

## ITEM NUMBER: 18.3

### CONFIDENTIAL REPORT

#### WASTE CONTRACT (Report No: 345/20)

*Pursuant to Section 90(2) of the Local Government Act 1999 the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that the Council will receive, discuss or consider:*

- b. **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 would, on balance, be contrary to the public interest.**

**Recommendation – Exclusion of the Public – Section 90(3)(b) Order**

- 1** That pursuant to Section 90(2) of the *Local Government Act 1999* the 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: 345/20 - Waste Contract in confidence.
- 2.** That in accordance with Section 90(3) of the *Local Government Act 1999* the Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 345/20 - Waste Contract 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 and the disclosure of the information could prejudice Council's commercial position.

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.

Item No: **18.3**

Subject: **WASTE CONTRACT**

Date: 27 October 2020

Written By: General Manager City Assets and Services

General Manager: City Assets and Services, Mr H Lacy

---

## SUMMARY

Council has a current contract with Solo Resource Recovery (Solo) for the collection and processing of residual waste, dry recycles and green organic recycling for the city. Solo is primarily a waste collection business and so relies on sub-contract relationships with Southern Region Waste Resource Authority (SRWRA) to dispose of collected residual waste, Visy Recycling to process dry recycles and a 3<sup>rd</sup> party processor to process green organics recycling. The existing waste contract also requires Solo to collect residual waste from street litter bins and undertake ad-hoc bin collection as directed by Council. A separate contract has been awarded to Solo to collect, recycle and dispose of residual waste from on-demand kerbside hard rubbish collections.

Solo's head contract expires on 31 March 2021 and administration has been examining options to provide Council's waste and recycling collections, processing and disposal. Options examined include:

Option 1: Commercial offer from Solo to extend the contract for a further 5 years.

Option 2: Call open tenders for waste collection and processing services.

SRWRA has committed to build a new Materials Recycling Facility (MRF) at its Seaford Heights facility and Council has resolved that Council will have its dry recycles processed by SRWRA. The new MRF is expected to be commissioned by April 2021.

Administration sought independent advice from consultant BRM Advisory on the risks associated with extending the contract without going to open tender and on the commerciality of the proposed 5 year contract extension offered by Solo drawing on BRM Advisory knowledge of current waste contract prices. A report was subsequently submitted to the Audit Committee seeking their views on a proposed recommendation to extend the contract.

Copies of the report submitted to the Audit Committee inclusive of Solo's 5 year extension offer and BRM Advisory's Letter of Advice are presented for Council's information. A copy of the Audit Committee's recommendation and Solo's subsequent offer for a 1 year extension are also presented.

This report seeks Council's approval to award Solo Resource Recovery a 1 year extension to their waste collection contract under revised terms as outlined and to enable Administration to

commence negotiations with SRWRA for commercial processing of Council's collected dry recyclables.

Administration will then proceed to prepare tender documentation for an open tender process for waste collection and disposal services to be in place post 31 March 2022.

---

## **RECOMMENDATION**

### **1. That Council:**

- a) note the Report No 312/20 presented to the Audit Committee at their meeting on 7 October 2020;
- b) note the recommendation from the Audit Committee in relation to extending the Waste Services contract with Solo Resource Recovery from their meeting held 7 October 2020;
- c) having regard to the recommendation from the Audit committee at their meeting of 7 October 2020, authorise the extension of the existing waste services contract with Solo Resource Recovery Solo based on revised pricing as submitted in their letter dated 16 October 2020 for a period of 1 year from 1 April 2021 until 31 March 2021; and
- d) note that Administration will prepare tender documentation for an open tender process to provide Council's waste collection and disposal services commencing from 1 April 2022.

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

2. That having considered Agenda Item 18.3 Report No: 345/20 - Waste Contract 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, discussion 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.
-

**COMMUNITY PLAN**

A community connected to our natural environment.

**COUNCIL POLICY**

Procurement Policy

**STATUTORY PROVISIONS**

Local Government Act 1999

**BACKGROUND****Waste Contract – History**

Council entered into a contract with Solo Resource Recovery (Solo) on 31 March 2006 for the collection and processing of residual waste, dry recyclables and green organics recycling for the city. The original contract period was for 8 years, with the option to extend for a further 3 year period.

The original contract was a part of an open tender process undertaken jointly with the Cities of West Torrens and Marion – both of whom engaged Solo under similar terms to that used by City of Holdfast Bay (CHB).

The contract is subject to quarterly rise and fall adjustments which have been duly applied over time by the contractor. The contract was awarded to Solo and under the arrangements, they provided the collection services using their own vehicles and staff, and sub-contracted the processing services for dry recyclables to Visy and the green organics to Jefferies. These sub-contracts continue today. Garbage disposal occurs at the Southern Region Waste Recovery Authority landfill at Seaford Heights, of which the City of Holdfast Bay is a shareholder.

