



AGENDA

FOR FINANCE AND CORPORATE SERVICES COMMITTEE MEETING TO BE HELD ON

21 OCTOBER 2024 AT THE CONCLUSION OF THE POLICY AND PLANNING COMMITTEE

**IN LITTLE PARA CONFERENCE ROOMS, SALISBURY COMMUNITY HUB,
34 CHURCH STREET, SALISBURY**

MEMBERS

Cr B Brug (Chairman)
Mayor G Aldridge
Cr L Brug (Deputy Chairman)
Deputy Mayor, Cr C Buchanan
Cr J Chewparsad
Cr A Graham
Cr K Grenfell
Cr D Hood
Cr P Jensen
Cr M Mazzeo
Cr S McKell
Cr S Ouk
Cr S Reardon

REQUIRED STAFF

Chief Executive Officer, Mr J Harry
Deputy Chief Executive Officer, Mr C Mansueto
General Manager City Infrastructure, Mr J Devine
General Manager Community Development, Mrs A Pokoney Cramey
General Manager City Development, Ms M English
Manager Governance, Mr R Deco

APOLOGIES

LEAVE OF ABSENCE

PRESENTATION OF MINUTES

Presentation of the Minutes of the Finance and Corporate Services Committee Meeting held on 16 September 2024.

REPORTS

For Decision

2.1.1 Cultural Development Trust Fund Administration 11

QUESTIONS ON NOTICE

There are no Questions on Notice.

MOTIONS ON NOTICE

There are no Motions on Notice.

OTHER BUSINESS

(Questions Without Notice, Motions Without Notice, CEO Update)

ORDERS TO EXCLUDE THE PUBLIC

2.4.1 Update on Action on Rates Assessments Outstanding under Section 184 of the Local Government Act 1999

Recommendation

Pursuant to section 83(5) of the *Local Government Act 1999* the Chief Executive Officer has indicated that, if the Finance and Corporate Services Committee so determines, this matter may be considered in confidence under Part 3 of the *Local Government Act 1999* on grounds that:

1. *Pursuant to Section 90(2) and (3)(b)(i) and (b)(ii) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*
 - *it relates to information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and*
 - *information the disclosure of which would, on balance, be contrary to the public interest.*
2. *In weighing up the factors related to disclosure,*
 - *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*
 - *non-disclosure of the matter and discussion of this item in confidence would protect confidential information relating to Council's commercial position.*

*On that basis the public's interest is best served by not disclosing the **Update on Action on Rates Assessments Outstanding under Section 184 of the Local Government Act 1999** item and discussion at this point in time.*
3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Finance and Corporate Services Committee orders that all members of the public, except staff of the City of Salisbury on duty in attendance, be excluded from attendance at the meeting for this Agenda Item.*

CLOSE



**MINUTES OF FINANCE AND CORPORATE SERVICES COMMITTEE MEETING
HELD IN LITTLE PARA CONFERENCE ROOMS, SALISBURY COMMUNITY HUB,**

34 CHURCH STREET, SALISBURY ON

16 SEPTEMBER 2024

MEMBERS PRESENT

Cr B Brug (Chairman)
Mayor G Aldridge
Cr L Brug (Deputy Chairman)
Deputy Mayor, Cr C Buchanan
Cr J Chewparsad
Cr A Graham
Cr K Grenfell
Cr D Hood
Cr P Jensen
Cr M Mazzeo
Cr S McKell
Cr S Ouk
Cr S Reardon

STAFF

Chief Executive Officer, Mr J Harry
Deputy Chief Executive Officer, Mr C Mansueto
A/General Manager City Infrastructure, Mr C Haskas
A/General Manager Community Development, Ms V Haracic
A/General Manager City Development, Ms S Klein
Governance Support Officer, Ms M Prasad
Assessment Manager, Mr C Zafiropoulos
Manager Community Experience, Ms C Kroepsch
Organisational Development Lead, Mr R Scholtz
Team Leader Open Space Assets & Urban Streetscape, Mr C Johansen
Manager Infrastructure Design & Delivery, Mr J Collins
Manager People & Performance, Ms K Logan
Club Leasing Officer, Ms S McEwen

The meeting commenced at 6.34pm.

The Chairman welcomed the Elected Members, members of the public and staff to the meeting.

APOLOGIES

Nil.

LEAVE OF ABSENCE

Nil.

PRESENTATION OF MINUTES

Moved Cr J Chewparsad
Seconded Mayor G Aldridge

The Minutes of the Finance and Corporate Services Committee Meeting held on 19 August 2024, be taken as read and confirmed.

CARRIED

REPORTS

For Decision

2.1.1 Budget Timetable 2025/26

Moved Cr C Buchanan
Seconded Cr L Brug

That Council:

1. Approves the draft timetable for the preparation and presentation of the 2025/26 Budget, as included in this report (Item no. 2.1.1, Finance and Corporate Services Committee, 16 September 2024).

