

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 13 August 2019.

Conflict of Interest

Councillor Abley declared a perceived conflict of interest for Item 20.1 Memorial Seats Update (Report No: 222/19). The nature of the perceived conflict of interest (pursuant to Section 74 of the *Local Government Act 1999*) is that she is assisting with an application for a memorial seat.

Councillor Abley dealt with this perceived conflict of interest by making it known to the chamber and remaining as she is acting for the interest of the community.

Councillor Bouchee declared a perceived conflict of interest for Item 20.1 Memorial Seats Update (Report No: 222/19). The nature of the perceived conflict of interest (pursuant to Section 74 of the *Local Government Act 1999*) is that she is dealing with a memorial seat at Glenelg pier.

Councillor Bouchee dealt with this perceived conflict of interest by making it known to the chamber and remaining as she is acting for the interest of the community.

20. ITEMS IN CONFIDENCE

20.1 Memorial Seats Update (Report No: 222/19)

Motion – Exclusion of the Public – Section 90(3)(h) Order C130819/1583

- 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: 222/19 – Memorial Seats Update 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: 222/19 – Memorial Seats Update on the following grounds:**
 - h. pursuant to section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is legal advice which has been provided by HWL Ebsworth Lawyers on instructions from Council.**

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 Lindop, Seconded Councillor Abley

Carried

Prior to around 2000, Council entered in sales agreements with individuals to supply, install and maintain memorial plaques on public benches located mainly along the coastal strip. No conditions of sale or other terms such as tenure, ongoing maintenance or replacement appear to have been provided. Disputes are now arising relation to these installations.

Based on legal advice from Council's lawyers, this report presented a rationale for terminating these undocumented agreements based on a fair and reasonable implied term, and a reasonable notice period. It also recommended a course of action and an implementation strategy, developed with the primary objective to achieve an equitable outcome for these undocumented agreements which aims to reduce the likelihood of complaints.

The report also considered measures and processes required in the future to administer the Memorial Program. It included the proposed changes to the Memorials Policy as well as new Terms and Conditions to complement and strengthen the policy.

Motion

C130819/1584

That Council:

1. **notes the legal advice presented in Attachment 1;**
2. **adopts the following implied 'reasonable terms' for undocumented agreements:**
 - a. **For an undocumented agreement entered into after November 2000, the implied reasonable term is taken to be 10 years; and**
 - b. **For undocumented agreements entered into before November 2000, the implied reasonable term is taken to be the seat's nominal asset life, being either 17 years for seats located less than 1 km from the coast or 25 years for seats located more than 1km from the coast;**
3. **adopts the Memorial Seats Implementation Strategy as presented in Attachment 2 and authorises Administration to implement the steps outlined in that document**
4. **approves the new Memorials Policy as presented in Attachment 3;**

5. endorses the proposed new Memorial Seat Terms and Conditions as presented in Attachment 4 and to be applied to any new memorial seat licences issued after the date of this resolution; and
6. authorises Administration to further develop administrative processes as outlined in section 3 of this report titled 'Future Management of the Memorial Seats Program'.

Moved Councillor Smedley, Seconded Councillor Snewin

Carried Unanimously

RETAIN IN CONFIDENCE - Section 91(7) Order

C130819/1585

7. That having considered Agenda Item: 20.1 – Report No: 222/19 – *Memorial Seats Update* in confidence under section 90(2) and (3)(h) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, discussion, minutes and attachments (excluding the resolution, Attachment 3 – revised Memorials Policy and Attachment 4 - Memorial Seats Terms and Conditions) be retained in confidence for a period of 12 months or until all current Memorial Seat agreements have been reviewed and resolved.

Moved Councillor Bouchee, Seconded Councillor Lindop

Carried

Conflict of Interest

Councillor Lindop declared a perceived conflict of interest for item 20.2 Synthetic Turf on Verges (Report No: 310/19). The nature of the perceived conflict of interest (pursuant to Section 74 of the *Local Government Act 1999*) is that she had a previous employment relationship with the property owner.

Councillor Lindop dealt with this perceived conflict of interest by making it known to the chamber and remaining as she is acting for the interest of the community.

20.2 **Synthetic Turf on Verges** (Report No: 310/19)

Motion – Exclusion of the Public – Section 90(3)(h) Order

C130819/1586

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: 310/19 – Synthetic Turf on Verges 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: 310/19 – Synthetic Turf on Verges on the following grounds:

- h. pursuant to section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is legal advice which has been provided by HWL Ebsworth Lawyers on instructions from Council.**

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 Lindop, Seconded Councillor Snewin

Carried

Administration received a request in May 2019 from the landowner of a new dwelling under construction at 1 Richardson Avenue, Glenelg North for permission under s221 of the Local Government Act to undertake landscaping works on the verges of Margaret St and Richardson Avenue, Glenelg North. The proposal included the installation of new concrete (washed aggregate) footpaths, tree planting, gardens and installation of modern synthetic turf.

Administration undertook an assessment of the proposed landscaping taking account of the Verge Management Policy, previous approvals given under s221 and the fit of the proposed landscaping within the local urban environment.

Approval was subsequently given under delegation for all elements of the landscaping including installation of modern synthetic turf.

At its meeting on 23 July 2019, Council expressed concerns about the use of synthetic turf due to possible environmental issues – principally lack of permeability for water uptake, possible heating of soil around root zones and heat island impact. Concern was also raised about long term maintenance and liabilities to Council if the material deteriorates.

Installation of the synthetic turf has now been completed.

This report addresses those concerns and makes recommendations for tightening of Council current Verge Management Policy to prohibit the future installation of synthetic turf on Council verges.

Motion**C130819/1588**

1. That Council notes the previously issued authorisation under s221 of the Local Government Act for installation of modern synthetic turf on verges at 1 Richardson Avenue, Glenelg North (refer Attachment 4).
2. That Administration review the performance of the synthetic turf on verges at 1 Richardson, Avenue Glenelg North after 1 year to assess the impact on newly planted street trees.
3. If there is an unreasonable adverse impact on the growth and development of the trees, Council consider whether a breach of condition has occurred which may warrant cancellation of the s221 authorisation.
4. That Council endorse a change to the Verge Management Policy to add synthetic turf to the prohibited verge treatments as listed at Clause 2.3.b of the Verge Management Policy.
5. That the proposed change in Policy apply to all new applications to install synthetic turf including any proposals to renew existing installations.
6. That the cost and ongoing maintenance of any approved synthetic turf installations be met by the property owners.

Moved Councillor Smedley, Seconded Councillor Patton

Carried**RETAIN IN CONFIDENCE - Section 91(7) Order****C130819/1589**

7. That having considered Agenda Item: 20.2 – Report No: 310/19 – Synthetic Turf on Verges in confidence under section 90(2) and (3)(h) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, discussion, minutes and attachments (excluding Attachment 2 - Verge Management Policy) be retained in confidence for a period of 12 months.

Moved Councillor Lindop, Seconded Councillor Abley

Carried**Division called**

A division was called and the previous decision was set aside.

Those voting for: Councillors Snewin, Clancy, Smedley, Abley, Patton, Chabrel, Lindop and Bradshaw (8)
Those voting against: Councillor Bouchee (1)

Her Worship the Mayor declared the motion

Carried

CONFIRMED Tuesday 27 August 2019

MAYOR

CONFIDENTIAL