In 2010, CHB extended the contract until 31 March 2017. The extension was subject to Council receiving a “rebate” or discount off the total cost of the services, but unit rates were not adjusted. It is likely that Solo funded this rebate partly by reductions in collection costs due to improved efficiency in their operations, partly by expiry of the financing charges for supply of the bin fleet and partly through reductions in depreciation charges for their truck fleet. In any case, Council was not provided with details of how the rebate was determined – just the amount to be applied. The first (1<sup>st</sup>) contract extension was for a further maximum period of 3 years.

Towards the end of 2014, Council was offered further rebates, due to the change in cost structure for recyclables processing where gate processing fees shifted from a cost to a net revenue. Again the make-up of the rebate was not disclosed but a further contract extension (2<sup>nd</sup> extension) was awarded taking the contract end date to 31 March 2019.

In 2017, further rebates were offered and Solo was awarded a 3<sup>rd</sup> contract extension taking the overall contract end date to 31 March 2021.

One key implication for Council and its contractual relationship with Solo, is that although Council has enjoyed significant discounts at each contract extension, the contract has not been market tested since 2006 - ie for 15 years at the current contract end date of March 2021 – will all contract extensions directly negotiated with Solo.

### **Recycles Processing - Impact of China Sword**

In July 2018, China introduced strict standards for the import of foreign derived recyclables as a result of their China Sword policy.

Solo wrote to CHB as well as their other client Councils (being Cities of West Torrens and Marion) to advise that Visy was increasing their gate fees for processing recyclables at their Wingfield plant from -\$10 net revenue to \$60 per tonne net cost – a turnaround of \$70/t. The increased costs were to apply from 1 June 2018.

The three (3) councils commenced negotiation with Solo and in part with Visy (recognising that the sub-contract was between Solo and Visy – not Councils) and sought various information about Visy's pricing being concerned that pricing was not cost reflective and to confirm that Solo was not overcharging their client councils. The three (3) councils also sought legal advice on their commercial position under the contract – particularly in relation to whether a force majeure event had arisen which would allow Solo to recoup Visy's higher costs under the contract.

Sitting in the background was of course the failure of recycling company SKM and their subsequent withdrawal from the market – something that none of the council's wanted to see happen as this reduced competition and placed Visy and the recently opened NAWMA in a dominant market position.

The three Solo client Councils did not pay Solo any additional recyclable processing fees for a period of time as we were still technically in dispute with Solo under the terms of our contract. Marion obtained legal advice which indicated that this was not a Force Majeure event under the contract and on this basis we all held off paying any additional processing fees.

Information gathering and debate continued, however in late 2019 each of the three Solo client Councils decided to act in their own right.

Marion opted to be part of the Council Solutions group contract which was awarded in late 2019 to Cleanaway. Marion therefore ended their Solo contract in March 2020 when it expired. Marion has also arranged their own recyclables processing, partnering with other Council Solutions councils to seek a directly negotiated contract – presumably with Visy as we understand that NAWMA was full.

West Torrens (whose contract with Solo also expired in March 2020) opted to direct negotiate with Solo for a further 5 year extension with recyclables processing sub-contracted through Solo to Visy as part of that extension, but only until March 2021. After that, West Torrens can seek alternative MRF services – most likely at the proposed new SRWRA MRF or the new CAWRA MRF.

In their negotiations with Solo over collection costs, West Torrens was able to negotiate waste collection costs at around \$0.90/lift with processing of recycling at \$60/t (up until 31 March 2021 – similar to CHB pricing). The extension for the collection contract was for 5 years. Solo also agreed to refurbish all their trucks and install advanced GPS tracking and truck management systems within 1 year of the extension commencing.

From Holdfast Bay's viewpoint, our negotiations with Solo resulted in the recycles processing fee being varied to:

- From 1 October 2018 - \$10/t revenue for recycling was deleted;
- From 1 October 2018 to 30 June 2019 – gate fee for Visy recycling services increased to \$45/t (plus GST); and
- From 1 July 2019 to 31 March 2021 – gate fee for Visy recycling services increased to \$60/t (plus GST).

### **Waste Service Contract Options**

Given that the other two (2) Solo client councils had entered into revised agreements for their existing contracts, and following an approach by Solo, Administration initiated a review of Council's waste contract options. Two (2) options were considered:

- Option 1: Renegotiate and extend the existing Solo contract for 5 years; and
- Option 2: Call open tenders for waste collection and processing services.

### **Audit Committee Report**

A detailed report (Audit Committee Report No: 312/20) was prepared and submitted to Audit Committee for consideration of the two (2) options. This report is presented in Attachment 4.

