management Panel (**the PMP**) on 28 October 2019. Minutes of that meeting reflect that these discussions were ordered by the PMP to be kept confidential.
3. Details of a vote on matters relating to Mr Inat's employment, that was held during a PMP meeting on 26 November 2019, were also ordered to be kept confidential.
4. Information relating to Mr Inat's employment that was subject to confidentiality orders was published in two separate news articles in both the Messenger³ and Bunyip Newspaper.⁴
5. Prior to publication of the confidential matter, the council received an email dated 20 November 2019 from Mr Colin James, Chief Messenger Reporter, The Advertiser, stating that he had 'been anonymously sent a report presented to the [PMP] meeting of October 28...'
6. A second email was received by Mr Inat on 21 November 2019 from Ms Sara Gilligan, Editor, the Bunyip Newspaper, stating:

I have anonymously received word about you seeking a contract extension. I understand your current contract ends in June 2021 and that you are seeking your current contract to be carried forward to June 2014.

³ 'Gawler Council chief executive Henry Inat wrote own report recommending new salary package', The Messenger North, published 1 November 2019.

⁴ 'A bit rich? MP shares CEO concerns' The Bunyip Newspaper, published 27 November 2019.

7. The reporter alleged that Cr Tooley was likely to be the source of the leak of information to the media on the basis that:
- at the meeting of 28 October 2019 where Mr Inat's report was discussed, Cr Tooley alleged that Mr Inat had bullied staff, resulting in the payment of workers compensation claims
 - Mr Inat informed Cr Tooley on 20 November 2019 that the Ombudsman's recent investigation report regarding his conduct would be presented to council at the next meeting, and a few hours later, the first media enquiry was received, suggesting the leak may have occurred as an act of retribution by Cr Tooley
 - an internal audit of the council's electronic records and email accounts have not identified any improper access of the information discussed during the meetings where the confidential matter was discussed
 - the reporter is only aware of four people having access to hard copies of the agenda and documents for the meeting of 28 October 2019: Mayor Karen Redman, Cr Brian Sambell, Cr Jim Vallelonga and Cr Tooley
 - questions asked by journalists were similar/identical to those asked by Cr Tooley at the Committee meeting on 28 November 2019
 - a 'txt to the editor' that was critical of Mr Inat's employment entitlements was published in the Bunyip Gawler newspaper on 27 November 2019, was signed off by a person identified as 'Ian, [from] Gawler East'.

Relevant law/policies

8. Section 5(3) of the ICAC Act provides:

(3) *Misconduct in public administration* means—

- (a) contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or
- (b) other misconduct of a public officer while acting in his or her capacity as a public officer.

9. Section 63 of the Local Government Act provides that

Code of conduct for members

- (1) The Governor may, by regulation, prescribe a code of conduct to be observed by the members of all councils.
- (2) Council members must observe the code of conduct.

10. Clause 3.3 of Part 3 of the Code of Conduct provides that elected members:

Not release or divulge information that the Council has ordered be kept confidential, or that the Council member should reasonably know is information that is confidential, including information that is considered by Council in confidence.

Whether Cr Tooley committed misconduct in public administration by disclosing information that was ordered to be kept confidential

11. My investigation initially made enquiries with the relevant journalists, Ms Gilligan and Mr James, in order to determine the source of the leak.
12. Ms Gilligan advised my investigation by email dated 20 January 2020 that:

I received copies of Gawler council's chief executive officer, Mr Henry Inat's contract report by an anonymous member of the public (not involved in council) who refused to tell me how they obtained the information.

It is unclear whether the documents were leaked by a councillor, staff member or other person(s).

I have no reason to believe Cr Tooley was involved with the leaking of documents.
The Bunyip only published details of the report after *Advertiser* journalist Colin James published a story on the matter online.

13. Solicitors acting for Mr James responded on his behalf, and advised by email dated 22 January 2020 that:

We are instructed to advise you that Cr Tooley did not provide Mr James with any information of the nature described in your letter or any documents that may be of relevance to your investigation of him.

14. My investigation also sought a response to the allegations from Cr Tooley, who advised by email dated 12 February 2020 that:

Perhaps I shouldn't be surprised as I am aware that I have been defamed by gossip in the community that can allegedly be traced back to Mayor Redman saying to Cr Davies that she believes that I leaked the document and Cr Davies then passing this on to his associates...perhaps you could investigate this too?

In response to your first dot point I can assure you that I DID NOT and HAVE NOT leaked this or any other confidential document, NOT to the media, NOT to any third parties...NOT to anyone!

