

**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 23 August 2022.**

**18. ITEMS IN CONFIDENCE**

**18.1 Alwyndor Standby Credit Facility Agreement (Report No: 369/22)**

**Motion – Exclusion of the Public – Section 90(3)(d) Order C230822/7223**

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: 369/22 Alwyndor Standby Credit Facility Agreement 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: 369/22 Alwyndor Standby Credit Facility Agreement 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 confer a commercial advantage on a third party.

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, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential

Moved Councillor Abley, Seconded Councillor Snewin

**Carried Unanimously**

At the meeting of 28 June 2022, Council approved the Alwyndor Management Committee (AMC) to establish a standby credit facility (Convertible Cash Advance Debenture (CCAD)) (Agreement) with the Local Government Finance Authority (LGFA) of South Australia.

AMC does not have the authority to enter into such an Agreement as it is an advisory committee of the City of Holdfast Bay formed under Section 41 of the *Local Government Act 1999*. The City of Holdfast Bay, as the owner of Alwyndor, is the authorised entity.

The Agreement would be in the name of City of Holdfast Bay and Alwyndor Aged Care would manage the administration of the Agreement.

This report sought Council authorisation for the Mayor and Chief Executive Officer to execute any relevant documentation in relation to the Agreement including application and affixing of the Common Seal.

**Motion**

**C230822/7224**

**That Council:**

1. **Notes the Convertible Cash Advance Debenture (CCAD) Agreement will be in the amount of \$3 million; and**
2. **Approves the Mayor and the Chief Executive Officer to be authorised to execute any relevant documentation in relation to the borrowings for and on behalf of Council and affix the Council's Common Seal to give effect to this CCAD Agreement.**

**RETAIN IN CONFIDENCE - Section 91(7) Order**

3. **That having considered Agenda Item 18.1 Alwyndor Standby Credit Facility Agreement (Report No: 369/22) in confidence under section 90(2) and (3) (d) of the *Local Government Act 1999*, the Alwyndor Management Committee, pursuant to section 91(7) of that Act orders that the Report, Attachments and Minutes be retained in confidence for a period of 12 months and that this order be reviewed every 12 months.**

Moved Councillor Abley, Seconded Councillor Snewin

**Carried Unanimously**

18.2 **Kingston Park Kiosk Construction Funding** (Report No: 359/22)**Motion – Exclusion of the Public – Section 90(3)(b) Order****C230822/7225**

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: 359/22 - Kingston Park Kiosk Construction Funding 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: 359/22 – Kingston Park Kiosk Construction Funding on the following grounds:
  - b. pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is proposing to conduct business or would prejudice the commercial position of the Council as it discusses possible business cases

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, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councillor Bradshaw, Seconded Councillor Lonie

**Carried Unanimously**

The final concept design and construction budget of \$1,000,000 for the Kingston Park Kiosk was approved by Council on 12 April 2022.

After a thorough design process, the detailed designs of the Kingston Park Kiosk including landscape design and service infrastructure designs were completed on 1 July 2022 and subsequently put out to tender on 5 July 2022. Two separate tenders were issued for the Kingston Park Kiosk including one for the kiosk and landscaping construction and a second for the service infrastructure construction.

A combined total of two submissions were received for the two tenders, one of which was a joint submission for both projects from BluBuilt Constructions who were subsequently selected as Council's preferred contractor. The final price provided by

BluBuilt Constructions however was substantially more than the approved construction budget. Discussions were then undertaken between Administration and BluBuilt Constructions to establish where potential cost savings or reductions in scope could be made to reduce construction costs.

These discussions resulted in BluBuilt Constructions providing a revised fee of \$1,359,915 for the project including the kiosk, landscaping and service infrastructure construction. This fee and clarification on the proposed changes were the subject of a Council Workshop on 16 August 2022.

**Motion**

**C230822/7226**

**That Council endorses:**

1. an additional \$360,000 of funding be approved to the project for construction from the 2022/23 capital budget, bringing the total project construction budget to \$1,360,000;
2. the Mayor and Chief Executive Officer to sign and execute a contract for the construction of the kiosk including landscaping and service infrastructure works with the preferred tenderer, BluBuilt Constructions, to a value of \$1,359,915; and

**RETAIN IN CONFIDENCE - Section 91(7) Order**

3. That having considered Agenda Item 18.2 Report No: 359/22 – Kingston Park Kiosk Construction Funding in confidence under Section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the report, attachments and minutes relevant to this item be retained in confidence for a period of 18 months and the Chief Executive Officer be authorised to release of the documents thereafter.