*Refer Attachment 4*

The report included:

- Option 1 – 5 year Waste Service Contract Extension
  - details of Solo's revised offer for a 5 year contract extension
  - proposed changes to commercial terms including method of payment, treatment of recyclables contamination and changes to recyclables processing
  - assessment of financial benefits of a 5 year contract extension
  - assessment of advantages, disadvantages and risks of the option
- Option 2 – Open Tender
  - aims of the option
  - assessment of risks, advantages and disadvantages of this option
- BRM Advisory letter
  - independent advice from BRM Advisory, a leading consultant on waste management contracts regarding the commerciality and probity of each option.

### **Audit Committee Recommendation**

The Audit Committee spent considerable time discussing the detailed report, cost analysis and independent advice. The discussion included commerciality of the revised offer and rates submitted by Solo and the potential probity and reputation risks to Council of not conducting an open tender process.

The Audit Committee also discussed the risks to Council's current FOGO trial which commenced in September 2020 and runs until September 2021 for which Solo is providing additional green organics kerbside collection and processing services.

The Audit Committee were concerned that transitioning an existing collection service to a new service provider (which may occur if Solo did not win the open tender) may jeopardise the success of the FOGO trial.

After due consideration, the Audit Committee moved the following resolution, which is presented in Attachment 5 and reproduced below:

*Refer Attachment 5*

#### Motion

*That the Audit Committee:*

- 1. support the proposal to extend the existing waste services contract with Solo Resource Recovery for one year until March 2022 to allow completion of the FOGO trial;*
- 2. recommend the submission of the proposed contract extension to Council for consideration and for an Open Tender process be completed prior to March 2022; and*

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

- 3. that having considered Agenda Item 9.1 Waste Contract – Report No 312/20 in confidence under section 90(2) and (3)(b) of the Local Government Act 1999, this order is subject to Section 91(7) of the Act orders that the report, attachments and minutes be retained in confidence for a period of 18 months and the Chief Executive Officer is authorised to release the documents when the purchase order is issued to the successful tenderer.*

*Moved Councillor Snewin, Seconded Ms Davies*

*Carried*

On this basis, Administration sought a further offer from Solo for a 1 year contract extension. Details of the offer, and an unsolicited offer for a 3 year extension, are presented below.



## REPORT

### Option 3 – Revised Solo Offer for 1 Year Contract Extension

On the basis of the Audit Committee recommendation, Solo were asked to submit pricing for a 1 year contract extension. Their revised offer is detailed in Solo's letter dated 16 October 2020 as presented in Attachment 6.

*Refer Attachment 6*

Solo's offer for a 1 year extension is identical to their 5 year extension offer outlined in detail in Audit Committee Report No: 312/20 (refer Attachment 4) except for:

- Contract extended for 1 year from 1 April 2021 to 31 March 2022
- No refurbishment of collection vehicles under the 1 year extension offer.
- No installation of vehicle tracking and bin lift data systems

Solo's revised offer for a 1 year extension can therefore be summarised as follows:

- Extend contract for 1 year from 1 April 2021 to 31 March 2022
- Revise charging methodology for the kerbside recyclables and organics collection services to a bin lift rate based on service entitled properties
- proposed new bin lift rates per service entitled property (excl GST):

	<b>New Rate (1)</b>	<b>Old Rate – est (2)</b>
○ Garbage	\$0.82/lift	\$0.8828/lift
○ Recyclables	\$0.83/lift	\$1.0367/lift
○ Greenwaste	\$0.83/lift	\$0.8450/lift

(1) Quoted rates are subject to Rise and Fall adjustment from 2 April 2020 to end of proposed contract extension

(2) Old rates for recyclables and organics services were defined as a per fortnight fixed charge. For this report, fortnightly fixed charge converted to equivalent bin lift rate. Includes proportional element of \$420,000 rebate.

- Billing for garbage, recyclables and organics to be based on a bin lift rate multiplied by the number of service entitled properties
- Rise and fall applicable on proposed rates and to apply as per contract from 2 April 2020 to end of proposed contract extension
- Recyclables processing to be undertaken at new SRWRA MRF from April 2021
- Council to directly contract recyclables processing with SRWRA
- Council responsible for the costs and handling of recyclables contamination
- Separate charge for transport of collected recyclables to SRWRA
- Solo to manage repairs and maintenance of recyclable and green bins
- Council to pay for supply of new and replacement recycling and organics bins
- Collection vehicles will not be refurbished
- Vehicle tracking and performance tracking systems will not be installed.

- Current rebates have been absorbed into the new rates
- All other conditions of contract remain unchanged

### Option 3 – Comparative Costs

As Solo's revised offer for a 1 year contract extension (Option 3) is based on similar rates to the 5 year extension option (Option1), the cost impact is identical to that presented in Attachment 2, but only applicable for a 1 year period. The cost of the waste collection and processing service contract will be revised from 1 April 2022 based on the results of the Open Tender process planned prior to that date.

