



# Council Agenda

# AGENDA

## NOTICE OF MEETING

Notice is hereby given that an ordinary meeting of Council will be held in the

**Council Chamber – Glenelg Town Hall  
Moseley Square, Glenelg**

**Tuesday 9 July 2019 at 7.00pm**

Roberto Bria  
ACTING CHIEF EXECUTIVE OFFICER

Please note: This agenda contains Officers' reports and recommendations that will be considered by the Council. Any confidential items listed on the agenda will be circulated to Members separately.



## Ordinary Council Meeting Agenda

### 1. OPENING

*The Mayor will declare the meeting open at 7:00pm.*

### 2. KAURNA ACKNOWLEDGEMENT

*We acknowledge Kaurna 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 Kaurna People today.*

### 3. 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.*

### 4. APOLOGIES

4.1 Apologies Received

4.2 Absent

### 5. ITEMS PRESENTED TO COUNCIL

### 6. DECLARATION OF INTEREST

*If a Council Member has an interest (within the terms of the Local Government Act 1999) in a matter before the Council they are asked to disclose the interest to the Council and provide full and accurate details of the relevant interest. Members are reminded to declare their interest before each item.*

### 7. CONFIRMATION OF MINUTES

#### Motion

**That the minutes of the Ordinary Meeting of Council held on 25 June 2019 be taken as read and confirmed.**

Moved Councillor \_\_\_\_\_, Seconded Councillor \_\_\_\_\_

**Carried**

### 8. PUBLIC PRESENTATIONS

#### 8.1 Petitions

8.1.1 Petition – Request for Dry Zone at Gladstone Road Car Park, Esplanade, North Brighton (Report No: 268/19)

8.2 Presentations - Nil

**8.3 Deputations**

- 8.3.1 Holdup Youth Council and Ms Margaret Messenger  
*Mayor Wilson has approved a deputation from Ms Zel Whiting, on behalf of Holdup Youth Council, and Ms Margaret Messenger regarding Motion on Notice – Proposed Climate Emergency Action Plan tabled by Councillor Chabrel.*

**9. QUESTIONS BY MEMBERS****9.1 Without Notice****9.2 On Notice - Nil****10. MEMBER'S ACTIVITY REPORTS**

- 10.1 Members' Activity Report (Report No: 269/19)

**11. MOTIONS ON NOTICE**

- 11.1 Motion on Notice – Proposed Climate Emergency Motion – Councillor Chabrel (Report No: 262/19)
- 11.2 Motion on Notice – Water Supply for Bowker Oval - Councillor Fleming (Report No: 254/19)
- 11.3 Motion on Notice – Improvement of Traffic, Parking and Property Access Issues in King Street Brighton – Councillor Fleming (Report No: 261/19)
- 11.4 Motion on Notice – Commissioning of a Sculpture to Honour Work of War Service Animals – Councillor Bouchee (Report No: 260/19)
- 11.5 Motion on Notice – Leave of Absence – Councillor Miller (Report No: 270/19)

**12. ADJOURNED MATTERS**

- 12.1 Adjourned Report – Code of Practice – Meeting Procedures – Annual Review (Report No: 264/19)

**13. REPORTS OF MANAGEMENT COMMITTEES, SUBSIDIARIES AND THE DEVELOPMENT ASSESSMENT PANEL**

- 13.1 Minutes – Jetty Road Mainstreet Committee – 26 June 2019 (Report No: 259/19)
- 13.2 Minutes – Alwyndor Management Committee – 20 June 2019 (Report No: 271/19)

**14. REPORTS BY OFFICERS**

- 14.1 Items in Brief (Report No: 263/19)
- 14.2 Junction Priority Change - Hartley Road and Wenlock Street, Brighton (Report No: 256/19)
- 14.3 Pedestrian Improvements – Kibby Avenue, Glenelg North (Report No: 257/19)
- 14.4 Review No Right Turn from Beachouse Car Park to Colley Terrace, Glenelg (Report No: 258/19)

- 14.5 Coastal Council Alliance – Call for Project Committee Nomination (Report No: 265/19)
- 14.6 By-Law Review (Report No: 234/19)
- 14.7 Murray Darling Association Membership (Report No: 267/19)
- 14.8 Public Interest Disclosure Act – Model Policy and Procedure (Report No: 240/19)

**15. RESOLUTIONS SUBJECT TO FORMAL MOTIONS**

*Presented for the information of Members is a listing of resolutions subject to formal resolutions, for Council and all Standing Committees, to adjourn or lay on the table items of Council business, for the current term of Council.*

**16. URGENT BUSINESS – Subject to the Leave of the Meeting**

**17. CONFIDENTIAL ITEMS**

- 17.1 Chief Executive Officer Appointment (Report No: 266/19)

Pursuant to Section 83(5) 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 Council will receive, discuss or consider:

- a. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead).

**18. CLOSURE**

**ROBERTO BRIA  
ACTING CHIEF EXECUTIVE OFFICER**



Item No: **8.1.1**

Subject: **PETITION – REQUEST FOR DRY ZONE AT GLADSTONE ROAD CAR PARK, ESPLANADE, NORTH BRIGHTON**

Date: 9 July 2019

Written By: Team Leader Governance

A/General Manager: Business Services, Ms P Jackson

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### **SUMMARY**

A petition has been received requesting:

*“Subject: Dry Zone at the car park at the Esplanade, North Brighton [Gladstone Road Car Park where the new bikeway joins the car park]*

*.....*

*As concerned and effected residents adjacent to this area we would like to have this area made a dry zone and not encourage unruly and loud behaviour, particularly into the evening that normally occurs in a prime gathering place.*

*Thank you in anticipation.”*

The 1 page petition received from Mr Wayne Phillis (head petitioner), which includes 7 signatures living on the Esplanade, North Brighton, meets the relevant criteria for a petition as outlined in the *Local Government (Procedures at Meeting Regulations) 2013*, Regulation 10 and Council’s ‘Code of Practice – Meetings Procedures’ clauses 3.1.7 to 3.1.9.

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### **RECOMMENDATION**

**That Council notes the petition regarding a request for a dry zone at Gladstone Road car park Esplanade, North Brighton.**

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### **COMMUNITY PLAN**

Culture: Supporting excellent, efficient operations

## **COUNCIL POLICY**

City of Holdfast Bay Code of Practice – Meeting Procedures

## **STATUTORY PROVISIONS**

*Local Government Act 1999*

*Local Government (Procedures at Meetings) Regulations 2013*

## **BACKGROUND**

On Tuesday, 2 July 2019, Council's Administration received a petition from Mr Wayne Phillis by email 'the head petitioner'.

The petition relates to a request for a Dry Zone at the Gladstone Road car park at the Esplanade, North Brighton (where the new bikeway joins the car park). Without the dry zone the head petitioner believes it will be noisy with normal behaviour issues with alcohol involved.

*Refer Attachment 1*

In the petition, Mr Phillis highlights the concern of the adjacent residents that this area does not encourage unruly and loud behaviour, particularly into the evening that normally occurs in a prime gathering place and requests to have this area made a dry zone.

## **BUDGET**

Not applicable.

## **LIFE CYCLE COSTS**

Not applicable.

# Attachment 1



From: Wayne Phillis [<mailto:wphillis@waynephillis.com.au>]

Sent: Tuesday, 2 July 2019 2:56 PM

To: Emily Kenchington <[EKenchington@holdfast.sa.gov.au](mailto:EKenchington@holdfast.sa.gov.au)>

Cc: [wphillis@waynephillis.com.au](mailto:wphillis@waynephillis.com.au)

Subject: PETITION REGARDS DRY ZONE REQUEST FOR GLADSTONE RD CAR PARK

Emil hi! Please find enclosed the signed request for a dry zone, at the car park at the Esplanade car park, where the new bikeway joins the car park.

Thanks in anticipation, without it I'm sure it would be noisy, with normal behavior issues with alcohol involved.

Regards ,

Wayne Phillis

Dealer Principal

Wayne Phillis Automotive

T : +61- 8 8384 8066 | M : +61- 419 867 988 E : [wphillis@waynephillis.com.au](mailto:wphillis@waynephillis.com.au) | 127 Beach Road  
,Christies Beach |SA-5165

Item No: **10.1**

Subject: **MEMBERS' ACTIVITY REPORTS**

Date: 9 July 2019

## SUMMARY

These activity reports are presented for the information of Members.

After noting the report any items of interest can be discussed, if required with the leave of the meeting.

## RECOMMENDATION

**That the following activity reports be noted:**

- **Councillor Lindop**

## REPORT

1. Councillor Lindop

<b>Date</b>	<b>Activity</b>
30/06/19	9.30a.-10.30am Attended Seacliff Community Produce Swap
29/06/19	6pm-8pm Attended Innersee Art Therapy Studio, 687b Brighton Road, Seacliff Book Launch "Creative Rebel" by Meri Griesbach
27/06/19	11am-11.30am Attended Brighton Metro Community Well-being Roadshow
26/06/19	3.30-4.30pm Attended Brighton Oval Sod Turning Ceremony
25/06/19	Council Meeting
24/06/19	4pm-4.30pm Meeting with Cr Fleming at the North Brighton Community Garden to discuss the water/tap issue at the BBQ area
20/06/19	5.30pm-7.30pm Attended "Let's Eat" Community Dinner at Kauri Parade with Cr Bradshaw
20/06/19	4pm-5pm - Meeting at Kingston House, Kingston Park with The Committee of Kingston House with Cr Bradshaw
18/06/19	5.30pm-7.30pm Meeting with Cr Snewin, Cr Bradshaw and Residents of Rutland Ave to discuss Parking problems in the area
14/06/19	5049 meeting with Cr Bradshaw at Holdfast Bay Civic Centre
13/06/19	Meeting with Cr Bradshaw and Marion Cr Tim Guard to discuss minor issues
12/06/19	Attended Holdfast Bay Residents Alliance AGM
11/06/19	Council Meeting
10/05/19	Attended Presidents Lounge Pre-Game Function at Glenelg Football Club Glenelg v North Adelaide

08/06/19	Volunteered with local residents and Sue Wiseman planting at the corner Kauri Parade and Maitland Terrace, Seacliff
8/06/19	9am-10am Coffee meeting with Cr Annette Bradshaw at Cookies n Cream Kingston Park
7/06/19	10am-11am Coffee at the Garden Café with Innersee Business Owner - Meri Griesbach
05/06/19	9am-11am Planting with Environment Team at Minda Dunes for World Environment Day
04/06/19	Council Workshop
04/06/19	4pm -5pm Meeting with Virginia Miller at Holdfast Civic Center to discuss what Council does for support for Business
01/06/19	Attended the Seacliff Surf Lifesaving Club Presentation evening
30/05/19	Attended State Planning Commission on SA Planning System and protecting local Heritage and Character Buildings in our areas
28/05/19	Council Meeting
28/05/19	8am-9am Walk with resident at Gilbertson Gully
27/05/19	12.30pm Met with Howard Lacy to discuss parking and road and traffic issues
27/05/19	11am Meeting with Roberto Bria to catch up on missed workshops
17/05/19	Attended Brighton and Seacliff Yacht Club Awards Presentation evening Presented Junior Holdfast Bay Trophy
14/05/19	Council Workshop
13/05/19	11am -12pm Coffee meeting with Resident from Angus Neil Reserve at the Sellar Door
11/05/19	3pm- Met with Tim Voss at the Brighton Pump Track
11/05/19	9am- Meeting at the Garden Café on Wheatland St with Minister David Spiers
9/05/19	Meeting with Cr Abley, Cr Miller to hear about a fundraising initiative for a Sea-Bin and would it be viable to "host" the Se Bin in the Glenelg Area.
09/05/19	9.30am Angus Neil Residents Meeting with Cr Bradshaw
08/05/19	Volunteered with Meals-On-Wheels from the Hove base.
07/05/19	Council Workshop
02/05/19	LGA forum for Recycling and Boundary Reform with Cr Abley
30/04/19	Council Workshop
29/04/19	9am Attended the Holdfast Bowling Club Mayoral Official Opening of the Masters Builders Association Tournament
24/04/19	Attended West Adelaide v Glenelg football match with Cr Abley, Cr Patton courtesy Mayor Michael Coxon
23/04/19	Council Meeting
18/04/19	Attended Green Living Workshop at Brighton Civic Center ran by Shani Wood
17/04/19	Meeting with Cr Bradshaw and Pam Jackson re items from Seacliff
17/04/19	5049 Group Meeting at Council Chambers
17/04/19	Glenelg Football Club tour of facilities with Cr Abley, and Cr Patton
16/4/19	Council Workshop
16/04/19	Meeting with Marnie Lock and others to discuss Angus Neil Reserve
15/04/19	Brighton Penguin Speaking Made Easy Group. 153 <sup>rd</sup> Birthday meeting 11am-1pm
15/04/19	Brighton& Seacliff Yacht Club meeting with Annette, Susan, Amanda regarding potential café proposal 5.30pm-6.30pm
10/04/19	Meeting with David Bagshaw, 5049 Representative- The Garden Café Seacliff 12.30pm-2pm