Moved Councillor Bradshaw, Seconded Councillor Lindop

**Carried Unanimously**

18.3 **Kingston Park Agreement to Lease (Report No: 329/22)****Motion – Exclusion of the Public – Section 90(3)(b & d) Order C230822/7227**

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: 329/22 Kingston Park Agreement to Lease 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: 329/22 Kingston Park Agreement to Lease on the following grounds:
  - b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would prejudice the commercial position of the Council; and
  - 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.

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, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councillor Fleming, Seconded Councillor Fletcher **Carried Unanimously**

On 8 December 2020, Council endorsed that Administration seek expressions of interest for an operator to participate in the design process of the proposed kiosk at Kingston Park (Kiosk) and, should the development proceed, provide café services from the Kiosk.

Five (5) expressions of interest were received by Administration during the two week submission period in April 2021. Three (3) of the submissions were short listed and

were assessed by a tender evaluation panel, consisting of two Elected Members, using an appropriate and equitable process to determine the preferred applicant.

Administration has worked through the preferred applicant's expression of interest and an acceptable proposal has been negotiated and was presented for Council's approval.

**Motion**

**C230822/7228**

**That Council:**

1. **appoints The Seller Door Pty Ltd as the café service provider for the Kingston Park Kiosk;**
2. **enters into an Agreement To Lease with The Seller Door Pty Ltd pursuant to which Council agrees that it will, in the future, grant a lease to The Seller Door Pty Ltd in respect of that portion of land comprised in Certificate of Title Volume 6616 Folio 560 as delineated in red on the plan annexed hereto as Attachment 1 and more particularly situated in the south western corner of the Brighton Beachfront Holiday Park for a term of five (5) years subject in all respects to practical completion of the Kiosk and otherwise on the terms and conditions outlined herein; and**
3. **authorises the Mayor and the Chief Executive Officer to execute and seal any documents required to give effect to the Agreement For Lease.**

**RETAIN IN CONFIDENCE - Section 91(7) Order**

4. **That having considered Agenda Item 18.3 Kingston Park Agreement To Lease (Report No: 329/22) in confidence under section 90(2) and (3)(b & d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the Report, Attachments and Minutes be retained for the duration of the approved lease period (provided always that the release of the Report, Attachment and Minutes is subject to the redaction of any financial information contained therein).**

Moved Councillor Bradshaw, Seconded Councillor Lonie

**Carried Unanimously**

18.4 **Former Buffalo Site Detailed Design** (Report No: 358/22)**Motion** – Exclusion of the Public – Section 90(3)(k) Order**C230822/7229**

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: 358/22 – Former Buffalo Site Detailed Design 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: 358/22 – Former Buffalo Site Detailed Design on the following grounds:
  - k. pursuant to section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item are tenders for the provision of design services for the former Buffalo site.
3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councillor Fleming, Seconded Councillor Patton

**Carried Unanimously**

A design budget of \$200,000 for the former Buffalo site was approved by Council through the 2021/22 Annual Business Plan. In addition, Council was successful in receiving a further \$100,000 from the State Government through the Open Space and Places for People Grants from the Planning and Development Fund.

On 12 April 2022, Council endorsed a final concept for the former Buffalo site redevelopment. The tender for detailed design was then opened on 27 May 2022 and closed on 17 June 2022. A total of five submissions were received, one of which was not compliant and the remaining four submissions were assessed in accordance with Council's procurement criteria. Based on this criteria, Tonkin was the preferred contractor for the design services, however the fee submitted by Tonkin exceeded the total design budget available.

Although Tonkin's project team contains a maritime engineer who will be providing expertise into designs relating to the interface with water on the edge of the Patawalonga, it is also proposed that additional budget is required to commission engineering advice that will provide better insight to the cost of construction prior to commencing design development.

