

Confidential Minutes of the Ordinary Meeting of Council of the City of Holdfast Bay held in the Council Chamber, Glenelg Town Hall, Moseley Square, Glenelg, on Tuesday 24 January 2017.

17. ITEMS IN CONFIDENCE

17.1 Glenelg Football Club (Report No: 18/17)

RECOMMENDATION – EXCLUSION OF THE PUBLIC – Section 90(3)(d) Order

Motion

C240117/643

- 1 That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 18/17 Glenelg Football Club in confidence.**
- 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 18/17 Glenelg Football Club on the following grounds:
 - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, because it relates to the operations of the Glenelg Football Club.**

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.**
- 3. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances as the benefit or detriment to Council in not disclosing information relating to Glenelg Football Club outweighs the public interest at this time.**

Moved Councillor Lonie, Seconded Councillor Aust

Carried

Conflict of Interest

His Worship the Mayor, S Patterson declared a perceived conflict of interest for 17.1 Glenelg Football Club (Report No: 18/17). The nature of his perceived conflict of interest (Pursuant to Section 74 of the Local Government Act 1999) was that his company has a business relationship with the Club. His Worship the Mayor dealt with this perceived conflict of interest by making it known to the chamber and if it becomes apparent he would have a Material Conflict of Interest this will be declared.

Conflict of Interest

Councillor Snewin declared a perceived conflict of interest for 17.1 Glenelg Football Club (Report No: 18/17). The nature of his perceived conflict of interest (Pursuant to Section 74 of the Local Government Act 1999) was that he is the President of the Glenelg District Cricket Club. Councillor Snewin dealt with this perceived conflict of interest by making it known to the chamber and if it becomes apparent he would have a Material Conflict of Interest this will be declared.

Glenelg Football Club (Report No: 18/17)

There has been further developments on this matter subsequent to Council's previous decisions including discussions with Glenelg Football Club and a response from ANZ Bank.

Motion

That Council revokes Resolution C221116/585 made at its meeting on 22 November 2016 in their entirety and replace with the following:

- 1. That Council re-affirms its commitment to support Glenelg Football Club in its objective of long-term sustainability.**
- 2. That the Chief Executive Officer negotiate for the balance of the first tranche of the sale proceeds held by SANFL (\$162,000) be released to the Glenelg Football Club and applied to reduce the Club's secured debt on a pro-rata basis of $\frac{2}{3}$ paid to Council (ie. \$108,000) and $\frac{1}{3}$ to ANZ Bank (ie. \$54,000)**
- 3. That the Chief Executive Officer negotiate an in-principle agreement with Glenelg Football Club to share future tranches of SANFL sale proceeds on a basis of $\frac{2}{3}$ to Council and $\frac{1}{3}$ to ANZ Bank.**

Councillor Bouchee left the chamber at 8.26pm.

Councillor Bouchee rejoined the chamber at 8.27pm.

Moved Councillor Donaldson, Seconded Councillor Lonie

Amendment**C240117/644**

1. That Council re-affirms its commitment to support Glenelg Football Club in its objective of long-term sustainability.
2. That the Chief Executive Officer negotiate for the balance of the first tranche of the sale proceeds held by SANFL (\$162,000) be released to the Glenelg Football Club and applied to reduce the Club's secured debt on a pro-rata basis of $\frac{2}{3}$ paid to Council (ie \$108,000) and $\frac{1}{3}$ to ANZ Bank (ie \$54,000).
3. That Council reaffirm its commitment to Resolution C221116/585 and appoint the Chief Executive Officer, Administration and its agents to negotiate with all parties to share future SANFL sale proceeds to be applied in the proportion of $\frac{4}{5}$ th to repay Council's secured debt and $\frac{1}{5}$ th to repay ANZ Bank's secured debt.
4. That in the event agreement cannot be reached within 6 weeks that the Chief Executive Officer, Administration and its agents negotiate with all parties a formal agreement with the Glenelg Football Club to share future tranches of SANFL money on a basis of $\frac{2}{3}$ rd to Council and $\frac{1}{3}$ rd to the ANZ Bank.
5. That agreement be conditional on the Glenelg Football Club, the ANZ Bank, City of Holdfast Bay and SANFL entering into a deed of arrangement which formalises the agreement on distribution of monies from both tranches.
6. That Council reserves their rights in relation to all other outstanding debts and interest against the Glenelg Football Club.
7. That in the event of the Glenelg Football Club receiving a statutory demand or any other notice that would trigger a winding up, or appointment of receivers to the Glenelg Football Club that the Glenelg Football Club immediately that same business day notify the City of Holdfast Bay in writing.