It should be noted that SRWRA is yet to publish their specific charges for recycles processing and that the cost comparison is based on best information at this time. Similarly, landfill disposal charges are based on current rates as no increases in gate fees and/or EPA levies are known at this stage.

### Option 3 - Advantages

The advantages of extending the current Solo contract for 1 year, with proposed changes, include:

- Collection service and processing services extended to cover the period of the FOGO trial, ensuring continuity of services during that important trial period.
- Rates proposed by Solo are considered to be close to best value in marketplace by independent advisor, who, whilst acknowledging that some further savings may be possible if the contract is subject to tender, believes that any differential is likely to be small and not material compared to the upside of retaining a stable contractor during the FOGO trial.
- Allows for processing of recyclables at proposed new SRWRA MRF, although Council will need to negotiate a separate processing contract with SRWRA.
- Allows time for the development of tender documentation, tender process, final negotiations and transition planning during the next 17 months to 31 March 2022.

### Option 3 - Disadvantages

The disadvantages of this option are:

- The contract has not been market tested since originally signed in March 2006 so there is a probity risk that Council may be unable to justify why it has extended this contract through direct negotiation on a number of occasions and has not proceeded to public tender. Other suppliers may consider this to be unfair and/or restrictive.
- The Solo proposal shifts additional risks to Council (ie contamination risk). However the costs of managing those risks have been accounted in the proposal.
- The revised 1 year contract extension offer does not include refurbishment of trucks, nor the installation of new GPS tracking and monitoring equipment. However this can be included in the open tender from 1 April 2022 and is not considered a significant impact on current operations.

This offer is considered a good fit between benefits of retaining a stable contractor during FOGO trial, competitive rates and risk. This option is therefore recommended to Council for approval.

#### **Option 4 – Unsolicited Solo Offer - Extend Current Contract by 3 years**

Solo have provided a further unsolicited option to extend the contract for a further 3 years with an option (exercisable by mutual agreement) to extend for a further 2 years on same terms as their 5 year extension offer. This would include same pricing, cost methodology, rise and fall, bin maintenance and refurbishment and would be inclusive of truck refurbishment and installation of GPS and operational monitoring systems.

The option to extend for years 4 and 5 would be exercisable by mutual agreement between Solo and Council.

The downside of this offer is that Council's risk exposure for not referring the contract to open tender would be increased due to the initial 3 year term.

On this basis, and taking account of the views expressed by Audit Committee, this option is not recommended.

#### **Open Tender Process**

If the 1 year Solo contract extension is approved by Council, it is proposed to use the 17 months from November 2020 to 31 March 2022 to develop tender documentation, undertake the tender process, finalise negotiations and undertake transition planning.

If Solo were to retain the contract, this would simplify the transition plans, but sufficient time will be allowed in the tender process to ensure that transition planning can be undertaken well before any change of contractor should that be the outcome from 1 April 2022.

Were the contractor to change in April 2022, it is expected that there would be a settling in period for any new contractor where complaints (including missed bins) would increase whilst the contractor's staff become familiar with collection routes and residence specific arrangements.

#### **BUDGET**

The estimated cost of the 1 year Solo contract extension is forecast at the same value as the 5 year extension model – being \$2.048m pa compared to the estimated current cost of \$2.156m for the existing contract (excl GST and costs for bin maintenance and street tidy services), representing a savings opportunity of around \$107,800 pa. Details are presented in Attachment 2.

*Refer Attachment 2*

The forecast cost of recyclables processing and landfill disposal is estimated to increase to \$1.544m from current estimate of \$1.440m, representing an increase of some \$103,890 pa in costs.

Overall, the total spend on waste services for the 1 year extension, inclusive of processing and disposal costs (excl GST and costs for bin maintenance and street tidy services) is estimated at \$3.591m versus \$3.595m currently, a forecast saving of around \$3,900 pa.

Whilst this sounds a poor result overall, the forecast savings in the Solo contract will offset steep increases in recyclables processing costs and result in a cost neutral position through to 31 March 2021.

### **LIFE CYCLE COSTS**

The costs for these services are included in Council's annual operating budget. There are no life cycle cost issues apart from the ever increasing costs of these services which will impact future budgets.

**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 9 November 2021 at 7:00pm.**

**MEMBERS PRESENT**

Mayor A Wilson  
Councillor R Abley  
Councillor A Bradshaw  
Councillor P Chabrel  
Councillor R Clancy  
Councillor J Fleming  
Councillor C Lindop  
Councillor S Lonie  
Councillor W Miller  
Councillor R Patton  
Councillor J Smedley  
Councillor R Snewin

**STAFF IN ATTENDANCE**

Chief Executive Officer – R Bria  
General Manager Assets and Delivery – M de Heus  
General Manager Community and Business – M Lock  
General Manager Strategy and Corporate – P Jackson  
General Manager Alwyndor – B Davidson-Park

**1. OPENING**

Her Worship the Mayor declared the meeting open at 7.00pm.