**Motion****C230822/7230****That Council:**

1. notes that further investigation and analysis be undertaken prior to commencing detailed design of the Buffalo site design;
2. approves \$30,000 of the former Buffalo site design budget to be allocated towards site investigations and analysis;
3. notes a project update will be provided to the public via 'yourholdfast' and notification to the former Buffalo site consultation database; and

**RETAIN IN CONFIDENCE - Section 91(7) Order**

4. That having considered Agenda Item 18.4 358/22 – Former Buffalo Site Detailed Design in confidence under section 90(2) and (3)(k) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report be retained in confidence and the Chief Executive Officer is authorised to release the documents when relevant financial information is redacted from the documentation and that this order be reviewed every 12 months.

Moved Councillor Patton, Seconded Councillor Abley

**Carried Unanimously**



### **Conflict of Interest**

Councillor Fletcher declared a perceived conflict of interest for Item 18.5 Glenelg Football Club – New Lease and Licence (Report No: 357/22). The nature of the perceived conflict of interest (pursuant to Section 75 and 75A of the *Local Government Act 1999* was that her daughter's partner plays for the Glenelg Football Team.

Councillor Fletcher dealt with the perceived conflict of interest by making it known to the meeting and remained in the meeting as she was acting in the interests of the community. Councillor Fletcher voted for the motion.

18.5 **Glenelg Football Club – New Lease and Licence** (Report No: 357/22)

**Motion** – Exclusion of the Public – Section 90(3)(b & d) Order C230822/7231

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: 357/22 Glenelg Football Club - New Lease and Licence of 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: 357/22 Glenelg Football Club - New Lease and Licence on the following grounds:
  - b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would prejudice the commercial position of the Council.
  - 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.

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, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.**

Moved Councillor Fletcher, Seconded Councillor Snewin **Carried Unanimously**

The Glenelg Football Club Incorporated ("Club") has occupied its current premises at Glenelg Oval under a lease and license arrangement since 1 July 2001. At its Meeting held on 11 July 2017, Council resolved to enter into a new lease and licence agreement with the Club for a period of five (5) years commencing 1 October 2017 and ending on 30 September 2022, with an option to renew for a further five (5) years thereafter. Following preliminary discussions with the Club, it was proposed that Council now enter into a new lease and license agreement with the Club for a period of five (5) years commencing 1 October 2022, with an option to renew for a further five (5) years thereafter, with an annual payable rent of \$39,136.71 (excl GST) from 31 October 2023. It was also recommended that negotiations commence to finalise the terms of a sub-lease between the Club and the commercial entity currently enjoying exclusive use of a section of the first floor in the Clubroom building. Full details of the proposal were outlined within the report.

**Motion**

**C230822/7232**

**That Council:**

1. **authorise the Chief Executive Officer to holdover the current licence agreement between the City of Holdfast Bay and the Glenelg Football Club Incorporated for the seasonal use of Glenelg Oval and surrounds over portion of land contained within Certificate of Title Volume 5869 until 31 October 2023.**
2. **authorise the Chief Executive Officer to holdover the current lease agreement between the City of Holdfast Bay and the Glenelg Football Club Incorporated for the Glenelg Football Club building and Edward Rix Grandstand over portion of land contained within Certificate of Title Volume 5869 until 31 October 2023.**
3. **authorise Administration to review the terms of the lease agreement between the City of Holdfast Bay and the Glenelg Football Club Incorporated (the Club) for the Glenelg Football Club building and Edward Rix Grandstand over portion of land contained within Certificate of Title Volume 5869 at the time commensurate with, and having regard to, the review of the Club's financial arrangements as sought by Council Resolution No. C141221/2502 made on 14 December 2021.**

**RETAIN IN CONFIDENCE - Section 91(7) Order**

4. That having considered Agenda Item 18.5 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, attachments and minutes be retained in confidence for a period of 24 months from the date of this decision and that the Chief Executive Officer is authorised to release the documents at the expiry of that period and that this order be reviewed every 12 months.

Moved Councillor Smedley, Seconded Councillor Fleming

**Carried Unanimously**

CONFIDENTIAL

18.6 **Commercial Activation, Spring 2023** (Report No: 316/22)**Motion** – Exclusion of the Public – Section 90(3)(d) Order**C230822/7233**

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: 316/22 Commercial Activation, Spring 2023 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: 316/22 Commercial Activation, Spring 2023 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.