CARRIED

2.1.2 2023-2024 Carried Forward Funds and Budget Adjustments

Moved Cr C Buchanan
Seconded Mayor G Aldridge

That Council:

1. Approves the 2024/25 budget be increased with \$37,369,704 funds carried forward to be applied as detailed in the Schedule of Funds Carried Forward from 2023/2024 to 2024/2025 in Attachment 1 to this report (Item No. 2.1.2, Finance and Corporate Services Committee, 16 September 2024).

2. Approves the 2023/2024 project expenditure budgets be reduced to reflect returned funds totalling \$9,617,728, and the total includes a return to the developer reserve of \$199,462 as per the Schedule of Funds Returned to Council 2023/24 in Attachment 2 to this report (Item No. 2.1.2, Finance and Corporate Services Committee, 16 September 2024).
3. Approves the 2023/24 project expenditure budgets be increased to reflect additional actual expenditure of \$967,874, as per the Schedule of Budget Adjustments 2023/24 in Attachment 3 to this report (Item No. 2.1.2, Finance and Corporate Services Committee, 16 September 2024).
4. Approves transfers of \$236,217 Capital to Operating and \$298,397 Operating to Capital to balance completed programs and projects, and \$91,000 Operating to Operating to consolidate operational budgets, and align to planned 2024/25 expenditure, as per the Schedule of Budget Transfers 2023/24 in Attachment 4 to this report (Item No. 2.1.2, Finance and Corporate Services Committee, 16 September 2024).
5. Approves the 2023/24 project budgets be adjusted for unsuccessful grant applications totalling \$594,813 income, and \$690,852 expenditure, as detailed in Attachment 5 to this report Schedule of Grant Funding Adjustments (Item No. 2.1.2, Finance and Corporate Services Committee, 16 September 2024).
6. Approves the 2023/24 Budget be adjusted for grants and other funding adjustments of \$162,627 Capital income, and \$161,252 Capital expenditure, with expenditure budgets carried forward, as detailed in Attachment 5 to this report Schedule of Grant Funding Adjustments (Item No. 2.1.2, Finance and Corporate Services Committee, 16 September 2024).
7. Approves budget allocation in 2023/24 of \$116,335 for PR27564 Montague Road Stormwater Failure to align with actual expenditure, and remove this project from non-discretionary funding at the 2024/25 First Quarter Budget Review (Council Resolution 0698/2024).
8. Approves operating funding included within the Schedule of Funds Carried Forward from 2023/2024 to 2024/2025 in Attachment 1 to this report (Item No. 2.1.2, Finance and Corporate Services Committee, 16 September 2024), PR26294 Managed Service – Telephone System 21/22 & PR26295 Expand Call Centre Functionality 21/22, totalling \$62,700 be repurposed to fund PR27895 Additional Confirm Licences within PR94997 Organisational Information Technology for the 2024/25 financial year, at a value of \$62,700.

9. Approves the program inclusion of building renewal and ergonomic upgrades at the Polaris Centre within PR18097 SAMP Building Service Continuity Program, with \$300,000 budget funding included within Schedule of Funds Carried Forward from 2023/2024 to 2024/2025 in Attachment 1 to this report (Item No. 2.1.2, Finance and Corporate Services Committee, 16 September 2024) and approves an additional budget allocation of \$200,000 in 2024/25 to provide the balance of the \$500,000 in total funding required for the Polaris Centre.
10. Approves the removal of 2024/25 operating expenditure budget for kerb and gutter replacement of \$870k, as this has also been included in PR12000 Road Reseal/Reconstruction Program.
11. Approves the 2023/24 project expenditure budgets be increased to reflect additional actual expenditure of \$82,014 for Minor Capital Works itemised in the table below, to reflect operating expenditure and associate budget transferred to capital (PR27784) as part of the end of financial year review of expenditure.

Work Detail	Total Cost
Supply and Install of Bollards to Watershed Wetlands	\$9,310
Campus Picnic Settings Park F - remove and install new	\$34,420
Para Hills Oval Coaches Boxes	\$14,500
Aerator Isla Circuit Mawson Lakes	\$16,880
CCTV System St Kilda Community Hall	\$6,904
Total Cost to be Capitalised	\$82,014

12. Approves the transfer of 2024/25 expenditure budgets relating to the Salisbury Aquatic Centre (SAC) maintenance to reflect service delivery responsibilities in City Infrastructure, per paragraph 3.20 (Item No. 2.1.2, Finance and Corporate Services Committee, 16 September 2024).
13. Approves the transfer of the following amounts to the Business Transformation Future Fund (BTFF) for the 2023/24 financial year, in accordance with the Business Transformation Future Fund Policy:

Expenditure / Income Category	Savings / Gains
Interest Expense	1,478,000
Total	1,478,000

14. Notes the transfer of \$100k from Business Transformation Future Fund to Project Connect operating budget for fourth quarter of 2023/24 in accordance with CEO delegation provided by resolution 0724/2024.