09/04/19	Council Meeting
08/04/19	Annette Bradshaw meeting to discuss resident emails- 3pm-4pm- Juniper and Pine Cafe
08/04/19	Arts and Culture Strategy Forum- Partridge House 6pm-8pm
06/04/19	Volunteered at the Seacliff Esplanade Parkrun
04/04/19	Volunteered at the Seacliff Dunes with the Environment Team
3/04/19	Meeting with Pam Jackson, Marnie, Rajiv, Warwick, Annette and the 5049 group to discuss the Kingston Park carpark and Kiosk and the new KP Masterplan
03/04/19	Meeting with Roberto Bria at Brighton Civic Center
03/04/19	Attended St Judes Players Production Community Theater- charity fundraiser
02/04/19	Budget Workshop Council
27/03/19	Volunteered at Yurlo Wirra with the Environment Team
26/03/19	Council Meeting
26/03/19	2.30-3.30pm meeting at Kingston Park Foreshore with Cr Annette Bradshaw and Residents to discuss consideration for Windsurfer use and access and facilities
25/03/19	9am-10am Angus Neil Reserve Residents with Cr Annette Bradshaw and Residents group- discussion of issues in Angus Neil Reserve
25/03/19	10.30am Esplanade Hotel, Brighton with Heart Foundation walking group and liaison officer Amelia
25/03/19	2.30pm. Meeting with Resident at Wenlock St to discuss moving Memorial Seat at Kingston Park area. Cr Annette Bradshaw also attended.
21/03/19	Attended Justin Lynch Farewell at Civic Center
20/03/19	Attended Cooler Greener Adelaide Seminar Adelaide Convention Center with Cr Abley
19/03/19	Council Workshop
14/03/19	Catch-up with Mayor Amanda Wilson
12/03/19	Council Meeting
11/03/19	9am Brighton Pump Track with Tim Voss, and Cr Abley and Cr Snewin to discuss another Bike Track along Cedar Ave.
05/03/19	Council Workshop
5/03/19	Meeting with Cr Bradshaw and Residents to discuss Dumping issues
28/02/19	9am-12pm Attended ICAC Elected Members Forum at the Convention Center
26/02/19	Council Meeting
21/02/19	5.30pm-7.30pm Attended Let's Eat Community Dinner at Kauri Parade with Mayor Amanda Wilson, Cr Miller, Cr Smedley and Cr Bouchee
21/02/19	5049 Meeting at Café Lune
19/02/19	Council Workshop
19/02/19	Meeting with Pam Jackson at Kingston Park to walk through and discuss various matters
12/02/19	Council Meeting
11/02/19	3pm- Met with Ray White Business owner Scott Robinson and the Brighton Pump Track Group to facilitate Community Grant
10/02/19	Attended Glenelg By the C – Summer music Concert
8/02/19	5pm-6pm Meeting with Scott Robinson and Seacliff Recreation Center facilitating Community Grant
5/02/19	Council Workshop

4/02/19	6pm-9pm SRWRA Board meeting with Cr Smedley
4/02/19	Attended Brighton Oval for funding Announcement from Nadia Clancy
3/02/19	Took part in the Marilyn Jetty Swim
2/02/19	9am Seacliff Beach Cleanup organized by David Spiers and Adventure Bag Crew
01/02/19	Meeting and walk through Gilbertson Gully with Ivan Winter and Civil Project Engineer Leigh McMEnamin
29/01/19	Council Meeting
29/01/19	Meeting with Resident
26/01/19	Australia Day Ceremony in Glenelg
24/01/19	Attended Official opening of Pine Gully Path at Kinda Tabbaa-Snyder home on Myrtle Ave with Friends of Pine Gully, Mayor Amanda Wilson, Cr Bradshaw, Rajiv
23/01/19	Attended Brighton Jetty Sculptures Opening Brighton Surf Life Saving Club with Elected Members
22/01/19	Council Workshop
21/01/19	Elected Members and CEO SRWRA Tour of Facility and Forum
21/01/19	2pm-3pm Meeting with Shani Wood re compostable dog poo bags and 3 bin system for Community Centre's
19/01/19	9am-7pm Tour Down Under Holdfast Bay Council Car drove in part of the Stage from Brighton to Strathalbyn and back
17/01/19	5049 Community BBQ in Kingston Park
17/01/19	2pm -3pm Meeting with Justin Lynch and Amanda Wilson Council Office
15/01/19	Council Workshop
12/01/19	9.30am-11-30am Volunteered with Friends of Pine Gully weeding in Gully
10/01/19	Meeting with Cr Bradshaw
28/12/18	Proclamation Day
18/12/18	Council Workshop
12/12/19	2pm Tour of Alwyndor for newly Elected Members with Cr Abley
11/12/18	Council Meeting
9/12/18	1pm-2pm Meeting with Ray White Brighton - Scott Robinson
5/12/18	6pm-9pm Attended Mosley Beach Bar for the opening of the Summer with Elected Members and Jetty Rd Mainstreet Committee
04/12/18	Council Workshop
04/12/18	9am-11am Holdfast Bay Volunteers Christmas Breakfast at GU Cinemas
03/12/18	11am-1pm Guest at Penguin Group Christmas Meeting at St Therese Brighton
02/12/18	Dropped in to Community Consultation session for the Community Garden plans at Bowker Oval North Brighton
29/11/18	Elected Members Workshop
27/11/18	Council Meeting Induction and sworn in ☺
25/11/18	9.30am-10.30am Attended Seacliff Community Produce Swap
24/11/19	Elected Members Workshop
22/11/18	2pm 5049 Community Meeting @ Esplanade Jetty Rd Brighton
21/11/19	Council Workshop Induction Training
21/11/18	10am-11am Holdfast Bay Community Center Meeting with Cr Bradshaw and Tim Looker
20/11/18	Attended Glenelg Surf Lifesavings Championship Opening Ceremony and Welcome to Country



Item No: **11.1**

Subject: **MOTION ON NOTICE – PROPOSED CLIMATE EMERGENCY MOTION – COUNCILLOR CHABREL**

Date: 9 July 2019

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### **PROPOSED MOTION**

Councillor Chabrel proposed the following motion:

#### **That Council:**

1. Notes the October 2018 report of the Intergovernmental Panel on Climate Change.
  2. Notes the May 2019 Preliminary report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services.
  3. Notes the most current Quarterly Update of Australia’s National Greenhouse Gas Inventory: September 2018 produced by the Department of Environment and Energy which reports Australia’s total greenhouse gas emissions have risen when compared to 2012 levels.
  4. Recognises we are in a state of climate emergency and that all levels of Government have a responsibility to act.
  5. That the development of the Environmental Strategy initiative of the 2019-20 Business Plan, include a Climate Emergency Action Plan and strategy for Holdfast Bay to become a Carbon Neutral, Sustainable City by 2030 including the financial and resource implications required for implementing the plan.
  6. That the draft Environmental Strategy be provided to Council for its consideration by December 2019.
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### **BACKGROUND**

The World’s Climate Experts have declared we have less than 12 years in which to keep global warming to a maximum of 1.5C to avoid catastrophic weather events which will devastate the environment and lives.

The worsening conditions are already evident with data from the National Oceanic and Atmospheric Administration (NOAA) confirm the last five years (2014-18) have globally been the five hottest years on record.

The May 2019 preliminary report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services warns that a million species are at risk of extinction.

Locally Australia's Greenhouse Gas Emissions have risen for the fourth consecutive year and the Country has just experienced its hottest summer on record with over 200 records broken around Australia in just 90 days. Across South Australia records fell including Adelaide which on the 24th January 2019 experienced its hottest day in 130 years of records. This poses current and worsening health and safety risks for older and more vulnerable members of our community. Additionally it adds to the financial burden of Council and residents eg, increased power costs for air-conditioning and maintenance of green space.

Extreme weather events also include storm activity and Adelaide has been experiencing increasingly severe storm activity in recent years directly attributed to climate change. This has caused some to theorise that Adelaide's climate has already shifted from what we have understood to be a "Mediterranean" climate, characterised by long periods of lighter rains to one featuring "cold monsoonal" downpours. Such rain patterns place increasing stress and costs on local infrastructure which was not engineered for such a rain pattern.

Storms and cold monsoonal rains are having a direct and current impact on our City's budget with the combination of funds allocated for Storm Damage, Foreshore Protection, Foreshore Facilities Maintenance, Stormwater Drainage Maintenance, Rapid Response and Water Table Maintenance increasing from \$200,154.00 in 2018/19 to \$718,881.00 in 2019/2020.

Some may argue that our impact is so small as to be insignificant and not worth the cost, however each Council that joins adds to an ever increasing mass; to date over 650 Governments across 15 countries and populated by 119.5 Million people have declared a climate emergency and importantly have taken steps to respond. These Governments range from the tiny Light regional Council in SA with 14,700 residents to Canada and the UK. 24 of these Governments are in Australia including now three Capitals; Sydney, Canberra and Hobart and three Councils from South Australia. Holdfast Bay would be the first coastal Council in SA.

The recent Australian Local Government Association's National General Assembly passed with a two thirds majority a wide ranging motion calling on the Federal Government to declare a climate emergency and support for action in response.

Contrary to some recent media reporting there is growing support for addressing climate change in Australia. At the recent Federal Election the ABC's Vote Compass assessed the environment and economy as on par with almost 50% each as the most important issue, which for the environment is up from 9% on 2016. When asked if Government should do more on climate change over 90% responded "yes". In addition the Green vote was 2.6% higher across Australia and in South Australia over 5% higher.

Holdfast Bay is already environmentally engaged and active with mitigation programs such as upgrades of storm water infrastructure and beach sand groynes, and climate action response programs such as LED street lighting, tree planting, conservation of bush land and dunes, and the implementation of water sensitive urban design and a biodiversity corridor, however more can be done. Through the drafting of the Environmental Strategy including a Climate Emergency Action Plan additional responses will be identified for consideration by Council along with resource requirements.

It is worth noting that in the 2019 City of Holdfast Bay Quality of Life Community Survey by Intujto, the largest number of survey respondents believed it was most important for Council to focus efforts on environmental activities over the next four years. This declaration and initiatives will honour our community's wishes and make the City a leader in combatting the climate emergency and the protection of our environment for current and future generations.

This declaration and action responses are not tied to any external agent and are designed for the City of Holdfast Bay to take charge of its own destiny and respond to the climate emergency in ways it considers appropriate.

There has been much discussion about the term "emergency". The position of this Motion is that the term is pivotal to focusing Council and the community into action and provides a way to reframe the work we already do and incorporate it every aspect of Council's operations. It denotes a serious threat that requires immediate action. As the background to the motion illustrates, the affects are already being felt by our community and as such strongly worded focus is important. It is also a term which is rapidly gaining broad acceptance and a softer response may not be seen as proportionate to the threat. Mayor Bosler of the City of Yarra who recently passed a climate emergency declaration said although she was uncomfortable with the term, that "The phrase climate emergency now means joining a climate movement of people taking immediate action to tackle climate change." and the sheer numbers of municipalities world wide adopting the term swayed her Council.

It is beyond doubt that our World is in a state of climate emergency and it is effecting our lives now, and will this impact will increase. We have no time to waste in combating climate change and this motion seeks to make that declaration and set out action to address this emergency.

#### References

October 2018 report of the Intergovernmental Panel on Climate Change. <https://www.ipcc.ch/>

May 2019 Preliminary report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services.