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, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councillor Fleming, Seconded Councillor Lonie

**Carried Unanimously**

Andrew Kay and Associates Pty Ltd have expressed interest in using Wigley Reserve as the venue for their 2023 season of the commercial activation Monet in Paris. This report summarised the terms of the proposed agreement for Council endorsement.

**Motion****C230822/7234**

1. That Council endorse granting Andrew Kay and Associates Pty Ltd a licence to operate the Monet in Paris activation on Wigley Reserve during Spring 2023, under the terms outlined in the report.

**RETAIN IN CONFIDENCE - Section 91(7) Order**

2. That having considered Agenda Item 18.6 316/22 Commercial Activation, Spring 2023 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 and minutes relevant to this item be retained in confidence for a period of 24 months and that this order be reviewed every 12 months.

Moved Councillor Miller, Seconded Councillor Abley

**Carried Unanimously**

CONFIDENTIAL

18.7 **Glenelg Foreshore Amusement Device** (Report No: 318/22)**Motion** – Exclusion of the Public – Section 90(3)(k) Order **C230822/7235**

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: 318/22 Glenelg Foreshore Amusement Device 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: 318/22 Glenelg Foreshore Amusement Device on the following grounds
  - k. pursuant to section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item are tenders for the provision of services, namely the operation of an Amusement Device on the Glenelg Foreshore.
3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councillor Fleming, Seconded Councillor Lonie

**Carried Unanimously**

Xtra Ordinary Events Pty Ltd have operated a giant Ferris wheel on Glenelg Foreshore over the summer months since 2019, under a license agreement that expired in May 2022. Following a call for Expressions of Interest advertised on Tenders SA, it was recommended that Xtra Ordinary Events Pty Ltd be provided with an additional three year (3) license with a 1+1 extension option.

**Motion****C230822/7236****That Council:**

1. Grants a licence to Xtra Ordinary Events Pty Ltd for the delivery of a Ferris Wheel on the following terms:
  - term: 3 year(s) commencing on the date of the license being executed; with the right of renewal for 1 plus 1 years;
  - licensed area being approximately 600m<sup>2</sup>;
  - trading hours 10am to 11pm; and

- **rent payable to Council: commencing \$2,000 (exclusive of GST) per week, per annum in Year 1, increasing per the schedule outlined in this report.**
2. **Notes that a new Licence Agreement is being drafted by Council lawyers that will reflect the terms, conditions and obligation in this report.**
  3. **Authorises the Chief Executive Officer to execute any documents required to give effect to this licence.**

**RETAIN IN CONFIDENCE - Section 91(7) Order**

4. **Having considered Agenda Item 18.7 Glenelg Foreshore Amusement Device (Report No: 318/22) in confidence under Section 90(2) and (3) (k) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the Report and Minutes be retained in confidence for a period of five years with the Chief Executive Officer authorised to release the documents on the expiry of the 1 June 2027 confidentiality period.**

Moved Councillor Patton, Seconded Councillor Abley

**Variation**

The Mover Councillor Patton and Seconder Councillor Abley agreed to the amendment proposed by Councillor Snewin to include **'to negotiate a reduction in the occupation period with the Lessee and'** to the third dot point of Item 18.7 **Glenelg Foreshore Amusement Device** (Report No: 318/22).

The motion, as amended, on being put was

**Carried**

18.8 **Event Activation** (Report No: 368/22)**Motion** – Exclusion of the Public – Section 90(3)(d) Order**C230822/7237**

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: 368/22 Event Activation 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: 368/22 Event Activation on the following grounds:
  - d. 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, or to confer a commercial advantage on a third party; and would, on balance, be contrary to the public interest.
3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councillor Fletcher, Seconded Councillor Fleming

**Carried Unanimously**

The South Australian Tourism Commission has offered Council the opportunity to host Stage One of the Santos Women's Tour Down Under on Sunday 15 January 2023 from Glenelg to Strathalbyn.

The Women's Race has been elevated to Union Cycliste Internationale World Tour status.