**2. KAURNA ACKNOWLEDGEMENT**

With the opening of the meeting Her Worship the Mayor stated:

We acknowledge Kurna people as the traditional owners and custodians of this land.

We respect their spiritual relationship with country that has developed over thousands of years, and the cultural heritage and beliefs that remain important to Kurna People today.

**3. SERVICE TO COUNTRY ACKNOWLEDGEMENT**

The City of Holdfast Bay acknowledged all personnel who have served in the Australian forces and services, including volunteers, for our country.

**4. PRAYER**

Her Worship the Mayor requested all present to pray and read the following Prayer:

Heavenly Father, we pray for your presence and guidance at our Council Meeting.

Grant us your wisdom and protect our integrity as we carry out the powers and responsibilities entrusted to us on behalf of the community that we serve.

**5. APOLOGIES**

5.1 Apologies Received – Nil

5.2 Absent - Nil

**6. ITEMS PRESENTED TO COUNCIL - Nil****7. DECLARATION OF INTEREST**

Members were reminded to declare their interest before each item.

**8. CONFIRMATION OF MINUTES****Motion****C091121/2461**

**That the minutes of the Ordinary Meeting of Council held on 26 October 2021 be taken as read and confirmed.**

Moved Councillor Lonie, Seconded Councillor Patton

**Carried Unanimously**

**9. PUBLIC PRESENTATIONS**

9.1 **Petitions - Nil**

9.2 **Presentations - Nil**

9.3 **Deputations**

9.3.1 **Botten Levinson Lawyers**

*Mayor Wilson approved a deputation from Botten Levinson Lawyers on behalf of Ms Christine Grant regarding the request to remove a significant tree in front of 10A Augusta Street, Glenelg.*

*Representatives from Botten Levinson Lawyers did not attend. Confidential Item 18.2 – Request to remove significant tree in front on 10A Augusta Street, Glenelg (Report No: 347/21) was adjourned to a later date, to be advised to Botten Levinson Lawyers.*

**10. QUESTIONS BY MEMBERS**

10.1 **Without Notice**

10.1.1 **Seawall Apartment Squatters**

Councillor Miller asked if Administration has the ability to undertake a site inspection at the Seawall Apartments.

General Manager Community and Business provided a response.

10.1.2 **Carpark Opposite Windsor Theatre, Brighton**

Councillor Snewin asked a question in relation to activity in the car park opposite Windsor Theatre, Brighton.

General Manager Community and Business provided a response.

10.1.3 **Caretaker Period Provisions**

Councillor Bradshaw asked a question in relation to the caretaker period provisions.

CEO provided a response.

**10.1.4 Brighton Road Corridor Study**

Councillor Lindop asked for an update on the Brighton Road Corridor Study and the traffic lights at Edwards Street corner.

General Manager Assets and Delivery provided a response.

**10.1.5 Glenelg Jetty Storm Damage**

Councillor Smedley asked if the damage to the Jetty would be removed and if there was a public safety concern.

General Manager Assets and Delivery and General Manager Community and Business provided a response.

**10.1.6 Glenelg Town Hall Restoration Update**

Councillor Chabrel asked for an update on the restoration works at the Glenelg Town Hall.

General Manager Assets and Delivery provided a response.

**10.1.7 Glenelg Jetty Storm Damage – Depth of Water Indicators**

Councillor Clancy asked if water depth indicators could be considered for the Jetty.

General Manager Assets and Delivery provided a response.

**10.2 On Notice****10.2.1 Collaboration with West Torrens and Marion Councils  
(Report No: 367/21)**

Councillor Clancy asked the following questions:

“Could administration advise what meetings have been held with adjoining councils to collaborate to reduce costs or improve our environment in the last two years?

What has been the result of those meetings?

What approaches have been made by the adjoining councils”?

Cr Clancy is aware of discussions in relation to storm water.

**ANSWER – Chief Executive Officer**

The table attached identifies where City of Holdfast has or is collaborating with other local authorities and organisations to improve outcomes, quality of services, take advantage of economies of scale and utilise specific expertise to deliver improved outcomes for the community. Adjoining Councils are identified in the table. Approaches made by adjoining councils are included in this table and are normally worked through with the approaching council to see if there is mutual benefit in being involved [Refer Attachment 1].