[\\_https://sdg.iisd.org/news/ipbes-previews-2019-global-assessment-report-on-biodiversity/](https://sdg.iisd.org/news/ipbes-previews-2019-global-assessment-report-on-biodiversity/)

Quarterly Update of Australia's National Greenhouse Gas Inventory: September 2018

C://Users/phili/AppData/Local/Microsoft/Windows/INetCache/IE/I1YNQAU9/nggi-quarterly-update-sept-2018.pdf

Carbon Neutral Cities

<https://carbonneutralcities.org/cities/>

Sustainable Cities

<https://www.climaterealityproject.org/blog/five-sustainable-cities-making-difference-planet>

The World's Climate Experts have declared we have less than 12 years; Guardian Article

<https://www.theguardian.com/environment/2018/oct/08/global-warming-must-not-exceed-15c-warns-landmark-un-report>

National Oceanic and Atmospheric Administration Report

<https://www.noaa.gov/news/2018-was-4th-hottest-year-on-record-for-globe>

Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services May 2019 Preliminary Report

<https://www.abc.net.au/news/2019-05-06/biggest-global-assessment-of-biodiversity-sounds-dire-warnings/11082940>

Australia's Greenhouse Gas Emissions

<https://www.smh.com.au/environment/climate-change/australia-s-greenhouse-gas-emissions-up-for-four-years-in-a-row-20190529-p51s6u.html>

Australia's hottest Summer on record 2018/2019

<http://theconversation.com/2018-19-was-australias-hottest-summer-on-record-with-a-warm-autumn-likely-too-112616>

Adelaide which on the 24th January 2019 experienced its hottest

<https://www.abc.net.au/news/2019-01-24/sa-heating-up-with-records-expected-to-be-broken/10745220>

Floods, hail, storm surges: Why Adelaide's weather has gone a little crazy lately

<https://www.willyweather.com.au/news/6460/floods,+hail,+storm+surges:+why+adelaide's+weather+has+gone+a+little+crazy+lately.html>

Adelaide climate changes from "Mediterranean" to "Cold Monsoonal"

<https://www.abc.net.au/news/2018-05-03/term-cold-monsoon-used-to-describe-adelaide-climate/9723122>

The Weekly on how Australia though small makes a difference in tackling climate change

<https://junkee.com/weekly-alan-jones-climate-change/205586>

650 Governments across 15 countries and populated by 119.5 Million people have declared a climate emergency

<https://climateemergencydeclaration.org/climate-emergency-declarations-cover-15-million-citizens/>

ABC's Vote Compass

<https://www.abc.net.au/news/2019-05-24/federal-election-2019-vote-compass-australia-as-100-people/11114554>

Item No: **11.2**

Subject: **MOTION ON NOTICE – WATER SUPPLY FOR BOWKER OVAL – COUNCILLOR FLEMING**

Date: 9 July 2019

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### **PROPOSED MOTION**

Councillor Fleming proposed the following motion:

#### **That Council endorse:**

- 1. the installation of a drinking fountain and tap at the Bowker Oval BBQ and recreational area at a cost \$7,800;**
  - 2. the installation of water reticulation around the community garden area at a cost of \$5,000 with ongoing water usage paid by the lessee; and**
  - 3. the funds required to be included as part of the 1<sup>st</sup> quarterly budget review.**
- 

### **BACKGROUND**

There is a lack of water at the Bowker Oval BBQ and recreational area and as a result the BBQ and recreational area is often left dirty due to the lack of water. There have been complaints from users that this lack of water is a safety hazard as it is very difficult to clean the BBQ and also impedes the treatment of any BBQ burns and hot oil spills, requiring a walk more than 200m to the nearest water supply.

Also as the oval, including tennis court, basketball court, community garden and playground are so heavily used it would be beneficial to users of these great facilities to have a drinking fountain and/or tap there.

There is also a lack of water infrastructure to support the introduction of the Community Garden in the corner of Bowker Oval. It is proposed to install water infrastructure that can be used by the community garden, with water usage charges being paid by the community garden lessee as per the draft lease.

The Administration have provided an estimate of approximately \$7,800 to undertake the installation of the drinking fountain and tap and \$5,000 for the water reticulation around the community garden.

Item No: **11.3**

Subject: **MOTION ON NOTICE – IMPROVEMENT OF TRAFFIC, PARKING AND PROPERTY ACCESS ISSUES IN KING STREET BRIGHTON – COUNCILLOR FLEMING**

Date: 9 July 2019

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### **PROPOSED MOTION**

Councillor Fleming proposed the following motion:

1. **Administration investigate and report back to Council options to improve traffic, parking and property access issues in King Street Brighton, taking account of any proposals made for traffic and parking improvements around the McAuley Community School including:**
  - a. **previous proposals prepared for changes to the intersection of King St and King George Ave**
  - b. **possible one-way tidal flow arrangements in King George Ave**
2. **The report be brought back to Council by end of October 2019.**

---

### **BACKGROUND**

Over several years the residents on and surrounding King Street Brighton have had significant issues with the traffic intersection of King St and King George Ave, parking and access to their properties. Their concerns have been heightened recently by the opening of the new McAuley School scheduled for January 2020. In the last six months I have been contacted individually at my last count of over 26 residents in regards to this matter. We had a community meeting in March 2019 where over 60 residents came and spoke and more recently I arranged another meeting with the residents of King Street and Administration, over 22 residents attended. This a major concern for the local residents and they have been very proactive at making this clear to Ward Councillors and Administration. The overwhelming communication with Administration and Ward Councillors from the residents illustrates the need for this matter coming to council.

Item No: **11.4**

Subject: **MOTION ON NOTICE – COMMISSIONING OF A SCULPTURE TO HONOUR WORK OF WAR SERVICE ANIMALS – COUNCILLOR BOUCHEE**

Date: 9 July 2019

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### **PROPOSED MOTION**

Councillor Bouchee proposed the following motion:

- 1. That the CEO initiate an investigation into the possibility of the commissioning of a sculpture to be placed in Moseley Square to celebrate and acknowledge the important work of war service animals for this country.**
- 2. A report be presented to Council for consideration in the 2020/2021 budget.**

---

### **BACKGROUND**

We have several memorials to the men and women who gave their lives for this country in time of war, but many lives were saved by the extraordinary actions of canines/horses etc..

This sculpture will acknowledge the importance of their selfless and loyal service in theatres of war with our troops and nurses.

Item No: **11.5**

Subject: **MOTION ON NOTICE – LEAVE OF ABSENCE – COUNCILLOR MILLER**

Date: 9 July 2019

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**PROPOSED MOTION**

Councillor Miller proposed the following motion:

**That Councillor William Miller be granted a leave of absence from Council from 12 August 2019 until 1 October 2019 inclusive.**

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Item No: **12.1**

Subject: **ADJOURNED REPORT- CODE OF PRACTICE – MEETING PROCEDURES – ANNUAL REVIEW [Report No: 50/19]**

Date: 9 July 2019

Written By: Team Leader Governance

A/General Manager: Business Services, Ms P Jackson

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### **SUMMARY**

The City of Holdfast Bay's Code of Practice – Meeting Procedures is required to be reviewed annually and was last reviewed and endorsed on 23 January 2018.

The report was most recently tabled at the ordinary Council meeting on 12 February 2019 where the item was deferred under Regulation 18, *Local Government (Proceedings at Meetings) Regulations 2013*, to allow time for further consideration by Her Worship the Mayor and the Deputy Mayor (Item 14.3 Code of Practice – Meeting Procedures – Annual Review (Report No: 50/19)).

The revised Code of Practice – Meeting Procedures document is attached and presented for adoption. The proposed version is attached for reference (new version with and without tracked changes). Administration was waiting on the outcome of the live streaming report before finalising the Code of Practice.

The Council resolution will need to be supported by at least two thirds of the members of the Council to be adopted as the new Code of Practice.

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### **RECOMMENDATION**

**That Council adopts the revised Code of Practice – Meeting Procedures (by at least two thirds of the members of the Council).**

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### **COMMUNITY PLAN**

Culture: Supporting excellent, efficient operations.

### **COUNCIL POLICY**

Not Applicable.

## STATUTORY PROVISIONS

*Local Government Act 1999*

*Local Government (Procedures at Meetings) Regulations 2013*

## BACKGROUND

The *Local Government Act 1999* (the Act), Section 86(8) and 89(1) prescribe that the procedures at Council and Council Committee meetings are to be observed as prescribed by the Regulations and where the procedure is not prescribed by regulation, as determined by the Council or by the Council Committee.

The *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations), outline the statutory requirements for meeting procedures and Council may adopt a Code of Practice for Meeting Procedures (the Code), which varies certain provisions of the Regulations (such variations are only where permitted by the Regulations).

The Regulations also states a council should at least once in every financial year review the operation of a Code of Practice under the Regulations (Regulation 6(2)). A council may at any time, by resolution supported by at least two-thirds of the members of the Council, alter a Code of Practice, or substitute or revoke a Code of Practice (Regulation 6(3)).

The Code of Practice – Meeting Procedures (the Code), provides for and encourages appropriate community participation in the affairs of the Council and reflects the various levels of formality appropriate to the nature and scope of responsibilities exercised at Council and Committee meetings.

## REPORT

Council last endorsed its Code of Practice – Meeting Procedures in January 2018. This is the current Code and includes Council's changes in red and then a 'Chapter 3: Supplementary Meeting Procedures' section at the end.

A further review of the Code has been undertaken, in accordance with the adjourned report, item 14.3 Code of Practice – Meeting Procedures – Annual Review (Report No: 50/19) and including consultation with Her Worship the Mayor.

Legal advice has also been sought to identify any further improvements on provisions for 'best practice'. The proposed version with the tracked changes is attached.

*Refer Attachment 1*

The principal changes to the Code in the proposed version are:

- Previously the Code had a 'Chapter 3: Supplementary Meeting Procedures' section at the end of the Code. The relevant provisions have now been merged throughout the document and next to the relevant Regulation with a header "City of Holdfast Bay Meeting Procedures" under each Regulation where there are additional provisions.

They have been placed in grey shaded areas next to the Regulation to improve readability and for ease of reference.

- Previously changes permitted by the Regulations were highlighted in red. The red wording remains as identified.
- At the end of the Code are the miscellaneous provisions which do not relate to specific Regulations.
- Regulation 12 now includes provisions explaining for clarification that:
  - Members that have spoken to an amendment are taken to have spoken to the motion; and
  - a Member that has spoken to the motion prior to the proposed amendment is not permitted to speak again in the absence of leave of the meeting.
- Regulation 13 now includes that a person who moves or seconds an amendment can reserve their right to speak to later in the debate, in which case the mover or seconder will not be taken to have spoken to the amendment, or the motion to which the amendment relates.

The revised version for Council adoption, without the track changes showing is attached (refer to Attachment 2). Council is required to resolve to adopt the Code with a minimum two thirds majority before a reviewed Code can come into effect.

*Refer Attachment 2*

#### **BUDGET**

Not applicable.

#### **LIFE CYCLE COSTS**

Not applicable.

# Attachment 1



# Code of Practice – Meeting Procedures

Adopted by Council 9 July 2019

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## Introduction

The City of Holdfast Bay is committed to the principles of honest, open and accountable government and encourages community participation in the business of Council.

The *Local Government Act (Procedures at Meetings) Regulations 2013* (the 'Regulations') stipulate the statutory procedures to be undertaken during the operation of Council and Committee meetings. Under the Regulations, Council may adopt a Code of Practice for its own meetings, which varies the provisions that are capable of variation.

Sections 86(8) and 89(1) of the *Local Government Act 1999* provides that where a procedure is not prescribed by regulation, Council (or a Council Committee when Council does not determine the procedures for the Committee) can determine its own procedures, provided it is not inconsistent with the Act or Regulations.

This document is the City of Holdfast Bay's Code of Practice for Procedures at Meetings, which provides for:

- variations to the meeting procedures prescribed in the 'Regulations' (~~prescribed~~) meeting procedures which have been adopted by Council (inserted in red text to enable them to be read in conjunction with the formal requirements of the Regulations);
- Supplementary City of Holdfast Bay ~~provisions~~ meeting procedures that apply to both Council and Committee meetings (unless stated otherwise)- see grey shaded areas;
- guidelines on how Council and Committee meetings are to be conducted; and
- guidance to the community on how meetings of Council are conducted.

As recommended by legislation, this Code of Practice is reviewed annually and the Council may at any time, by resolution supported by at least two-thirds of members, alter, substitute or revoke the Code of Practice.

# Local Government (Procedures at Meetings) Regulations 2013, including Variations

## Part 1—Preliminary

### Regulation 1—Short title

These regulations may be cited as the *Local Government (Procedures at Meetings) Regulations 2013*.

### Regulation 2—Commencement

These regulations will come into operation on 1 January 2014.

### Regulation 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

**Act** means the *Local Government Act 1999*;

**clear days** - (see subregulations (2) and (3))

**deputation** means a person or group of persons who wish to appear personally before a council or council committee in order to address the council or committee (as the case may be) on a particular matter;

**formal motion** means a motion—

- (a) that the meeting proceed to the next business; or
- (b) that the question be put; or
- (c) that the question lie on the table; or
- (d) that the question be adjourned; or
- (e) that the meeting be adjourned<sup>1</sup>;

**Guiding Principles**—see regulation 4;

**member** means a member of the council or council committee (as the case may be);

**point of order** means a point raised to draw attention to an alleged breach of the Act or these regulations in relation to the proceedings of a meeting;

**presiding member** means the person who is the presiding member of a council or council committee (as the case may be) and includes any person who is presiding at a particular meeting;

**written notice** includes a notice given in a manner or form determined by the council, ~~which includes legibly hand written or typed in either hard copy or electronic form;~~

- (2) In the calculation of **clear days** in relation to the giving of notice before a meeting—
- (a) the day on which the notice is given, and the day on which the meeting occurs, will not be taken into account; and
  - (b) Saturdays, Sundays and public holidays will be taken into account.
- (3) For the purposes of the calculation of **clear days** under subregulation (2), if a notice is given after 5 p.m. on a day, the notice will be taken to have been given on the next day.
- (4) For the purposes of these regulations, a vote on whether **leave of the meeting** is granted may be conducted by a show of hands (but nothing in this subregulation prevents a division from being called in relation to the vote).

#### Note—

- 1 See regulation 12 for specific provisions about formal motions.



