

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 12 October 2021.

18. ITEMS IN CONFIDENCE

18.1 Hoarding Fee Relief (Report No: 339/21)

**Motion** Exclusion of the Public – Section 90(3)(b & d) Order C121021/2444

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: 339/21 Hoarding Fee Relief 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: 339/21 Hoarding Fee Relief in confidence 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 conducting business; or would prejudice the commercial position of 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, 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 Fleming, Seconded Councillor Snewin

**Carried Unanimously**

Councillor Lonie left the meeting at 8.04pm.

Councillor Lonie re-joined the meeting at 8.06pm.

Council received a request from the Architect working on behalf of the Taplin Group for dispensation from the hoarding fees otherwise payable to facilitate the construction of a multi-storey retail and hotel building at the site bound by Jetty Road, Colley Terrace, and Durham Street at Glenelg (otherwise known as 13-23 Jetty Road and 1-3 Colley Terrace). The request was submitted on the basis that the site's unique location warrants a complex, and therefore costly, hoarding solution as a means to maintain safe and unencumbered pedestrian and vehicular access through this gateway location. The added argument is that any discount on the fees payable to Council would be offset by the broader economic benefits that come with maintaining foot traffic for businesses and planned events at Glenelg.

In the absence of a formal hoarding application to accompany the request, this report recommended that in-principle support was provided for dispensation from fees associated with aboveground hoardings that do not encumber safe and effective pedestrian and vehicle movement through the area, but that payments are sought for any temporarily decommissioned on-street paid and unpaid carparks during the period of construction. It was estimated that this would equate to a hoarding fee reduction of approximately \$100,000 for an anticipated 3000 square metres of above-ground hoarding over an 18-month construction period.

**Motion**

**C121021/2445**

**That Council:**

1. **Accede to the request made by Alexander Brown Architect on behalf of the Taplin Group for partial dispensation from future hoarding fees associated with an approved hoarding plan by Council for the construction of a multi-storey retail and hotel building located at 13-23 Jetty Road and 1-3 Colley Terrace, Glenelg and approved by the State Commission Assessment Panel in Development Application Number 110/M104/20, on the basis that:**
  - a) **dispensation of 30% (limited to \$100,000) is provided from the fees otherwise payable for the aboveground hoardings that do not encumber safe and effective pedestrian and vehicle movement through the area;**
  - b) **dispensation of fees is not applicable to any on-street paid and unpaid carparks that are obstructed by the developer or its agents by virtue of construction activity; and**
  - c) **dispensation from hoarding fees cease to be offered following a period of eighteen (18) months from the commencement date of construction, after which time all aboveground hoardings will be invoiced at the full amount found in Council's fees and charges schedule operative at the time.**

- d) receipt of confirmation of the cost provided in the Architect's correspondence of implementing the hoarding solution through provision of a Quantity Survey prepared by an accredited professional.
  - e) dispensation from hoarding fees is provided in recognition of the development site's strategic value as a gateway location for the economic functioning of the Glenelg District Centre, with the broader benefits of continued access through the public realm during the period of construction facilitated by a unique hoarding solution, the cost of which is partly offset by a discount of fees otherwise payable directly to Council.
2. Part 1(a) to (c) of this resolution is valid until 30 March 2022, with construction commenced after this date not entitled to dispensation from hoarding fees otherwise attributable to the construction of a multi-storey retail and hotel building located at 13-23 Jetty Road and 1-3 Colley Terrace, Glenelg and approved by the State Commission Assessment Panel in Development Application Number 110/M104/20.

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

3. That having considered Agenda Item 18.1 Report No: 339/21 Hoarding Fee Relief in confidence under section 90(2) and (3)( b) and (d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and attachments be retained in confidence until further notice and the Chief Executive Officer is authorised to release the documents when the matter is concluded, giving due consideration to any relevant legal considerations, and that this order be reviewed every 12 months.

Moved Councillor Abley, Seconded Councillor Clancy

**Carried Unanimously**

### **Conflict of Interest**

Councillor Fleming declared an actual conflict of interest for Item 18.2 Somerton SLSC Development Application (Report No: 340/21). The nature of the actual conflict of interest (pursuant to Section 75 and 75A of the *Local Government Act 1999*) was that she is on the Council Assessment Panel.

Councillor Fleming dealt with the actual conflict of interest by making it known and leaving the meeting at 8.18pm.

Councillor Clancy declared a perceived conflict of interest for Item 18.2 Somerton SLSC Development Application (Report No: 340/21). The nature of the perceived conflict of interest (pursuant to Section 75 and 75A of the *Local Government Act 1999*) was that she is Vice Patron of the Somerton Surf Lifesaving Club.

Councillor Clancy dealt with the perceived conflict of interest by making it known to the meeting and remaining in the meeting as she was acting in the best interests of the community.

Councillor Clancy voted for the motion.

#### 18.2 **Somerton SLSC Development Application** (Report No: 340/21)

##### **Motion Exclusion of the Public – Section 90(3)(b & d) Order C121021/2446**

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: 340/21 Somerton SLSC Development Application 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: 340/21 Somerton SLSC Development Application in confidence 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 conducting business; or 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, 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 Miller, Seconded Councillor Lonie

**Carried Unanimously**

Somerton Surf Life Saving Club Inc (Club) has been granted conditional approval by Council to enter into a Management Agreement with a third party (namely Gambell & Sutton Pty Ltd) to manage and operate the bistro and upstairs bar under the Club's control and direction until 1 February 2022. Council's approval of the Management Agreement was conditional on the basis that the Club submit a Development Application for a change of land use within a prescribed period, as the permitted use under the lease prohibited the Club from operating a bistro for commercial purposes, as well as subleasing direct to a third party operator without first applying for and obtaining a change of land use. The Club has now submitted a Development Application for a change of land use, which requires Council's prior consent as landowner before proceeding to an assessment, which will include a period of public notification to seek the broader community's input to the process. This report provided two options for Council's consideration.

**Motion**

**C121021/2447**

- 1. That Council grant landowner consent for the Development Application proposing a change of land use to the Somerton Surf Life Saving Club building located at 57 Repton Road, Somerton Park to include a bistro restaurant and function centre as described in Attachment 1 to this report to proceed with an assessment by the City of Holdfast Bay Council Assessment Panel.**
- 2. That should consent be granted by the City of Holdfast Bay Council Assessment Panel for a change of land use to the Somerton Surf Life Saving Club (the Club) building located at 57 Repton Road, Somerton Park to include a bistro restaurant and function centre as described in Attachment 1 to this report, that a further report be presented to Council to resolve any inconsistencies in the current lease with the Club.**
- 3. That should consent be granted by the City of Holdfast Bay Council Assessment Panel for a change of land use to the Somerton Surf Life Saving Club (the Club) building located at 57 Repton Road, Somerton Park to include a bistro restaurant and function centre as described in Attachment 1 to this report, that Council negotiate directly with the Club to establish the terms of the sublease, the rent payable and the terms and**

conditions prior to the commencement of the operation of the bistro restaurant and function centre.

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

4. That having considered Agenda Item 18.2 Report No: 340/21 Somerton Surf Life Saving Club – Development Application in confidence under section 90(2) and (3)( b) and (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 until further notice and the Chief Executive Officer is authorised to release the documents when the matter is concluded, giving due consideration to any relevant legal considerations, and that this order be reviewed every 12 months.

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

**CONFIRMED**

**26 October 2021**

**MAYOR**