**11. MEMBER'S ACTIVITY REPORTS - Nil****12. MOTIONS ON NOTICE****12.1 Motion on Notice – Purchase of Land - Councillor Fleming (Report No: 385/21)****Leave of the Meeting**

Mayor Wilson sought leave of the meeting to move Item 12.1 Notice on Motion – Purchase of Land – Councillor Fleming (Report No: 385/21) in confidence at Item 18, Items in Confidence.

Leave of the meeting was granted.

**13. ADJOURNED MATTER - Nil****14. REPORTS OF MANAGEMENT COMMITTEES AND SUBSIDIARIES****14.1 Minutes – Audit Committee – 20 October 2021 (Report No: 383/21)**

The public minutes of the meeting of the Audit Committee held 20 October 2021 were presented to Council for information and endorsement.

**Motion****C091121/2462**

**That Council notes the public minutes of the meeting Audit Committee of 20 October 2021 namely:**

- 1. That the Audit Committee advises Council it has received and considered a Standing Items Report addressing:
 
  - Monthly Financial Statements
  - Risk Management and Internal Control
  - Audit – External/Internal/Cyber Security
  - Alwyndor Investment Strategy
  - Public Interest Disclosures – previously Whistle-Blowing
  - Economy and Efficiency Audits
  - Audit Committee Meeting Schedule**
- 2. That the Audit Committee has reviewed the General Purpose Financial Reports for the year ending 30 June 2021, as required under Section 126(4)(a) of the Local Government Act 1999, and found them to present fairly the state of affairs of the Council as required under the Local Government (Financial Management) Regulations 2011;**
- 3. That the Audit Committee recommends that Council adopts the 2020-21 Annual Report, subject to design and minor alterations, and the inclusion of the audited financial statements;**
- 4. That the Audit Committee recommends to Council the approval of the Business Continuity Policy.**

Moved Councillor Smedley, Seconded Councillor Snewin

**Carried Unanimously****14.2 Information Report – Southern Region Waste Resource Authority Board Meeting – 25 October 2021 (Report 386/21)**

The information reports of the Southern Region Waste Resource Authority (SRWRA) Board meeting held on 25 October 2021 were attached and provided for information.



**Motion****C091121/C2463**

1. That the Information Reports of the Southern Region Waste Resource Authority Board meeting held on 25 October 2021 are noted.

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

2. That having considered Attachment 2 to Report No: 386/21 Information Report – Southern Region Waste Resource Authority Board Meeting – 25 October 2021 in confidence under Section 90(2) and 3(b) and 3(d) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of the Act orders that Attachment 2 be retained in confidence for a period of 24 months and that this order be reviewed every 12 months.

Moved Councillor Lindop, Seconded Councillor Smedley

**Carried Unanimously****15. REPORTS BY OFFICERS****15.1 Items in Brief (Report No: 368/21)**

These items were presented for the information of Members.

After noting the report any items of interest were discussed and, if required, further motions proposed.

**Motion****C091121/2464**

**That the following items be noted and items of interest discussed:**

1. Commencement of update of the Regional Plan for Greater Adelaide
2. Glenelg Policing Petition
3. Christmas in Holdfast Bay
4. 2021-2022 Open Space Grant Program
5. Green Adelaide Grant Agreements

Moved Councillor Lonie, Seconded Councillor Lindop

**Carried Unanimously****15.2 Appointment of Deputy Mayor (Report No: 376/21)**

Section 51 of the *Local Government Act 1999* allows Council to appoint a Deputy Mayor for a term not exceeding four years. The Deputy Mayor may act in the absence of the Mayor, in the Office of the Mayor.

The current appointed Deputy Mayor was Councillor Abley. This appointment was up to 30 November 2021.

Council has previously made the appointment for a Deputy Mayor for a term of one year. It was Council's prerogative to choose a different length of term.

**Nominations**

Her Worship the Mayor called for nominations.

A nomination was received for Councillor Smedley. Her Worship the Mayor announced that Councillor Smedley had been nominated for the appointment as Deputy Mayor, which was included in the Council's motion.

**Conflict of Interest**

Councillor Smedley declared a material conflict of interest for Item 15.2 Appointment of Deputy Mayor (Report No: 376/21) before the vote. The nature of the material conflict of interest (pursuant to Section 73 and 74 of the *Local Government Act 1999*) was that if successful he will receive an additional allowance.

Councillor Smedley dealt with the conflict of interest by leaving the meeting at 7.24pm.

**Motion****C091121/2465**

**That Councillor Smedley be appointed as Deputy Mayor from 1 December 2021 to the end of this Council's term.**

Moved Councillor Snewin, Seconded Councillor Lonie

**Carried Unanimously**

Councillor Smedley re-joined the meeting at 7.26pm.

15.3 **Civic Centre Redevelopment** (Report No: 377/21)

Council's 2020-21 Annual Business Plan included an Elected Member initiative and budget to undertake concept designs and a feasibility assessment for the redevelopment of the Brighton Civic Centre as a community hub.