### City of Holdfast Bay Meeting Procedures

- (5) [For the purposes of the definition of 'written notice' in Regulation 3 above, the Council has determined that written notice will include a legibly hand written or typed document provided in either hard copy or electronic format.](#)

## Regulation 4—Guiding Principles

The following principles (the *Guiding Principles*) should be applied with respect to the procedures to be observed at a meeting of a council or a council committee:

- (a) procedures should be fair and contribute to open, transparent and informed decision-making;
- (b) procedures should encourage appropriate community participation in the affairs of the council;
- (c) procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;
- (d) procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.

## Part 2—Meetings of councils and key committees

### Regulation 5—Application of Part

The provisions of this Part apply to or in relation to—

- (a) the meetings of a council; and
- (b) the meetings of a council committee performing regulatory activities; and
- (c) the meetings of any other council committee if the council has, by resolution, determined that this Part should apply to that committee. ~~(Strategic Planning and Development Policy Committee).~~

### City of Holdfast Bay Meeting Procedures

- (d) [This Part applies to the Strategic Planning and Development Policy Committee.](#)

## Regulation 6—Discretionary procedures

- (1) Subject to the requirements of the Act, if a provision of this Part is expressed to be capable of being varied at the discretion of the council pursuant to this regulation, then a council may, by a resolution supported by at least two-thirds of the members of the council entitled to vote on the resolution, determine that a code of practice prepared or adopted by the council that establishes its own procedures for the relevant matter or matters will apply in substitution for the relevant provision (and such a determination will have effect according to its terms).
- (2) A council should, at least once in every financial year, review the operation of a code of practice under this regulation.
- (3) A council may at any time, by resolution supported by at least two-thirds of the members of the council entitled to vote on the resolution, alter a code of practice, or substitute or revoke a code of practice.

- (4) A council must, in considering the exercise of a power under this regulation, take into account the Guiding Principles.
- (5) A person is entitled to inspect (without charge) the code of practice of a council under this regulation at the principal office of the council during ordinary office hours.
- (6) A person is entitled, on payment of a fee fixed by the council, to a copy of the code of practice.
- (7) Regulation 12(4) does not apply to a motion under subregulation (3).
- (8) This regulation does not limit or derogate from the operation of regulation 20<sup>1</sup>.

**Note—**

- 1 Furthermore, if a matter is not dealt with by the Act or these regulations (including under a code of practice under this regulation), then the relevant procedure will be—
- (a) as determined by the council; or
  - (b) in the case of a council committee where a determination has not been made by the council— as determined by the committee.

(See sections 86(8) and 89(1) of the Act.)

## **Regulation 7—Commencement of meetings and quorums**

- (1) A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.
- (2) If the number of apologies received by the chief executive officer indicates that a quorum will not be present at a meeting, the chief executive officer may adjourn the meeting to a specified day and time.

~~The chair of a committee or any member of a committee may provide apologies to the relevant council officer at a meeting of a section 41 committee, in which case the apologies will be recorded in the minutes of the meeting.~~

- (3) If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the presiding member or, in the absence of a presiding member, the chief executive officer, will adjourn the meeting to a specified day and time.
- (4) If a meeting is adjourned for want of a quorum, the chief executive officer will record in the minute book the reason for the adjournment, the names of any members present, and the date and time to which the meeting is adjourned.
- (5) If a meeting is adjourned to another day, the chief executive officer must—
  - (a) give notice of the adjourned meeting to each member setting out the date, time and place of the meeting; and
  - (b) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be placed on display at the principal office of the council.

## City of Holdfast Bay Meeting Procedures

- (6) The following will appear at the beginning of all Council and Committee Meetings and will be read by the Presiding Member at the commencement of each meeting:

(6.1) Kurna Acknowledgement

*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.*

(6.2) Council 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.*

- (7) At the appropriate place on the Agenda the Presiding Member will draw the attention of members to the Disclosure Statement relating to [Sections 73, 74 and 75 of the Local Government Act 1999](#). Any disclosure of interest will be recorded in the Minutes.
- (8) [The Chair of a Committee or any member of a Committee may provide apologies to the relevant Council officer at a meeting of a section 41 Committee, in which case, the apologies will be recorded in the minutes of the meeting.](#)
- (9) [The proceedings of a Council or Committee meeting are not permitted to be photographed or recorded in any way by ~~the members of the~~ public unless permission is specifically sought and given by the Mayor and Chief Executive Officer prior to the meeting.](#)
- (10) Members [addressing the meeting are reminded that they](#) do not have absolute privilege with respect to comments made, opinions they express or material presented, [at a Council or Committee meeting](#) and need to be aware that they may be held personally liable for defamatory statements or statements [made](#) contrary to legal obligations.

## Regulation 8—Minutes

- (1) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.
- (2) No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- (3) On the confirmation of the minutes, the presiding member will—
  - (a) initial each page of the minutes, which pages are to be consecutively numbered; and
  - (b) place his or her signature and the date of confirmation at the foot of the last page of the minutes.
- (4) The minutes of the proceedings of a meeting must include—
  - (a) the names of the members present at the meeting; and
  - (b) in relation to each member present—
    - (i) the time at which the person entered or left the meeting; and
    - (ii) unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting; and
  - (c) each motion or amendment, and the names of the mover and seconder; and
  - (d) any variation, alteration or withdrawal of a motion or amendment; and
  - (e) whether a motion or amendment is carried or lost; and
  - (f) any disclosure of interest made by a member ~~(which must, in the case of a material conflict of interest, include the details specified under section 74(5) of the Act and, in the case of an actual or perceived conflict of interest, include the details specified under section 75A(4) of the Act~~; and
  - (g) an account of any personal explanation given by a member; and
  - (h) details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and
  - (i) a note of the making of an order under subsection (7) of section 91 of the Act in accordance with the requirements of subsection (9) of that section; and
  - (j) details of any adjournment of business; and
  - (k) a record of any request for documents to be tabled at the meeting; and
  - (l) a record of any documents tabled at the meeting; and
  - (m) a description of any oral briefing given to the meeting on a matter of council business; and
  - (n) any other matter required to be included in the minutes by or under the Act or any regulation.

### City of Holdfast Bay Meeting Procedures

- (5) Minutes will be made available electronically to members and placed on Council's website within 5 days of the meeting.
- (6) Minutes will include any Apologies, Leave of Absences granted and Absences.
- (7) The name(s) of ~~a~~ person(s) wishing to appear as a deputation and the subject matter will be recorded in the minutes of a Council or ~~Council~~ Committee meeting, but the details of the content of the deputation will not be included.
- (8) The minutes of Council and ~~Council~~ Committee meetings will not include voting patterns, or record the names of individuals voting for and against, other than in the case of a division.
- (9) For the purposes of Regulation 8(4)(f),- in the case of a material conflict of interest, the minutes must record the details specified under section 74(5) of the Act, and in the case of an actual or perceived conflict of interest, the details specified under section 75A(4) of the Act.

### Regulation 9—Questions

- (1) A member may ask a question on notice by giving the chief executive officer written notice of the question at least 5 clear days before the date of the meeting at which the question is to be asked.
- (2) If notice of a question is given under subregulation (1)—
  - (a) the chief executive officer must ensure that the question is placed on the agenda for the meeting at which the question is to be asked; and
  - (b) the question and the reply must be entered in the minutes of the relevant meeting.
- (3) A member may ask a question without notice at a meeting.
- (4) The presiding member may allow the reply to a question without notice to be given at the next meeting.
- (5) A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made.
- (6) The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper. ~~The reason for ruling that a question with or without notice not be answered will be provided at the time the determination is made. The reasons will be communicated to the member who asked the question and recorded in the minutes of the meeting.~~

### City of Holdfast Bay Meeting Procedures

- (7) Questions on notice are required to be received by the Chief Executive Officer no later than 5.00pm, ~~5~~five clear days before the date of the meeting at which the question is to be asked (in this case as the Council meets on a Tuesday, the deadline is 5.00pm the prior Wednesday).
- (8) A question received after the timeframe specified in City of Holdfast Bay provision 7 above will be treated as a question for a subsequent meeting of the ~~C~~council.
- (9) The answer to a question on notice is to be circulated in writing at the Council Meeting at which the question is asked. If it is not possible for the Administration to compile an answer in the time prior to the Council Meeting, the reason is to be recorded in the minutes and the answers provided at the next available Council Meeting.
- (10) For the purposes of Regulation 9(6), the Presiding Member must give reasons for ruling that a question with or without notice not be answered at the time the determination is made. The reasons will be communicated to the member who asked the question.
- ~~(11)~~ A member may ask a question prior to the moving of a motion or during debate on a motion (or an amendment) for clarification purposes only, without losing their right to speak to the motion (or ~~the~~ amendment). Questions should be succinct and relevant to the matter and not a statement.
- ~~(12)~~ Questions asked during the course of discussion or debate in a meeting that requires an answer will be directed to the Presiding Member, and will not be asked directly to a member or officer. Answers given in response to such questions will also be directed to the Presiding Member, ~~and~~ will both be directed to the person initiating the question.

### Regulation 10—Petitions

- (1) A petition to the council must—
  - (a) be legibly written or typed or printed; and
  - (b) clearly set out the request or submission of the petitioners; and
  - (c) include the name and address of each person who signed or endorsed the petition; and
  - (d) be addressed to the council and delivered to the principal office of the council.
  - ~~(e) be received no less than 6 clear days prior to the date of the next ordinary meeting of council or the date at which the head petitioner requests.~~
- (2) If a petition is received under subregulation (1), the chief executive officer must ensure that the petition or, if the council has so determined as a policy of the council, a statement as to the nature of the request or submission and the number of signatures or the number of persons endorsing the petition, is placed on the agenda for the next ordinary meeting of the council or, if so provided by a policy of the council, a committee of the council.
- (3) Subregulation (2) may be varied at the discretion of the council pursuant to regulation 6.

### City of Holdfast Bay Meeting Procedures

- (4) Each page of a petition is to be presented by the head petitioner to Council's Administration and identify the name and contact details of the head petitioner.
- (5) Each page of a petition presented to ~~the~~ Council is to restate the whole of the request or submission of the petitioners.
- (6) Where a page of a petition does not comply with City of Holdfast Bay provision 5 above, the signatures on that page are not to be taken into account by the Council when considering the petition.
- (7) A petition to the Council must be received no less than 6 clear days prior to the date of the next ordinary meeting of the Council, or the date at which the head petitioner requests that the petition be presented to the Council.
- (8) On receipt of a petition, a summary providing the statement as to the nature of the request or submission of the petitioners, and the number of signatures the petition contains, will be placed on the agenda for the next ordinary council meeting, subject to provision 6 above ~~Regulation 10(1)(e)~~. A full copy of the petition is available for viewing upon request, but will not be placed on the agenda.
- (89) Online petitions will be dealt with as above and must meet the following requirements ~~for them~~ to be presented to Council:
  - (98.1) the petition must clearly set out the request or submission of the petitioners
  - (98.2) the names and addresses of each signatory must be clearly identified (in the case of an address, this must be by reference to at least a street and suburb)
  - (98.3) the petition must be provided to Ccouncil either by mail (including email) or in person.

### Regulation 11—Deputations

- (1) A person or persons wishing to appear as a deputation at a meeting must deliver (to the principal office of the council) a written request to the council.
- (2) The chief executive officer must transmit a request received under subregulation (1) to the presiding member.
- (3) The presiding member may refuse to allow the deputation to appear at a meeting.
- (4) The chief executive officer must take reasonable steps to ensure that the person or persons who requested a deputation are informed of the outcome of the request.
- (5) If the presiding member refuses to allow a deputation to appear at a meeting, the presiding member must report the decision to the next meeting of the council or council committee (as the case may be).
- (6) The council or council committee may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.
- (7) A council may refer the hearing of a deputation to a council committee.

### City of Holdfast Bay Meeting Procedures

- (8) Any person(s) wishing to appear as a deputation on behalf of an organisation, must, prior to ~~the~~ Council or ~~Council~~-Committee meeting at which they wish to appear, advise the Chief Executive Officer in writing of the date of formation and/or incorporation of their organisation, provide a copy of the ~~C~~onstitution and/or ~~R~~ules of the organisation, a list of members, and evidence in the form of a minute that the organisation and/or body has approved the deputation.
- (9) Where an organisation has provided its incorporation details as outlined in ~~paragraph provision~~ 8 above, it will not be required to provide this information again for the term of the current Council.
- (10) A deputation, may not exceed ~~3 three~~ people, and will not exceed 5 minutes in total, not including questions from members, except with the consent of the Presiding Member.