CARRIED
UNANIMOUSLY

2.1.3 Loan Borrowings 2023/24 and 2024/25

Moved Cr C Buchanan
Seconded Cr P Jensen

That Council:

1. Approves the balance of the Property Disposal Reserve be retained to support working capital requirements.
2. Approves the establishment of 10 Year Cash Advance Debenture Facilities to a total of \$19.6 million to enable the delivery of the 2024/25 Budget.

CARRIED

For Information

2.2.1 2022 State Government Grant Funding

Moved Cr P Jensen
Seconded Cr D Hood

That Council:

1. Notes in accordance with Resolution 1375/2022, the Council contribution associated with the new grant funding opportunities awarded in June 2022 were effectively distributed under the Chief Executive Officer delegation to support the associated projects within the 2021/22 Special Purpose Grants (Office for Recreation, Sport & Racing) and Community Infrastructure Grant Program (Department for Infrastructure & Transport), with these delegations closed out within the 2024/25 First Quarter Budget Review.

CARRIED

QUESTIONS ON NOTICE

There were no Questions on Notice.

MOTIONS ON NOTICE

There were no Motions on Notice.

OTHER BUSINESS

(Questions Without Notice, Motions Without Notice, CEO Update)

There were no Other Business Items.

The meeting closed at 6.37pm.

CHAIRMAN.....

DATE.....

ITEM	2.1.1
	FINANCE AND CORPORATE SERVICES COMMITTEE
DATE	21 October 2024
HEADING	Cultural Development Trust Fund Administration
AUTHOR	Melissa Hamilton, Team Leader Accounting Services, Business Excellence
CITY PLAN LINKS	4.2 We deliver quality outcomes that meet the needs of our community

SUMMARY The City of Salisbury Cultural Development Trust Fund was created in 1997 by Deed and ceased to functionally operate approximately 12 years ago, with no cash held and deductible gift recipient status withdrawn in 2019. Subsequently we have received notifications from the Australian Taxation Office (ATO) that lodgements are overdue. This report seeks to add and replace new trustees for the fund in order to perform future administrative duties.

RECOMMENDATION

That Council:

1. Appoints John Harry (Chief Executive Officer) and Gillian Aldridge (Mayor) as trustees for the Cultural Development Trust Fund (“the Fund”).
2. Authorises Administration to finalise the appropriate deed to replace the remaining Trustee and add an additional Trustee to the Fund.
3. Notes the information contained in this report (Item 2.1.1., Finance and Corporate Services, 21 October 2024).

ATTACHMENTS

There are no attachments to this report.

1. BACKGROUND

- 1.1 The City of Salisbury Cultural Development Trust (ABN 17 208 776 866) was established by deed in 1997, initially established to enable fundraising towards the commissioning of the Len Beadell Memorial Artwork, which was located in the front room area of the Len Beadell Library. This was granted Deductible Gift Recipient (DGR) Status and registered as a Charity Organisation.
- 1.2 Council was established as the Settler of the deed which provides the right to set the number of trustees and make the appointment of trustees.

- 1.3 Four trustees were appointed by Council at the time, being Chief Executive Officer, Mayor and two Elected Members. The trustees appointed were:
- Stephen Hains
 - Tony Zappia
 - Reg Atkinson
 - John Cotton
- 1.4 A report was presented to Council in February 2012 to replace these trustees for the fund with the nominated replacements being John Harry, Gillian Aldridge, David Balaza and Jana Isemonger with a further action to prepare a Deed of Removal and Appointment of Trustees.
- 1.5 Investigations undertaken by Council Administration show that this Deed was not progressed, therefore trustees were not updated for the Fund.
- 1.6 The trust fund has not been active for several years. The bank account held with the Commonwealth Bank of Australia was closed in 2013 and Council received notice of revocation of the Trust's Charity Registration in April 2015. Subsequently, the Trust's DGR status was cancelled in 2019.
- 1.7 At the time of deregistration from DGR status and the removal from the Charity Register in 2019, the winding up of the Fund's ABN should have occurred, however it appears that this was not actioned.
- 1.8 Several communications have been received from the ATO requesting income tax lodgments to be made for financial years dating back to 2015/16, with a number of responses made by Council Administration to cancel the ABN. To date, the ATO will not action any of these changes as they require instructions from the appointed trustees.
- 1.9 To carry out further administrative duties associated with the Fund, the Deed permits the Settler (being Council) to set the number of trustees and either add or replace existing trustees.
- 1.10 Section 6.4 of the original Deed states that Trustees are removed from the Fund by natural attrition by removal from office therefore 3 of the 4 original trustees who no longer hold office are no longer considered current, with only Stephen Hains remaining as a listed Trustee.
- 1.11 This report seeks to replace Stephen Hains as trustee with John Harry (Chief Executive Officer) and add Gillian Aldridge (Mayor) as a new Trustee. This will ensure appropriate representation from both an administrative and community perspective.
- 1.12 Once appointed, the Trustees will have the ability to act on any further administrative actions as required including the winding up of the Trust and any other actions that will satisfy ATO reporting requirements.