Moved Councillor Wilson, Seconded Councillor Smedley

Further Amendment

1. That Council re-affirms its commitment to support Glenelg Football Club in its objective of long-term sustainability.
2. That the Chief Executive Officer negotiate for the balance of the first tranche of the sale proceeds held by SANFL (\$162,000) be released to the Glenelg Football Club and applied to reduce the Club's secured debt on a pro-rata basis of $\frac{4}{5}$ th paid to Council (ie \$129,600) and $\frac{1}{5}$ th to ANZ Bank (ie \$32,400)
3. That Council reaffirm its commitment to Resolution C221116/585 and appoint BRI Ferrier as its agent to assist in negotiations with the ANZ Bank to share future SANFL sale proceeds to be applied in the proportion of $\frac{4}{5}$ th to repay Council's secured debt and $\frac{1}{5}$ th to repay ANZ Bank's secured debt.

4. That in the event agreement cannot be reached by BRI Ferrier within 6 weeks that the Chief Executive Officer negotiate a formal agreement with the Glenelg Football Club to share future tranches of SANFL money on a basis of 3/4 to Council and 1/4 to the ANZ Bank.
5. That agreement be conditional on the Glenelg Football Club, the ANZ Bank, City of Holdfast Bay and SANFL entering into a deed of arrangement which formalises the agreement on distribution of monies from both tranches.
6. That Council reserves their rights in relation to all other outstanding debts and interest against the Glenelg Football Club.
7. That in the event of the Glenelg Football Club receiving a statutory demand or any other notice that would trigger a winding up, or appointment of receivers to the Glenelg Football Club that the Glenelg Football Club immediately that same business day notify the City of Holdfast Bay in writing.

Moved Councillor Clancy, Seconded Councillor Charlick

Lost

Division called

A division was called:

Those voting for: Councillors Charlick and Clancy, (2)

Those voting against: Councillors Lonie, Bouchée, Aust, Bradshaw, Donaldson, Patton, Smedley, Snewin, Wilson and Yates (10).

His Worship the Mayor declared the motion

Lost

Councillor Clancy left the chamber at 9.52pm.

Councillor Clancy rejoined the chamber at 9.54pm

Leave of the Meeting

Councillor Charlick sought leave of the meeting to speak to the motion as amended for a second time.

His Worship the Mayor sought permission of the chamber and leave was granted.

Councillor Charlick spoke to the motion as amended for a second time and sought the agreement of the mover and seconder of the motion as amended to amend the motion further to change points 3 and 4 to remove references to BRI Ferrier and replace with the Chief Executive Officer, Administration and its agents to negotiate with all parties.

The motion, as amended, on being put was

Carried

Councillor Wilson left the chamber at 9.54pm.

Councillor Wilson rejoined the chamber at 9.54pm.

Division called

A division was called:

Those voting for: Councillors Bouchée, Aust, Bradshaw, Charlick, Smedley, Snewin, Wilson and Yates (8)

Those voting against: Councillors Lonie, Clancy, Donaldson and Patton (4).

His Worship the Mayor declared the motion

Carried

Councillor Wilson left the chamber at 9.58pm

RETAIN IN CONFIDENCE - Section 91(7) Order

Motion

C240117/645

That having considered Agenda Item 17.1 Report No: 18/17 Glenelg Football Club in confidence under section 90(2) and (3)(d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, minutes and attachments be retained in confidence for a period of 24 months, or until such time as negotiations are completed and that this order be reviewed every 12 months.

Moved Councillor Bouchee, Seconded Councillor Snewin

Carried

Councillor Wilson rejoined the chamber at 9.59pm.