After an extensive procurement process, JPE Design Studio were engaged to undertake concept development. The development process included targeted engagement and consultation with users of the site, as well as a desktop review of previously developed concepts and reviews.

Taking into account views expressed during engagements and experiences from previous processes, three concepts were developed on the basis of future sustainability, what is most cost-effective in the long term and what gives the overall best outcome. A fourth option was included by Administration based on what would be required to meet minimum legislative standards, noting that this did not address the original intent to redevelop the site as a community hub.

**Motion****C091121/2466**

**That Council:**

1. **notes the Concept Design Options Report developed by JPE Design Studio (Attachment 2); and**
2. **considers the next step in development of the concept as part of the 2022/23 Annual Business Planning process.**

Moved Councillor Lonie, Seconded Councillor Snewin

**Carried Unanimously**15.4 **Strategic Plan – Approval** (Report No: 378/21)

The *Local Government Act 1999* (the Act) requires Council to undertake a comprehensive review of its strategic management plans within two years after each general election. As the last general election was held in November 2018, a review of the current strategic plan - Our Place 2030 - was undertaken and received by Council in February 2021 (Report No 60/21). The review recommended that a new strategic plan be developed, which was provided for Council's consideration as a draft in June 2021 (Report No 208/21).

Section 122(6) of the Act requires that "members of the public are given a reasonable opportunity to be involved in the development and review of its strategic management

plans". An engagement process was undertaken between 12 July and 8 August 2021 via both digital and analogue methods.

Comments were received and incorporated, to form a proposed final Strategic Plan. It was therefore recommended that Council accept this Strategic Plan for commencement from 1 January 2022.

**Motion**

**C091121/2467**

**That Council:**

1. **endorses the Strategic Plan Our Holdfast 2050+, subject to any minor typographical corrections that may be required; and**
2. **approves the Strategic Plan Our Holdfast 2050+ commence from 1 January 2022.**

Moved Councillor Lindop, Seconded Councillor Abley

**Carried**

**Division Called**

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

Those voting for: Councillors Abley, Bradshaw, Chabrel, Clancy, Fleming, Lindop, Lonie, Miller, Patton, Smedley, Snewin. (11)

Those voting against: No Councillors (0)

Her Worship the Mayor declared the motion

**Carried Unanimously**

- 15.5 **Nominations Sought for the Industrial Relations Consultative Council** (Report No: 381/21)

The Local Government Association (LGA) sought nominations for a Local Government member on the Industrial Relations Consultative Council (IRCC) for a three year term commencing 17 March 2022. Ideally, nominees will have demonstrated experience relevant to industrial relations and work, health and safety matters, and ability to represent the views of the Local Government Association.

Elected members should consider if they meet the Selection Criteria on the Call for Nominations Information Sheet (Part A) for the position.

Any member who wishes to be nominated for the position needs to have their nomination endorsed by Council prior to submission to the LGA. If Council does not have a nominee it may just note the report.

**Motion**

**C091121/2468**

**That Council notes the report.**

Moved Councillor Smedley, Seconded Councillor Patton

**Carried Unanimously**

- 15.6 **Local Government Reform and Update to Code of Practice – Access to meetings and Documents** (Report No: 382/21)

The *Statutes Amendment (Local Government Review) Act 2021* (the Review Act) was assented to by the Governor on 17 June 2021, and the first round of changes commenced on 20 September 2021. The Review Act updates the *Local Government Act 1999*.

As the legislation relating to Informal Gatherings has changed (Council Policy revoked on 12 October 2021 – C121021/2440) it was also necessary to update Council's Code of Practice – Access to Meetings and Documents (the Code), to refer to 'Information and Briefing Sessions' and implement changes recommended by the Local Government Association. Other minor updates were included to the Code and all proposed amendments were shown as tracked changes.

Section 92(5) of the *Local Government Act 1999* requires that before a council adopts, alters or substitutes a Code of Practice under that section, it must make copies of the proposed Code available for inspection at the Brighton Civic Centre and on Council's website and follow the relevant steps in the public consultation policy (Community Consultation and Engagement Policy). This would be managed by Administration as 'Consult' under Council's Community Consultation and Engagement Policy.

**Motion**

**C091121/2469**

**That Council:**

1. **endorses the proposed changes to the Code of Practice – Access to Meetings and Document; and**
2. **approves for Community Consultation the changes to the Code of Practice for 21 days, pursuant to Section 92(5) of the *Local Government Act 1999*.**

Moved Councillor Lonie, Seconded Councillor Smedley

**Carried Unanimously**

15.7 **Container Deposit Scheme** (Report No: 375/21)

The Minister for Environment and Water, the Hon David Speirs announced the release of the "Improving South Australia's recycling makes cents" Container Deposit Scheme (CDS) discussion paper for community, industry and business feedback, which asked for feedback on presented options and opportunities to modernize the CDS. Consultation opened Friday 24 September and closes Friday 19 November.