**Motion****C230822/7238**

1. Council approve the hosting of Stage One of the 2023 Santos Women's Tour Down Under.



**RETAIN IN CONFIDENCE - Section 91(7) Order**

2. That having considered Agenda Item 18.8 368/22 Event Activation 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 and minutes be retained in confidence until the event organisers make their public announcement which is targeted for September 2022 and/or the Chief Executive Officer is authorised to release the documents when the official announcement is made and that this order be reviewed every 12 months.

Moved Councillor Fletcher, Seconded Councillor Smedley **Carried Unanimously**

CONFIDENTIAL

18.9 **Confidential Minutes – Audit Committee Meeting – 17 August 2022** (Report No: 372/22)

**Motion – Exclusion of the Public – Section 90(3)(d) Order** **C230822/7239**

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: 372/22 Confidential Minutes - Audit Committee Meeting – 17 August 2022 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: 372/22 Confidential Minutes - Audit Committee Meeting – 17 August 2022 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, or to confer a commercial advantage on a third party.

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, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councillor Shewin, Seconded Councillor Lonie

**Carried Unanimously**

The confidential minutes of the meeting of the Audit Committee held 17 August 2022 were presented to Council for information and endorsement.

**Motion****C230822/7240**

1. That Council notes the confidential minutes of the Audit Committee meeting of 17 August 2022 and that the Audit Committee advises Council that:
  - (a) it has received and considered an assessment of community loans receivable as at 30 June 2022;
  - (b) the current impairment amount of \$517,780 be maintained for impairment of community loans receivable as at 30 June 2022;
  - (c) in accordance with Accounting Standards the impairment amount be reviewed and updated annually; and

**RETAIN IN CONFIDENCE - Section 91(7) Order**

2. That having considered Agenda Item 18.9 372/22 Confidential Minutes - Audit Committee Meeting – 17 August 2022 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, attachment and minutes be retained in confidence for a period of six months and the Chief Executive Officer is authorised to release the documents when Audited Financial Statements are presented to Council.

Moved Councillor Smedley, Seconded Councillor Snewin

**Carried Unanimously**

## 18.10 Chief Executive Officer's Performance Review (Report No: 349/22)

**Motion** – Exclusion of the Public – Section 90(3)(a) Order **C230822/7241**

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 General Manager, Strategy and Corporate and staff minute taker at the meeting in order to consider Report No: 349/22 Chief Executive Officer's Performance Review 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: 349/22 Chief Executive Officer's Performance Review on the following grounds:
  - a. pursuant to section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to Report No: 349/22 Chief Executive Officer's Performance Review is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead), being Chief Executive Officer, Mr Roberto Bria, in that details of his performance review will be discussed, which are sensitive and are details only known to those who have participated in the discussion.
3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councillor Abley, Seconded Councillor Lonie

**Carried Unanimously**

The Executive Committee have met to review and evaluate the Chief Executive Officer's Performance Review for the 2021/22 financial year. The report outlined the results of the review and made a recommendation to Council regarding the Chief Executive Officer's remuneration package.

**Motion****C230822/7242****That Council:**

1. notes the public and confidential minutes of the Executive Committee meeting of 9 August 2022;
2. notes the Chief Executive Officer's annual performance review for the 2021/22 financial year has been completed by the Executive Committee;
3. endorses the results of the Chief Executive Officer's annual performance review, including the independent report prepared by Ms Molitor;

4. approves a 1.5% increase to the Chief Executive's current remuneration package, comprising 1% salary increase and 0.5% superannuation increase, to be backdated from 10 July 2022;
5. approves the following amendment to Clause 22.2 of the Chief Executive Officer's contract:  
*"Clause 22.2 - We may terminate your employment prior to completion of your Fixed Term by providing you with a six month notice period."*;
6. approves a three (3) year extension to the Chief Executive Officer's contract, concluding in July 2027; and

**RETAIN IN CONFIDENCE - Section 91(7) Order**

7. That having considered Agenda Item 18.10 349/22 Chief Executive Officer's Performance Review in confidence under section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the Report, Attachments 2, 3, 4, and 5 and Minutes be retained in confidence for a period of 24 months and that this order be reviewed every 12 months.

Moved Councillor Abley, Seconded Councillor Smedley

**Carried Unanimously**

**CLOSURE**

Meeting closed 9.39pm

**CONFIRMED**

**13 September 2022**

**MAYOR**