### Regulation 12—Motions

- (1) A member may bring forward any business in the form of a written notice of motion.
- (2) The notice of motion must be given to the chief executive officer at least 5 clear days before the date of the meeting at which the motion is to be moved.
- (3) A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last general election of the council must be brought by written notice of motion.
- (4) If a motion under subregulation (3) is lost, a motion to the same effect cannot be brought—
  - (a) until after the expiration of 12 months; or
  - (b) until after the next general election,whichever is the sooner.
- (5) Subject to the Act and these regulations, a member may also bring forward any business by way of a motion without notice.
- (6) The presiding member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.
- (7) The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council or council committee (as the case may be).
- (8) A motion will lapse if it is not seconded at the appropriate time. ~~The Presiding Member is to ask for a seconder before declaring that a motion has lapsed.~~
- (9) A member moving or seconding a motion will speak to the motion at the time of moving or seconding the motion, **unless the seconder reserves their right to speak to the motion at a later stage of the debate, in which case the seconder will not be considered to have spoken to the motion.**



- (10) A member may only speak once to a motion [\(which includes speaking to an amendment to a motion\)](#) except—
- (a) to provide an explanation in regard to a material part of his or her speech, but not so as to introduce any new matter; or
  - (b) with leave of the meeting; or
  - (c) as the mover in reply.
- (11) A member who has spoken to a motion **or has reserved their right to speak to the motion at a later stage pursuant to sub-regulation (9)** may not at a later stage of the debate move or second an amendment to the motion.
- (12) A member who has not spoken in the debate on a question may move a formal motion.
- (13) A formal motion must be in the form of a motion set out in subregulation (14) (and no other formal motion to a different effect will be recognised).
- (14) If the formal motion is—
- (a) that ***the meeting proceed to the next business***, then the effect of the motion, if successful, is, in the case of an amendment, that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment and, in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business; or
  - (b) that ***the question be put***, then the effect of the motion, if successful, is that debate is terminated and the question put to the vote by the presiding member without further debate; or
  - (c) that ***the question lie on the table***, then the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question can then only be retrieved at a later time by resolution (and, if so retrieved, debate is then resumed at the point of interruption); or
  - (d) that ***the question be adjourned***, then the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at the later time (at the point of interruption); or
  - (e) that ***the meeting be adjourned***, then the effect of the motion, if successful, is that the meeting is brought to an end immediately without the consideration of further business.
- (15) If seconded, a formal motion takes precedence and will be put by the presiding member without discussion unless the motion is for an adjournment (in which case discussion may occur (but only occur) on the details for resumption).
- (16) A formal motion does not constitute an amendment to a substantive motion.
- (17) If a formal motion is lost—
- (a) the meeting will be resumed at the point at which it was interrupted; and
  - (b) if the formal motion was put during debate (and not at the end of debate) on a question, then a similar formal motion (ie a motion to the same effect) cannot be put until at least 1 member has spoken on the question.

- (18) A formal motion for adjournment must include the reason for the adjournment and the details for resumption.
- (19) Any question that lies on the table as a result of a successful formal motion under subregulation (14)(c) lapses at the next general election.
- (20) The chief executive officer must report on each question that lapses under subregulation (19) to the council at the first ordinary meeting of the council after the general election.
- (21) Subregulations (9), (10) and (11) may be varied at the discretion of the council pursuant to regulation 6.

#### City of Holdfast Bay Meeting Procedures

- (22) All notices of motion are required to be received by the Chief Executive Officer no later than 5.00pm 5 five clear days before the date of the meeting at which the motion is to be moved (in this case as the Council meets on a Tuesday, the deadline is 5.00pm the prior Wednesday).
- (23) A notice of motion received after the time specified in City of Holdfast Bay provision 22 above will be treated as a notice of motion for a subsequent meeting of the Council.
- (24) When placing a motion with notice in an Agenda, the Chief Executive Officer may take the opportunity to provide written comments to assist the Council to make an informed decision in relation to the items.
- (25) A member may ask a question prior to the moving of a motion, or during debate on a motion (or including debate on an amendment to the motion), for clarification purposes only, without losing their right to speak to the motion (or an amendment). Questions should be succinct and relevant to the matter and not a statement.
- (26) A motion without notice (unrelated to an agenda item of business) will not be accepted for debate at the meeting at which it is brought forward unless:
  - (26.1) the Presiding Member determines that the matter is one of urgency; and
  - (26.2) in the opinion of the Presiding Member, the motion relates to an issue that does not require additional information in order to make an informed decision on the motion.
- (27) A member wishing to move a motion that is different from that recommended in a Council report is encouraged to make available a written copy of their proposed motion to assist the Presiding Member in the conduct of the meeting.
- (28) Where a member who has given notice of motion in accordance with Regulation 12(2) is absent from the meeting at which the motion is to be considered, the motion will be adjourned to the next meeting, unless the Presiding Member has received written authority from the member in advance of the meeting for a different member to move the notice of motion.
- (29) For the purposes of Regulation 12(8), the Presiding Member is to ask for a seconder before declaring that an amendment has lapsed.
- (30) For the purposes of Regulation 12(10), an amendment to a motion is an alteration to the wording of a motion. It is a procedural device for the purposes of refining the motion, it is not a motion in its own right. As such, a member speaking to an amendment will be taken to have spoken to the motion. Similarly, a member that has spoken to a motion prior to the proposed an amendment being made is not permitted to speak to the amendment, in the absence of leave of the meeting.

## Regulation 13—Amendments to motions

- (1) A member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion.
- (2) An amendment will lapse if it is not seconded at the appropriate time. ~~The Presiding Member is to ask for a seconder before declaring that an amendment has lapsed.~~
- (3) A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment) will, in so doing, be taken to have spoken to the motion to which the amendment relates, **unless at the time of moving or seconding the amendment, the mover or seconder requests to reserve their right to speak to the amendment later in the debate, in which case the mover or seconder will not be taken to have spoken to the amendment, or the motion to which the amendment relates.**
- (4) If an amendment is lost, only 1 further amendment may be moved to the original motion.
- (5) If an amendment is carried, only 1 further amendment may be moved to the original motion.
- (6) Subregulations (1), (3), (4) and (5) may be varied at the discretion of the council pursuant to regulation 6.
- ~~(7) Amendments are to be provided to the minute taker preferably in writing to ensure accuracy of recording.~~

### City of Holdfast Bay Meeting Procedures

- ~~(7)~~ Where possible, amendments are to be provided to the minute taker in writing to ensure accuracy of recording in the minutes.
- (8) For the purposes of Regulation 13(2), the Presiding Member is to ask for a seconder before declaring that an amendment has lapsed.

## Regulation 14—Variations etc

- (1) The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.
- (2) The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.

## Regulation 15—Addresses by members etc

- (1) A member must not speak for longer than **3 minutes** at any 1 time without leave of the meeting.
- (2) A member may, with leave of the meeting, raise a matter of urgency.
- (3) A member may, with leave of the meeting, make a personal explanation.
- (4) The subject matter of a personal explanation may not be debated.
- (5) The contribution of a member must be relevant to the subject matter of the debate.
- (6) Subregulations (1) and (2) may be varied at the discretion of the council pursuant to regulation 6.

### City of Holdfast Bay Meeting Procedures

- (7) A member at a Council meeting is to stand when speaking to a matter being considered at the meeting unless:
  - (7.1) that person is prevented from doing so by a physical disability; or
  - (7.2) the Presiding Member determines otherwise.
- (8) A member who is unable to stand due to injury, illness, infirmity, disability or other cause, must advise the Presiding Member that they require special arrangements to be made in order for their vote to be adequately signaled to those persons present, and [it](#) is accurately recorded in the minutes. The Presiding Member may, in consultation with the member concerned, determine the manner in which the member is to signal their vote **and will communicate this to the chamber.**
- (9) A member who wishes to speak is asked to raise their hand to indicate to the Presiding Member that they wish to speak, who will [then](#) call upon them in turn.
- (10) The Presiding Member shall reserve their contribution to the end of the debate (but before the mover speaks in reply) so as to avoid any suggestion of 'leading' the meeting. Noting that the role of the Presiding Member is to enhance the debate and that they can ask questions and add valuable information to the debate that the meeting may not be fully aware of.

### Regulation 16—Voting

- (1) The presiding member, or any other member, may ask the chief executive officer to read out a motion before a vote is taken.
- (2) The presiding member will, in taking a vote, ask for the votes of those members in favour of the question and then for the votes of those members against the question (and may do so as often as is necessary to enable him or her to determine the result of the voting), and will then declare the outcome.
- (3) A person who is not in his or her seat is not permitted to vote.
- (4) Subregulation (3)—
  - (a) may be varied at the discretion of the council pursuant to regulation 6; and
  - (b) does not apply in relation to a member participating in a council committee meeting by telephone or electronic means approved in accordance with procedures determined by the council or council committee for the purposes of section 89 of the Act.

### City of Holdfast Bay Meeting Procedures

- (5) Each item [of business](#) on the agenda is to be voted on separately.

### **Regulation 17—Divisions**

- (1) A division will be taken at the request of a member.
- (2) If a division is called for, it must be taken immediately and the previous decision of the presiding member as to whether the motion was carried or lost is set aside.
- (3) The division will be taken as follows:
  - (a) the members voting in the affirmative will, until the vote is recorded, stand in their places;
  - (b) the members voting in the negative will, until the vote is recorded, sit in their seats;
  - (c) the presiding member will count the number of votes and then declare the outcome.
- (4) The chief executive officer will record in the minutes the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote).
- (5) Subregulation (3) may be varied at the discretion of the council pursuant to regulation 6.

### **Regulation 18—Tabling of information**

- (1) A member may require the chief executive officer to table any documents of the council relating to a motion that is before a meeting (and the chief executive officer must then table the documents within a reasonable time, or at a time determined by the presiding member after taking into account the wishes of the meeting, and if the member who has required the tabling indicates that he or she is unwilling to vote on the motion until the documents are tabled, then the matter must not be put to the vote until the documents are tabled).
- (2) The chief executive officer may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under section 90 or 91 of the Act.

### **Regulation 19—Adjourned business**

- (1) If a formal motion for a substantive motion to be adjourned is carried—
  - (a) the adjournment may either be to a later hour of the same day, to another day, or to another place; and
  - (b) the debate will, on resumption, continue from the point at which it was adjourned.
- (2) If debate is interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was interrupted.
- (3) Business adjourned from a previous meeting must be dealt with before any new business at a subsequent meeting.
- (4) The provisions of this regulation may be varied at the discretion of the council pursuant to regulation 6.

## **Regulation 20—Short-term suspension of proceedings**

- (1) If the presiding member considers that the conduct of a meeting would benefit from suspending the operation of all or some of the provisions of this Division for a period of time in order to allow or facilitate informal discussions, the presiding member may, with the approval of at least two-thirds of the members present at the meeting, suspend the operation of this Division (or any part of this Division) for a period determined by the presiding member.
- (2) The Guiding Principles must be taken into account when considering whether to act under subregulation (1).
- (3) If a suspension occurs under subregulation (1)—
  - (a) a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes; and
  - (b) the meeting may proceed provided that a quorum is maintained but, during the period of suspension—
    - (i) the provisions of the Act must continue to be observed<sup>1</sup>; and
    - (ii) no act or discussion will have any status or significance under the provisions which have been suspended; and
    - (iii) no motion may be moved, seconded, amended or voted on, other than a motion that the period of suspension should be brought to an end; and
  - (c) the period of suspension should be limited to achieving the purpose for which it was declared; and
  - (d) the period of suspension will come to an end if—
    - (i) the presiding member determines that the period should be brought to an end; or
    - (ii) at least two-thirds of the members present at the meeting resolve that the period should be brought to an end.

### **Note—**

- 1 See particularly Part 4 of Chapter 5, and Chapter 6, of the Act.

## **Regulation 21—Chief executive officer may submit report recommending revocation or amendment of council decision**

- (1) The chief executive officer may submit a report to the council recommending the revocation or amendment of a resolution passed since the last general election of the council.
- (2) The chief executive officer must ensure that the report is placed on the agenda for the meeting at which the report is to be considered.
- (3) The provisions of this regulation may be varied at the discretion of the council pursuant to regulation 6.

## **Part 3—Meetings of other committees**

### **Regulation 22—Application of Part**

The provisions of this Part apply to or in relation to the meetings of any council committee that is not subject to the operation of Part 2. ~~(Alwyndor Management Committee, Audit Committee, Executive Committee and Jetty Road Mainstreet Committee)~~

#### **City of Holdfast Bay Meeting Procedures**

- (1) A member at a Council Committee meeting may remain seated when speaking to a matter being considered at a Committee meeting.
- (2) [This Part applies to the Alwyndor Management Committee, Audit Committee, Executive Committee and the Jetty Road Mainstreet Committee.](#)

### **Regulation 23—Notice of meetings for members**

Pursuant to section 87(15) of the Act, section 87 is modified in its application in relation to the meetings of a committee to which this Part applies as if subsections (4) and (7) to (10) of that section provided as follows:

- (a) that notice of a meeting of the committee may be given in a form determined by the committee after taking into account the nature and purpose of the committee;
- (b) that notice need not be given for each meeting separately;
- (c) that if ordinary meetings of the committee have a set agenda then notice of such a meeting need not contain, or be accompanied by, the agenda for the meeting;
- (d) that it is not necessary for the chief executive officer to ensure that each member of the committee at the time that notice of a meeting is given is supplied with a copy of any documents or reports that are to be considered at the meeting.