2. EXTERNAL CONSULTATION / COMMUNICATION

2.1 Australian Taxation Office

3. INTERNAL CONSULTATION / COMMUNICATION

- 3.1 Chief Executive Officer
- 3.2 Deputy Chief Executive Officer
- 3.3 Chief Legal Advisor
- 3.4 Manager Finance and Procurement Services
- 3.5 Team Leader Council Governance

4. DISCUSSION

- 4.1 The Fund was established in 1997 to enable fundraising for the Len Beadell Memorial Artwork, which was located in the front room of the Len Beadell Library. Several donations were received and managed through this fund.
- 4.2 The Fund consisted of four appointed Trustees, being Stephen Hains (CEO), Tony Zappia (Mayor), Reg Atkinson and John Cotton (previous Elected Members).
- 4.3 Council, listed as Settler in the Deed, was provided the power to set the number of trustees and further add or replace trustees as required.
- 4.4 In July 2005, the Fund received endorsement for charity tax concessions including income tax exemption, GST concessions and FBT rebates.
- 4.5 Annual Financial Statements were externally audited during its operational period, with the majority of funds spent by the end of the 2003 financial year.
- 4.6 Council resolved in February 2012 (821/2012) to replace the original trustees with John Harry (CEO), Mayor Gillian Aldridge, David Balaza and Jana Isemonger (previous Elected Members). A Deed of Removal and Appointment was to be actioned to formalise these appointments.
- 4.7 Council Administration have ascertained that the Deed of Removal and Appointment was never actioned, with no records of this being lodged.
- 4.8 Investigations show that the Commonwealth Bank account held for the fund was closed in approximately 2013, there are no records after this date of an active bank account.
- 4.9 Notice was received from the Australian Charities and Not-for-Profit Commission on 11 May 2015 informing that the Fund's registration as a Charity Organisation had been revoked effective from that date and the Fund was also removed from the Register of Cultural Organisations effective from 3 April 2019 upon instructions from the General Manager Community Development at the time. Subsequent to this, the ATO revoked the Funds DGR status on the same date.
- 4.10 Notification was received from the ATO in January 2021 informing Council that there were overdue income tax returns dating back to the 2015/16 financial year, which coincides with the revocation as a charity organisation. Another reminder was then sent to Council in January 2022.

- 4.11 Council Administration contacted the ATO in early 2022 to seek advice in winding up the Funds ABN to stop the reminder notices. The advice provided by the ATO was to link an existing City of Salisbury ATO Administrator (being Team Leader Accounting Services) to the Fund and subsequently cancelling the ABN registration. A letter was sent to the ATO on 21 June 2022 informing them of the situation along with the completed forms to change registration details and cancel the registration details.
- 4.12 No response was received from the ATO and Administration staff again contacted the ATO on 29 March 2023 to confirm that the ABN had been cancelled, along with a copy of the original correspondence dated 21 June 2022.
- 4.13 The ATO responded on 31 May 2023 advising that Council staff were to contact the ATO as soon as possible in regard to the change in registration request. A phone conversation was held, and Council was advised that despite the instructions provided previously, this process was incorrect and they could not action.
- 4.14 Further conversations were held between Council staff and the ATO to advise that the original trustees were no longer and there were no funds or trust active for the last 10 years. As such, the ATO was unable to provide any further advice.
- 4.15 The original Deed provides that a Trustee who has lost office as a member of Council will no longer be considered a Trustee. Given this, three of the four original trustees (Tony Zappia, Reg Atkinson and John Cotton) are no longer trustees by natural attrition.
- 4.16 The Settler (Council) can nominate to replace the remaining trustee (Stephen Hains) and it is recommended to action this by replacing the former Chief Executive Officer with the current Chief Executive Officer, John Harry.
- 4.17 To satisfy both Administration and community interests, it is recommended that Gillian Aldridge as Mayor be added as a Trustee to the Fund.
- 4.18 Once these appointments have been approved and actioned by way of a Deed, it will be possible to progress the official wind up the Fund and satisfy all outstanding ATO reporting obligations.

5. CONCLUSION

- 5.1 Council as Settler of the original deed of the Fund, can set the number of new trustees to 2 persons and appoint John Harry and Mayor Gillian Aldridge as the trustees. Once this is in place, the trustees can authorize relevant administrative duties to satisfy the ATO requirements.