In response to your second dot point I can assure you that I DID NOT submit any 'txt to the editor' of the Bunyip criticizing the CE's salary negotiations!
I believe you are referring to a 'txt to the editor' published in the Bunyip on 27 November 2019 and signed 'Ian, Gawler East' - while my name is Ian and I do live in Gawler East, I am NOT the 'Ian of Gawler East' that has put their name to that text!

I have never submitted a 'txt to the editor' of the Bunyip full stop, and I am more than happy for you to contact the editor of the Bunyip newspaper to check this out.
I am a regular submitter of 'letters to the editor' of the Bunyip, which I always sign either 'Ian Tooley' when my LTE's relate to Climate Change and the like, and signed 'Cr Ian Tooley' when my LTE's are of a council related nature, but I NEVER submit texts to the editor!

15. As Cr Tooley's response only referred to the leaking of documents, my Office sought further clarification by email dated 15 April 2020 from Cr Tooley as to whether he had any discussions, or disclosed any information, about the PMP's confidential meeting or material considered by the PMP at that meeting to any person, in any form, whether verbally or in writing.

16. Cr Tooley stated in an email dated 15 April 2020 that:

...I can confirm that I have not, I did not and that I do not discuss nor disclose matters of a confidential nature.

I also confirm in answer to your question that I did not have any discussions nor disclose any information about the PMP's confidential meeting or material considered by the PMP at that meeting to any person in any form.

17. Further evidence of a pattern of behaviour by Cr Tooley in openly sending non-confidential information to the media was also provided by the reporter. It was

- suggested by the reporter that this behaviour indicated that Cr Tooley would also be likely to disclose confidential information to the media.
18. I am not persuaded that the fact that Cr Tooley has sent non-confidential matter to the media in the past indicates that he is likely to have also disclosed confidential matter to the media on this occasion.
 19. Councils are not expected to operate in secrecy, and promoting transparency and openness ought to be encouraged where doing so is in the public interest, and would not reveal confidential information. It is certainly not unusual for councillors to make comment or provide details of council matters to the media
 20. The reporter also provided a copy of an email from Ms Kate Symes, Governance Coordinator, which suggested that Cr Jim Vallelonga had indicated to her that he knew who leaked the information, and that it was likely done verbally.⁵
 21. Cr Vallelonga informed my investigation, however, that he merely held suspicions of who had leaked the information, and that person was not identified as Cr Tooley. Cr Vallelonga's suspicions were based on a pattern of perceived misbehaviour by another councillor.⁶
 22. I also note that it is possible the confidential matter could have come into the possession of another council employee or member by accident.
 23. I consider that intentional disclosure of confidential information by a council member is a serious matter. It is important that council members respect and uphold the lawful decisions of the council's governing body, notwithstanding any strongly held personal views.
 24. That said, in light of the evidence before me, and having considered the possibility that Cr Tooley may have provided the confidential matter to the media through a third party (which he appears to strenuously deny), I do not consider that further enquiries by my Office are likely to uncover the source of the leak, nor do I consider that such enquiries are necessary or justifiable.
 25. In forming that view I have considered the following,:
 - on the one hand, the allegation that Cr Tooley disclosed the information is based on what appears to be a reasonable suspicion arising from the timing and circumstances of disclosure (although not any direct evidence that Cr Tooley was responsible for the leak)
 - on the other hand:
 - both the journalists have clearly stated that Cr Tooley was not responsible for providing information to them
 - Cr Tooley has strenuously denied leaking any confidential documents to the journalists or third parties, and denies sending a text to the Editor of the Bunyip
 - Cr Vallelonga's views are not persuasive and, regardless, suggest that it was not Cr Tooley but a third party who was responsible for the leak
 - the fact that Cr Tooley has provided non-confidential information to the media in the past does not necessarily indicate that he was also likely to disclose confidential information.
 26. In determining to discontinue my investigation, I have considered my public interest criteria, in particular, the fact that on the basis of my preliminary enquiries, it does not

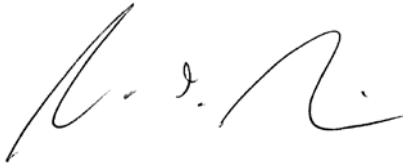
⁵ Email dated 6 March 2020.

⁶ Telephone conversation with Cr Vallelonga held on 10 March 2020.

appear likely that an investigation would result in a finding of misconduct or error. I have also had regard to the *Briginshaw* standard in forming that view.

Conclusion

In light of the above, my final view is that further investigation in regard to this matter is unnecessary and unjustifiable.

A handwritten signature in black ink, appearing to read 'W. Lines', with a stylized flourish at the end.

Wayne Lines
SA OMBUDSMAN

19 May 2020