### **Regulation 24—Public notice of committee meetings**

Pursuant to section 88(7) of the Act, section 88 is modified in its application in relation to the meetings of a committee to which this Part applies as if subsections (2), (3) and (4) provided as follows:

- (a) that public notice need not be given for each meeting separately; and
- (b) that public notice may be given by displaying a notice and agenda in a place or places determined by the chief executive officer after taking into account the nature and purpose of the committee.

### **Regulation 25—Minutes**

- (1) The minutes of the proceedings of a meeting must include—
  - (a) the names of the members present at the meeting; and
  - (b) each motion carried at the meeting; and
  - (c) any disclosure of interest made by a member; and

- (d) details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and
  - (e) a note of the making of an order under subsection (7) of section 91 of the Act in accordance with the requirements of subsection (9) of that section.
- (2) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.

## **Part 4—Miscellaneous**

### **Regulation 26—Quorum for committees**

- (1) The prescribed number of members of a council committee constitutes a quorum of the committee and no business can be transacted at a meeting unless a quorum is present.
- (2) For the purposes of this regulation, the *prescribed number* of members of a council committee is—
  - (a) unless paragraph (b) applies—a number ascertained by dividing the total number of members of the committee by 2, ignoring any fraction resulting from the division, and adding 1; or
  - (b) a number determined by the council.

#### **Note—**

See also section 41(6) of the Act.

### **Regulation 27—Voting at committee meetings**

- (1) Subject to the Act and these regulations, a question arising for decision at a meeting of a council committee will be decided by a majority of the votes cast by the members present at the meeting and entitled to vote on the question.
- (2) Each member of a council who is a member of a council committee and who is present at a meeting of the committee must, subject to a provision of the Act to the contrary, vote on a question arising for decision at that meeting.
- (3) The presiding member of a council committee has a deliberative vote on a question arising for decision at the meeting but does not, in the event of an equality of votes, have a casting vote.

#### **City of Holdfast Bay Meeting Procedures**

- (4) Each member of a Council Committee who is present at a meeting of the Committee, must, subject to a provision of the Act to the contrary, vote on a question for decision at that meeting.
- (5) If a vote is tied and cannot be resolved by the Ccommittee the matters is to be considered as lost.



## **Regulation 28—Points of order**

- (1) The presiding member may call to order a member who is in breach of the Act or these regulations.
- (2) A member may draw to the attention of the presiding member a breach of the Act or these regulations, and must state briefly the nature of the alleged breach.
- (3) A point of order takes precedence over all other business until determined.
- (4) The presiding member will rule on a point of order.
- (5) If an objection is taken to the ruling of the presiding member, a motion that the ruling not be agreed with must be moved immediately.
- (6) The presiding member is entitled to make a statement in support of the ruling before a motion under subregulation (5) is put.
- (7) A resolution under subregulation (5) binds the meeting and, if a ruling is not agreed with—
  - (a) the ruling has no effect; and
  - (b) the point of order is annulled.

## **Regulation 29—Interruption of meetings by members**

- (1) A member of a council or council committee must not, while at a meeting—
  - (a) behave in an improper or disorderly manner; or
  - (b) cause an interruption or interrupt another member who is speaking.
- (2) Subregulation (1)(b) does not apply to a member who is—
  - (a) objecting to words used by a member who is speaking; or
  - (b) calling attention to a point of order; or
  - (c) calling attention to want of a quorum.
- (3) If the presiding member considers that a member may have acted in contravention of subregulation (1), the member must be allowed to make a personal explanation.
- (4) Subject to complying with subregulation (3), the relevant member must leave the meeting while the matter is considered by the meeting.
- (5) If the remaining members resolve that a contravention of subregulation (1) has occurred, those members may, by resolution—
  - (a) censure the member; or
  - (b) suspend the member for a part, or for the remainder, of the meeting.
- (6) A member who—
  - (a) refuses to leave a meeting in contravention of subregulation (4); or
  - (b) enters a meeting in contravention of a suspension under subregulation (5),  
is guilty of an offence.

Maximum penalty: \$1 250.

### City of Holdfast Bay Meeting Procedures

- (7) Mobile telephones may not be used during a [Council or Committee](#) meeting by members ~~and/or~~ [Council](#) officers.
- (8) Mobile [tele](#)phones, if brought into the Council chamber, or Committee room, must be switched off or turned to silent mode before the meeting commences.

### Regulation 30—Interruption of meetings by others

A member of the public who is present at a meeting of a council or council committee must not—

- (a) behave in a disorderly manner; or
- (b) cause an interruption.

Maximum penalty: \$500.

# **City of Holdfast Bay - Miscellaneous Meeting Procedures**

## **1. Pre-Meeting**

- 1.1 Members are required to submit their activity reports in writing to the Chief Executive Officer no later than 5.00pm the Tuesday prior to the Council meeting.
- 1.2 A member's activity report received after the time specified in paragraph 1.1 above will be treated as an item for a subsequent meeting of the Council.

## **2. Agenda**

- 2.2 There will be no item of "Other business" on the agenda for meetings. Sufficient opportunity is afforded to members to raise any issue in accordance with this Code of Practice, the Act and the Regulations.
- 2.3 The Presiding Member may alter the order of the agenda, subject to the leave of the Council or Committee, where it is expedient to do so.

## **3. Fire Evacuation Process**

A copy of the Fire Evacuation process will be displayed in the Council chamber.

## **4. Meeting Protocols**

Council and Committee meetings will conclude no later than 10.30pm, unless the meeting formally resolves on each specific occasion to continue beyond that time. When a meeting is likely to continue beyond 10.30pm a motion is to be put to the meeting whether to continue or adjourn to another date and time.

## **5. Appointment to External Bodies**

- 5.1 The Presiding Member is to call for nominations before debate on a motion to appoint members to Committees and/or organisations (Council and external) can occur. If there are more nominations than positions a ballot is conducted.
- 5.2 All elected members (including the Presiding Member) indicate which member(s) they wish to vote for on the ballot paper or by show of hands.
- 5.3 A senior officer collects the ballot papers and/or conducts the count.
- 5.4 The Chief Executive Officer is to report the numbers to the Presiding Member and confirms the vote count.
- 5.5 In the case of a tied ballot, elected members are to cast a further vote for their preferred candidate from the candidates who are tied (repeat paragraph 3-65.2 and 3-65.3 above). In the event that a revote cannot determine a clear winner (there is a continuing tie), then lots must be drawn to determine which candidate(s) will be excluded.
- 5.6 The Presiding Member will then announce the successful candidate.
- 5.7 The meeting will then make the appointment by resolution.

# Attachment 2



# Code of Practice – Meeting Procedures

Adopted by Council 9 July 2019

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# Introduction

The City of Holdfast Bay is committed to the principles of honest, open and accountable government and encourages community participation in the business of Council.

The *Local Government Act (Procedures at Meetings) Regulations 2013* (the 'Regulations') stipulate the statutory procedures to be undertaken during the operation of Council and Committee meetings. Under the Regulations, Council may adopt a Code of Practice for its own meetings, which varies the provisions that are capable of variation.

Sections 86(8) and 89(1) of the *Local Government Act 1999* provides that where a procedure is not prescribed by regulation, Council (or a Council Committee when Council does not determine the procedures for the Committee) can determine its own procedures, provided it is not inconsistent with the Act or Regulations.

This document is the City of Holdfast Bay's Code of Practice for Procedures at Meetings, which provides for:

- variations to the meeting procedures prescribed in the Regulations which have been adopted by Council (inserted in red text to enable them to be read in conjunction with the formal requirements of the Regulations);
- Supplementary City of Holdfast Bay meeting procedures that apply to both Council and Committee meetings (unless stated otherwise)- see grey shaded areas;
- guidelines on how Council and Committee meetings are to be conducted; and
- guidance to the community on how meetings of Council are conducted.

As recommended by legislation, this Code of Practice is reviewed annually and the Council may at any time, by resolution supported by at least two-thirds of members, alter, substitute or revoke the Code of Practice.

# Local Government (Procedures at Meetings) Regulations 2013, including Variations

## Part 1—Preliminary

### Regulation 1—Short title

These regulations may be cited as the *Local Government (Procedures at Meetings) Regulations 2013*.

### Regulation 2—Commencement

These regulations will come into operation on 1 January 2014.

### Regulation 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

**Act** means the *Local Government Act 1999*;

**clear days** - (see subregulations (2) and (3))

**deputation** means a person or group of persons who wish to appear personally before a council or council committee in order to address the council or committee (as the case may be) on a particular matter;

**formal motion** means a motion—

- (a) that the meeting proceed to the next business; or
- (b) that the question be put; or
- (c) that the question lie on the table; or
- (d) that the question be adjourned; or
- (e) that the meeting be adjourned<sup>1</sup>;

**Guiding Principles**—see regulation 4;

**member** means a member of the council or council committee (as the case may be);

**point of order** means a point raised to draw attention to an alleged breach of the Act or these regulations in relation to the proceedings of a meeting;

**presiding member** means the person who is the presiding member of a council or council committee (as the case may be) and includes any person who is presiding at a particular meeting;

**written notice** includes a notice given in a manner or form determined by the council;

- (2) In the calculation of **clear days** in relation to the giving of notice before a meeting—

- (a) the day on which the notice is given, and the day on which the meeting occurs, will not be taken into account; and
- (b) Saturdays, Sundays and public holidays will be taken into account.

- (3) For the purposes of the calculation of **clear days** under subregulation (2), if a notice is given after 5 p.m. on a day, the notice will be taken to have been given on the next day.

- (4) For the purposes of these regulations, a vote on whether **leave of the meeting** is granted may be conducted by a show of hands (but nothing in this subregulation prevents a division from being called in relation to the vote).

#### Note—

- 1 See regulation 12 for specific provisions about formal motions.



#### **City of Holdfast Bay Meeting Procedures**

- (5) For the purposes of the definition of 'written notice' in Regulation 3 above, the Council has determined that written notice will include a legibly hand written or typed document provided in either hard copy or electronic format.

### **Regulation 4—Guiding Principles**

The following principles (the *Guiding Principles*) should be applied with respect to the procedures to be observed at a meeting of a council or a council committee:

- (a) procedures should be fair and contribute to open, transparent and informed decision-making;
- (b) procedures should encourage appropriate community participation in the affairs of the council;
- (c) procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;
- (d) procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.

## **Part 2—Meetings of councils and key committees**

### **Regulation 5—Application of Part**

The provisions of this Part apply to or in relation to—

- (a) the meetings of a council; and
- (b) the meetings of a council committee performing regulatory activities; and
- (c) the meetings of any other council committee if the council has, by resolution, determined that this Part should apply to that committee.

#### **City of Holdfast Bay Meeting Procedures**

- (d) This Part applies to the Strategic Planning and Development Policy Committee.

### **Regulation 6—Discretionary procedures**

- (1) Subject to the requirements of the Act, if a provision of this Part is expressed to be capable of being varied at the discretion of the council pursuant to this regulation, then a council may, by a resolution supported by at least two-thirds of the members of the council entitled to vote on the resolution, determine that a code of practice prepared or adopted by the council that establishes its own procedures for the relevant matter or matters will apply in substitution for the relevant provision (and such a determination will have effect according to its terms).
- (2) A council should, at least once in every financial year, review the operation of a code of practice under this regulation.
- (3) A council may at any time, by resolution supported by at least two-thirds of the members of the council entitled to vote on the resolution, alter a code of practice, or substitute or revoke a code of practice.
- (4) A council must, in considering the exercise of a power under this regulation, take into account the Guiding Principles.

- (5) A person is entitled to inspect (without charge) the code of practice of a council under this regulation at the principal office of the council during ordinary office hours.
- (6) A person is entitled, on payment of a fee fixed by the council, to a copy of the code of practice.
- (7) Regulation 12(4) does not apply to a motion under subregulation (3).
- (8) This regulation does not limit or derogate from the operation of regulation 20<sup>1</sup>.

**Note—**

- 1 Furthermore, if a matter is not dealt with by the Act or these regulations (including under a code of practice under this regulation), then the relevant procedure will be—
  - (a) as determined by the council; or
  - (b) in the case of a council committee where a determination has not been made by the council— as determined by the committee.

(See sections 86(8) and 89(1) of the Act.)

**Regulation 7—Commencement of meetings and quorums**

- (1) A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.
- (2) If the number of apologies received by the chief executive officer indicates that a quorum will not be present at a meeting, the chief executive officer may adjourn the meeting to a specified day and time.
- (3) If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the presiding member or, in the absence of a presiding member, the chief executive officer, will adjourn the meeting to a specified day and time.
- (4) If a meeting is adjourned for want of a quorum, the chief executive officer will record in the minute book the reason for the adjournment, the names of any members present, and the date and time to which the meeting is adjourned.
- (5) If a meeting is adjourned to another day, the chief executive officer must—
  - (a) give notice of the adjourned meeting to each member setting out the date, time and place of the meeting; and
  - (b) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be placed on display at the principal office of the council.