A review of the CDS commenced in January 2019, with the release of the "Improving South Australia's Recycling makes cents" scoping paper to which Council submitted a response to.

A draft response was prepared, which mirror some of the same sentiments as those listed within the 2019 submission.

**Motion**

**C091121/2470**

**That Council endorse the proposed response to the CDS discussion paper and authorise the Chief Executive Officer to send the response on behalf of Council, with any minor amendments as required.**

Moved Councillor Lindop, Seconded Councillor Chabrel

**Carried Unanimously**

15.8 **40 KM/H Area Speed Limit Public Consultation** (Report No: 374/21)

This report recommended broad scale community consultation with residents and the wider community regarding the proposed introduction of a 40 km/h speed limit within the City of Holdfast Bay.

The initial engagement on issues and solutions for an Integrated Transport Strategy identified speed, minimising through traffic (rat running), increasing walkability and safety

as key issues of concern. In addition, Council's traffic team continually receive complaints regarding vehicle speeds along residential streets.

A council wide or precinct based 40 km/h speed limit was one of a suite of strategies being considered to address traffic concerns.

Arterial roads under the care and control of the Department of Infrastructure and Transport (DIT) are predominately posted at 60 km/h and would not be included as part of any proposal for changes to speed limits.

**Motion**

**C091121/2471**

**That Council support community engagement to help inform a proposed 40 km/h speed limit within the City of Holdfast Bay and that the engagement findings and a recommendation report is presented back to Council.**

Moved Councillor Patton, Seconded Councillor Fleming

**Carried Unanimously**

16. **RESOLUTIONS SUBJECT TO FORMAL MOTIONS - Nil**

17. **URGENT BUSINESS – SUBJECT TO THE LEAVE OF THE MEETING - Nil**

18. **ITEMS IN CONFIDENCE**

Item 12.1 Notice on Motion – Purchase of Land – Councillor Fleming (Report No: 385/21) was considered in Item 18, Items in Confidence, as per leave of the meeting granted.

**Conflict of Interest**

Councillor Smedley declared a perceived conflict of interest for Item 18.1 Motion on Notice – Purchase of Land – Councillor Fleming (Report No: 385/21). The nature of the perceived conflict of interest (pursuant to Section 75 and 75A of the *Local Government Act 1999*) is Councillor Smedley provides advice to a party who consults to the owner of the property.

Councillor Smedley dealt with the perceive conflict of interest by making it known and leaving the meeting at 7.57 pm.

18.1 **Motion on Notice – Purchase of Land – Councillor Fleming (Report No: 385/21)**

**Motion – Exclusion of the Public – Section 90(3)(b) and (d) Order**

**C091121/2472**

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: 385/21 Motion on Notice – Purchase of Land – Cr Fleming 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: 385/21 Motion on Notice – Purchase of Land – Cr Fleming 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.**

- 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 Lonie, Seconded Councillor Miller

Carried

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

**C091121/2474**

That having considered Agenda Item 18.1 385/21 Motion on Notice – Purchase of Land – Cr Fleming 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 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 commercial transactions, and that this order be reviewed every 12 months.

Moved Councillor Miller, Seconded Councillor Lonie

Carried Unanimously

Councillor Smedley re-joined the meeting at 8.38pm.

Councillor Abley left the meeting at 8.38pm.

Councillor Abley re-joined the meeting 8.38pm.

Councillor Lonie left the meeting at 8.38pm.

- 18.2 **Request to remove significant tree in front of 10A Augusta Street, Glenelg** (Report No: 347/21)

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

**C091121/2475**

- 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: 347/21 Request to Remove Significant Tree in front of 10a Augusta Street, Glenelg 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: 347/21 Request to Remove Significant Tree in front of 10a Augusta Street, Glenelg on the following ground:
- i. pursuant to section 90(3)(i) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information relating to potential litigation that the Council believes

on reasonable grounds will take place involving the Council if the tree is not removed, which will be discussed, and this information ought not be made available to the public as it could be detrimentally affect the Council's position if litigation is progressed.

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 Clancy

**Carried Unanimously**

Councillor Lonie re-joined the meeting at 8.40pm

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

**C091121/2477**

That having considered Agenda Item 18.2 Report No: 347/21 Request to Remove Significant Tree in front of 10A Augusta Street, Glenelg in confidence under section 90(2) and (3)(i) 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 Lindop, Seconded Councillor Miller

**Carried Unanimously**

**CLOSURE**

The Meeting closed at 8.42pm.

**CONFIRMED**

**23 November 2021**

**MAYOR**