## City of Holdfast Bay Meeting Procedures

- (6) The following will appear at the beginning of all Council and Committee Meetings and will be read by the Presiding Member at the commencement of each meeting:
  - (6.1) Kurna Acknowledgement

*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.*
  - (6.2) Council 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.*
- (7) At the appropriate place on the Agenda the Presiding Member will draw the attention of members to the Disclosure Statement relating to sections 73, 74 and 75 of the *Local Government Act 1999*. Any disclosure of interest will be recorded in the Minutes.
- (8) The Chair of a Committee or any member of a Committee may provide apologies to the relevant Council officer at a meeting of a section 41 Committee, in which case, the apologies will be recorded in the minutes of the meeting.
- (9) The proceedings of a Council or Committee meeting are not permitted to be photographed or recorded in any way by members of the public unless permission is specifically sought and given by the Mayor and Chief Executive Officer prior to the meeting.
- (10) Members are reminded that they do not have absolute privilege with respect to comments made, opinions they express or material presented, at a Council or Committee meeting and need to be aware that they may be held personally liable for defamatory statements or statements made contrary to legal obligations.

## Regulation 8—Minutes

- (1) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.
- (2) No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- (3) On the confirmation of the minutes, the presiding member will—
  - (a) initial each page of the minutes, which pages are to be consecutively numbered; and
  - (b) place his or her signature and the date of confirmation at the foot of the last page of the minutes.
- (4) The minutes of the proceedings of a meeting must include—
  - (a) the names of the members present at the meeting; and
  - (b) in relation to each member present—
    - (i) the time at which the person entered or left the meeting; and

- (ii) unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting; and
- (c) each motion or amendment, and the names of the mover and seconder; and
- (d) any variation, alteration or withdrawal of a motion or amendment; and
- (e) whether a motion or amendment is carried or lost; and
- (f) any disclosure of interest made by a member ; and
- (g) an account of any personal explanation given by a member; and
- (h) details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and
- (i) a note of the making of an order under subsection (7) of section 91 of the Act in accordance with the requirements of subsection (9) of that section; and
- (j) details of any adjournment of business; and
- (k) a record of any request for documents to be tabled at the meeting; and
- (l) a record of any documents tabled at the meeting; and
- (m) a description of any oral briefing given to the meeting on a matter of council business; and
- (n) any other matter required to be included in the minutes by or under the Act or any regulation.

#### **City of Holdfast Bay Meeting Procedures**

- (5) Minutes will be made available electronically to members and placed on Council's website within 5 days of the meeting.
- (6) Minutes will include any Apologies, Leave of Absences granted and Absences.
- (7) The name(s) of person(s) wishing to appear as a deputation and the subject matter will be recorded in the minutes of a Council or Committee meeting, but the details of the content of the deputation will not be included.
- (8) The minutes of Council and Committee meetings will not include voting patterns, or record the names of individuals voting for and against, other than in the case of a division.
- (9) For the purposes of Regulation 8(4)(f), in the case of a material conflict of interest, the minutes must record the details specified under section 74(5) of the Act, and in the case of an actual or perceived conflict of interest, the details specified under section 75A(4) of the Act.

#### **Regulation 9—Questions**

- (1) A member may ask a question on notice by giving the chief executive officer written notice of the question at least 5 clear days before the date of the meeting at which the question is to be asked.

- (2) If notice of a question is given under subregulation (1)—
  - (a) the chief executive officer must ensure that the question is placed on the agenda for the meeting at which the question is to be asked; and
  - (b) the question and the reply must be entered in the minutes of the relevant meeting.
- (3) A member may ask a question without notice at a meeting.
- (4) The presiding member may allow the reply to a question without notice to be given at the next meeting.
- (5) A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made.
- (6) The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.

#### **City of Holdfast Bay Meeting Procedures**

- (7) Questions on notice are required to be received by the Chief Executive Officer no later than 5.00pm, 5 clear days before the date of the meeting at which the question is to be asked (in this case as the Council meets on a Tuesday, the deadline is 5.00pm the prior Wednesday).
- (8) A question received after the timeframe specified in City of Holdfast Bay provision 7 above will be treated as a question for a subsequent meeting of the Council.
- (9) The answer to a question on notice is to be circulated in writing at the Council Meeting at which the question is asked. If it is not possible for the Administration to compile an answer in the time prior to the Council Meeting, the reason is to be recorded in the minutes and the answers provided at the next available Council Meeting.
- (10) For the purposes of Regulation 9(6), the Presiding Member must give reasons for ruling that a question with or without notice not be answered at the time the determination is made. The reasons will be communicated to the member who asked the question.
- (11) A member may ask a question prior to the moving of a motion or during debate on a motion (or an amendment) for clarification purposes only, without losing their right to speak to the motion (or the amendment). Questions should be succinct and relevant to the matter and not a statement.
- (12) Questions asked during the course of discussion or debate in a meeting that requires an answer will be directed to the Presiding Member, and will not be asked directly to a member or officer. Answers given in response to such questions will also be directed to the Presiding Member.

#### **Regulation 10—Petitions**

- (1) A petition to the council must—
  - (a) be legibly written or typed or printed; and
  - (b) clearly set out the request or submission of the petitioners; and
  - (c) include the name and address of each person who signed or endorsed the petition; and
  - (d) be addressed to the council and delivered to the principal office of the council.

- (2) If a petition is received under subregulation (1), the chief executive officer must ensure that the petition or, if the council has so determined as a policy of the council, a statement as to the nature of the request or submission and the number of signatures or the number of persons endorsing the petition, is placed on the agenda for the next ordinary meeting of the council or, if so provided by a policy of the council, a committee of the council.
- (3) Subregulation (2) may be varied at the discretion of the council pursuant to regulation 6.

#### **City of Holdfast Bay Meeting Procedures**

- (4) Each page of a petition is to be presented by the head petitioner to Council's Administration and identify the name and contact details of the head petitioner.
- (5) Each page of a petition presented to Council is to restate the whole of the request or submission of the petitioners.
- (6) Where a page of a petition does not comply with City of Holdfast Bay provision 5 above, the signatures on that page are not to be taken into account by the Council when considering the petition.
- (7) A petition to the Council must be received no less than 6 clear days prior to the date of the next ordinary meeting of the Council, or the date at which the head petitioner requests that the petition be presented to the Council.
- (8) On receipt of a petition, a summary providing the statement as to the nature of the request or submission of the petitioners, and the number of signatures the petition contains, will be placed on the agenda for the next ordinary council meeting, subject to provision 6 above. A full copy of the petition is available for viewing upon request, but will not be placed on the agenda.
- (9) Online petitions will be dealt with as above and must meet the following requirements to be presented to Council:
  - (9.1) the petition must clearly set out the request or submission of the petitioners
  - (9.2) the names and addresses of each signatory must be clearly identified (in the case of an address, this must be by reference to at least a street and suburb)
  - (9.3) the petition must be provided to Council either by mail (including email) or in person.

#### **Regulation 11—Deputations**

- (1) A person or persons wishing to appear as a deputation at a meeting must deliver (to the principal office of the council) a written request to the council.
- (2) The chief executive officer must transmit a request received under subregulation (1) to the presiding member.
- (3) The presiding member may refuse to allow the deputation to appear at a meeting.
- (4) The chief executive officer must take reasonable steps to ensure that the person or persons who requested a deputation are informed of the outcome of the request.
- (5) If the presiding member refuses to allow a deputation to appear at a meeting, the presiding member must report the decision to the next meeting of the council or council committee (as the case may be).

- (6) The council or council committee may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.
- (7) A council may refer the hearing of a deputation to a council committee.

#### **City of Holdfast Bay Meeting Procedures**

- (8) Any person(s) wishing to appear as a deputation on behalf of an organisation, must, prior to the Council or Committee meeting at which they wish to appear, advise the Chief Executive Officer in writing of the date of formation and/or incorporation of their organisation, provide a copy of the Constitution and/or Rules of the organisation, a list of members, and evidence in the form of a minute that the organisation and/or body has approved the deputation.
- (9) Where an organisation has provided its incorporation details as outlined in provision 8 above, it will not be required to provide this information again for the term of the current Council.
- (10) A deputation may not exceed 3 people, and will not exceed 5 minutes in total, not including questions from members, except with the consent of the Presiding Member.

### **Regulation 12—Motions**

- (1) A member may bring forward any business in the form of a written notice of motion.
- (2) The notice of motion must be given to the chief executive officer at least 5 clear days before the date of the meeting at which the motion is to be moved.
- (3) A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last general election of the council must be brought by written notice of motion.
- (4) If a motion under subregulation (3) is lost, a motion to the same effect cannot be brought—
  - (a) until after the expiration of 12 months; or
  - (b) until after the next general election,whichever is the sooner.
- (5) Subject to the Act and these regulations, a member may also bring forward any business by way of a motion without notice.
- (6) The presiding member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.
- (7) The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council or council committee (as the case may be).
- (8) A motion will lapse if it is not seconded at the appropriate time.
- (9) A member moving or seconding a motion will speak to the motion at the time of moving or seconding the motion, **unless the seconder reserves their right to speak to the motion at a later stage of the debate, in which case the seconder will not be considered to have spoken to the motion.**

- (10) A member may only speak once to a motion **(which includes speaking to an amendment to a motion)** except—
- (a) to provide an explanation in regard to a material part of his or her speech, but not so as to introduce any new matter; or
  - (b) with leave of the meeting; or
  - (c) as the mover in reply.
- (11) A member who has spoken to a motion **or has reserved their right to speak to the motion at a later stage pursuant to sub-regulation (9)** may not at a later stage of the debate move or second an amendment to the motion.
- (12) A member who has not spoken in the debate on a question may move a formal motion.
- (13) A formal motion must be in the form of a motion set out in subregulation (14) (and no other formal motion to a different effect will be recognised).
- (14) If the formal motion is—
- (a) that ***the meeting proceed to the next business***, then the effect of the motion, if successful, is, in the case of an amendment, that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment and, in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business; or
  - (b) that ***the question be put***, then the effect of the motion, if successful, is that debate is terminated and the question put to the vote by the presiding member without further debate; or
  - (c) that ***the question lie on the table***, then the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question can then only be retrieved at a later time by resolution (and, if so retrieved, debate is then resumed at the point of interruption); or
  - (d) that ***the question be adjourned***, then the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at the later time (at the point of interruption); or
  - (e) that ***the meeting be adjourned***, then the effect of the motion, if successful, is that the meeting is brought to an end immediately without the consideration of further business.
- (15) If seconded, a formal motion takes precedence and will be put by the presiding member without discussion unless the motion is for an adjournment (in which case discussion may occur (but only occur) on the details for resumption).
- (16) A formal motion does not constitute an amendment to a substantive motion.
- (17) If a formal motion is lost—
- (a) the meeting will be resumed at the point at which it was interrupted; and
  - (b) if the formal motion was put during debate (and not at the end of debate) on a question, then a similar formal motion (ie a motion to the same effect) cannot be put until at least 1 member has spoken on the question.



- (18) A formal motion for adjournment must include the reason for the adjournment and the details for resumption.
- (19) Any question that lies on the table as a result of a successful formal motion under subregulation (14)(c) lapses at the next general election.
- (20) The chief executive officer must report on each question that lapses under subregulation (19) to the council at the first ordinary meeting of the council after the general election.
- (21) Subregulations (9), (10) and (11) may be varied at the discretion of the council pursuant to regulation 6.

#### **City of Holdfast Bay Meeting Procedures**

- (22) All notices of motion are required to be received by the Chief Executive Officer no later than 5.00pm 5 clear days before the date of the meeting at which the motion is to be moved (in this case as the Council meets on a Tuesday, the deadline is 5.00pm the prior Wednesday).
- (23) A notice of motion received after the time specified in City of Holdfast Bay provision 22 above will be treated as a notice of motion for a subsequent meeting of the Council.
- (24) When placing a motion with notice in an Agenda, the Chief Executive Officer may take the opportunity to provide written comments to assist the Council to make an informed decision in relation to the item.
- (25) A member may ask a question prior to the moving of a motion, or during debate on a motion (including debate on an amendment to the motion), for clarification purposes only, without losing their right to speak to the motion. Questions should be succinct and relevant to the matter and not a statement.
- (26) A motion without notice (unrelated to an agenda item of business) will not be accepted for debate at the meeting at which it is brought forward unless:
  - (27.1) the Presiding Member determines that the matter is one of urgency; and
  - (27.2) in the opinion of the Presiding Member, the motion relates to an issue that does not require additional information in order to make an informed decision on the motion.
- (27) A member wishing to move a motion that is different from that recommended in a Council report is encouraged to make available a written copy of their proposed motion to assist the Presiding Member in the conduct of the meeting.
- (28) Where a member who has given notice of motion in accordance with Regulation 12(2) is absent from the meeting at which the motion is to be considered, the motion will be adjourned to the next meeting, unless the Presiding Member has received written authority from the member in advance of the meeting for a different member to move the notice of motion.
- (29) For the purposes of Regulation 12(8), the Presiding Member is to ask for a seconder before declaring that an amendment has lapsed.

### City of Holdfast Bay Meeting Procedures – continued

- (30) For the purposes of Regulation 12(10), an amendment to a motion is an alteration to the wording of a motion. It is a procedural device for the purposes of refining the motion, it is not a motion in its own right. As such, a member speaking to an amendment will be taken to have spoken to the motion. Similarly, a member that has spoken to a motion prior to the proposed amendment is not permitted to speak to the amendment, in the absence of leave of the meeting.

### Regulation 13—Amendments to motions

- (1) A member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion.
- (2) An amendment will lapse if it is not seconded at the appropriate time.
- (3) A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment) will, in so doing, be taken to have spoken to the motion to which the amendment relates, **unless at the time of moving or seconding the amendment, the mover or seconder reserves their right to speak to later in the debate, in which case the mover or seconder will not be taken to have spoken to the amendment, or the motion to which the amendment relates.**
- (4) If an amendment is lost, only 1 further amendment may be moved to the original motion.
- (5) If an amendment is carried, only 1 further amendment may be moved to the original motion.
- (6) Subregulations (1), (3), (4) and (5) may be varied at the discretion of the council pursuant to regulation 6.

### City of Holdfast Bay Meeting Procedures

- (7) Where possible, amendments are to be provided to the minute taker in writing to ensure accuracy of recording in the minutes.
- (8) For the purposes of Regulation 13(2), the Presiding Member is to ask for a seconder before declaring that an amendment has lapsed.

### Regulation 14—Variations etc

- (1) The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.
- (2) The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.

### Regulation 15—Addresses by members etc

- (1) A member must not speak for longer than **3 minutes** at any 1 time without leave of the meeting.
- (2) A member may, with leave of the meeting, raise a matter of urgency.
- (3) A member may, with leave of the meeting, make a personal explanation.

- (4) The subject matter of a personal explanation may not be debated.
- (5) The contribution of a member must be relevant to the subject matter of the debate.
- (6) Subregulations (1) and (2) may be varied at the discretion of the council pursuant to regulation 6.

#### **City of Holdfast Bay Meeting Procedures**

- (7) A member at a Council meeting is to stand when speaking to a matter being considered at the meeting unless:
  - (7.1) that person is prevented from doing so by a physical disability; or
  - (7.2) the Presiding Member determines otherwise.
- (8) A member who is unable to stand due to injury, illness, infirmity, disability or other cause, must advise the Presiding Member that they require special arrangements to be made in order for their vote to be adequately signaled to those persons present, and it is accurately recorded in the minutes. The Presiding Member may, in consultation with the member concerned, determine the manner in which the member is to signal their vote **and will communicate this to the chamber.**
- (9) A member who wishes to speak is asked to raise their hand to indicate to the Presiding Member that they wish to speak, who will then call upon them in turn.
- (10) The Presiding Member shall reserve their contribution to the end of the debate (but before the mover speaks in reply) so as to avoid any suggestion of 'leading' the meeting. Noting that the role of the Presiding Member is to enhance the debate and that they can ask questions and add valuable information to the debate that the meeting may not be fully aware of.

#### **Regulation 16—Voting**

- (1) The presiding member, or any other member, may ask the chief executive officer to read out a motion before a vote is taken.
- (2) The presiding member will, in taking a vote, ask for the votes of those members in favour of the question and then for the votes of those members against the question (and may do so as often as is necessary to enable him or her to determine the result of the voting), and will then declare the outcome.
- (3) A person who is not in his or her seat is not permitted to vote.
- (4) Subregulation (3)—
  - (a) may be varied at the discretion of the council pursuant to regulation 6; and
  - (b) does not apply in relation to a member participating in a council committee meeting by telephone or electronic means approved in accordance with procedures determined by the council or council committee for the purposes of section 89 of the Act.

#### **City of Holdfast Bay Meeting Procedures**

- (5) Each item of business on the agenda is to be voted on separately.

## **Regulation 17—Divisions**

- (1) A division will be taken at the request of a member.
- (2) If a division is called for, it must be taken immediately and the previous decision of the presiding member as to whether the motion was carried or lost is set aside.
- (3) The division will be taken as follows:
  - (a) the members voting in the affirmative will, until the vote is recorded, stand in their places;
  - (b) the members voting in the negative will, until the vote is recorded, sit in their seats;
  - (c) the presiding member will count the number of votes and then declare the outcome.
- (4) The chief executive officer will record in the minutes the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote).
- (5) Subregulation (3) may be varied at the discretion of the council pursuant to regulation 6.

## **Regulation 18—Tabling of information**

- (1) A member may require the chief executive officer to table any documents of the council relating to a motion that is before a meeting (and the chief executive officer must then table the documents within a reasonable time, or at a time determined by the presiding member after taking into account the wishes of the meeting, and if the member who has required the tabling indicates that he or she is unwilling to vote on the motion until the documents are tabled, then the matter must not be put to the vote until the documents are tabled).
- (2) The chief executive officer may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under section 90 or 91 of the Act.

## **Regulation 19—Adjourned business**

- (1) If a formal motion for a substantive motion to be adjourned is carried—
  - (a) the adjournment may either be to a later hour of the same day, to another day, or to another place; and
  - (b) the debate will, on resumption, continue from the point at which it was adjourned.
- (2) If debate is interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was interrupted.
- (3) Business adjourned from a previous meeting must be dealt with before any new business at a subsequent meeting.
- (4) The provisions of this regulation may be varied at the discretion of the council pursuant to regulation 6.

## **Regulation 20—Short-term suspension of proceedings**

- (1) If the presiding member considers that the conduct of a meeting would benefit from suspending the operation of all or some of the provisions of this Division for a period of time in order to allow or facilitate informal discussions, the presiding member may, with the approval of at least two-thirds of the members present at the meeting, suspend the operation of this Division (or any part of this Division) for a period determined by the presiding member.
- (2) The Guiding Principles must be taken into account when considering whether to act under subregulation (1).
- (3) If a suspension occurs under subregulation (1)—
  - (a) a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes; and
  - (b) the meeting may proceed provided that a quorum is maintained but, during the period of suspension—
    - (i) the provisions of the Act must continue to be observed<sup>1</sup>; and
    - (ii) no act or discussion will have any status or significance under the provisions which have been suspended; and
    - (iii) no motion may be moved, seconded, amended or voted on, other than a motion that the period of suspension should be brought to an end; and
  - (c) the period of suspension should be limited to achieving the purpose for which it was declared; and
  - (d) the period of suspension will come to an end if—
    - (i) the presiding member determines that the period should be brought to an end; or
    - (ii) at least two-thirds of the members present at the meeting resolve that the period should be brought to an end.

### **Note—**

- 1 See particularly Part 4 of Chapter 5, and Chapter 6, of the Act.

## **Regulation 21—Chief executive officer may submit report recommending revocation or amendment of council decision**

- (1) The chief executive officer may submit a report to the council recommending the revocation or amendment of a resolution passed since the last general election of the council.
- (2) The chief executive officer must ensure that the report is placed on the agenda for the meeting at which the report is to be considered.
- (3) The provisions of this regulation may be varied at the discretion of the council pursuant to regulation 6.

## **Part 3—Meetings of other committees**

### **Regulation 22—Application of Part**

The provisions of this Part apply to or in relation to the meetings of any council committee that is not subject to the operation of Part 2.

#### **City of Holdfast Bay Meeting Procedures**

- (1) A member at a Council Committee meeting may remain seated when speaking to a matter being considered at a Committee meeting.
- (2) This Part applies to the Alwyndor Management Committee, Audit Committee, Executive Committee and the Jetty Road Mainstreet Committee.

### **Regulation 23—Notice of meetings for members**

Pursuant to section 87(15) of the Act, section 87 is modified in its application in relation to the meetings of a committee to which this Part applies as if subsections (4) and (7) to (10) of that section provided as follows:

- (a) that notice of a meeting of the committee may be given in a form determined by the committee after taking into account the nature and purpose of the committee;
- (b) that notice need not be given for each meeting separately;
- (c) that if ordinary meetings of the committee have a set agenda then notice of such a meeting need not contain, or be accompanied by, the agenda for the meeting;
- (d) that it is not necessary for the chief executive officer to ensure that each member of the committee at the time that notice of a meeting is given is supplied with a copy of any documents or reports that are to be considered at the meeting.

### **Regulation 24—Public notice of committee meetings**

Pursuant to section 88(7) of the Act, section 88 is modified in its application in relation to the meetings of a committee to which this Part applies as if subsections (2), (3) and (4) provided as follows:

- (a) that public notice need not be given for each meeting separately; and
- (b) that public notice may be given by displaying a notice and agenda in a place or places determined by the chief executive officer after taking into account the nature and purpose of the committee.

### **Regulation 25—Minutes**

- (1) The minutes of the proceedings of a meeting must include—
  - (a) the names of the members present at the meeting; and
  - (b) each motion carried at the meeting; and
  - (c) any disclosure of interest made by a member; and
  - (d) details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and

- (e) a note of the making of an order under subsection (7) of section 91 of the Act in accordance with the requirements of subsection (9) of that section.
- (2) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.

## **Part 4—Miscellaneous**

### **Regulation 26—Quorum for committees**

- (1) The prescribed number of members of a council committee constitutes a quorum of the committee and no business can be transacted at a meeting unless a quorum is present.
- (2) For the purposes of this regulation, the ***prescribed number*** of members of a council committee is—
  - (a) unless paragraph (b) applies—a number ascertained by dividing the total number of members of the committee by 2, ignoring any fraction resulting from the division, and adding 1; or
  - (b) a number determined by the council.

#### **Note—**

See also section 41(6) of the Act.

### **Regulation 27—Voting at committee meetings**

- (1) Subject to the Act and these regulations, a question arising for decision at a meeting of a council committee will be decided by a majority of the votes cast by the members present at the meeting and entitled to vote on the question.
- (2) Each member of a council who is a member of a council committee and who is present at a meeting of the committee must, subject to a provision of the Act to the contrary, vote on a question arising for decision at that meeting.
- (3) The presiding member of a council committee has a deliberative vote on a question arising for decision at the meeting but does not, in the event of an equality of votes, have a casting vote.

#### **City of Holdfast Bay Meeting Procedures**

- (4) Each member of a Council Committee who is present at a meeting of the Committee, must, subject to a provision of the Act to the contrary, vote on a question for decision at that meeting.
- (5) If a vote is tied and cannot be resolved by the Committee the matter is to be considered as lost.

### **Regulation 28—Points of order**

- (1) The presiding member may call to order a member who is in breach of the Act or these regulations.

- (2) A member may draw to the attention of the presiding member a breach of the Act or these regulations, and must state briefly the nature of the alleged breach.
- (3) A point of order takes precedence over all other business until determined.
- (4) The presiding member will rule on a point of order.
- (5) If an objection is taken to the ruling of the presiding member, a motion that the ruling not be agreed with must be moved immediately.
- (6) The presiding member is entitled to make a statement in support of the ruling before a motion under subregulation (5) is put.
- (7) A resolution under subregulation (5) binds the meeting and, if a ruling is not agreed with—
  - (a) the ruling has no effect; and
  - (b) the point of order is annulled.

### **Regulation 29—Interruption of meetings by members**

- (1) A member of a council or council committee must not, while at a meeting—
  - (a) behave in an improper or disorderly manner; or
  - (b) cause an interruption or interrupt another member who is speaking.
- (2) Subregulation (1)(b) does not apply to a member who is—
  - (a) objecting to words used by a member who is speaking; or
  - (b) calling attention to a point of order; or
  - (c) calling attention to want of a quorum.
- (3) If the presiding member considers that a member may have acted in contravention of subregulation (1), the member must be allowed to make a personal explanation.
- (4) Subject to complying with subregulation (3), the relevant member must leave the meeting while the matter is considered by the meeting.
- (5) If the remaining members resolve that a contravention of subregulation (1) has occurred, those members may, by resolution—
  - (a) censure the member; or
  - (b) suspend the member for a part, or for the remainder, of the meeting.
- (6) A member who—
  - (a) refuses to leave a meeting in contravention of subregulation (4); or
  - (b) enters a meeting in contravention of a suspension under subregulation (5),  
is guilty of an offence.

Maximum penalty: \$1 250.



### **City of Holdfast Bay Meeting Procedures**

- (7) Mobile telephones may not be used during a Council or Committee meeting by members or Council officers.
- (8) Mobile telephones, if brought into the Council chamber, or Committee room, must be switched off or turned to silent mode before the meeting commences.

### **Regulation 30—Interruption of meetings by others**

A member of the public who is present at a meeting of a council or council committee must not—

- (a) behave in a disorderly manner; or
- (b) cause an interruption.

Maximum penalty: \$500.

# **City of Holdfast Bay - Miscellaneous Meeting Procedures**

## **1. Pre-Meeting**

- 1.1 Members are required to submit their activity reports in writing to the Chief Executive Officer no later than 5.00pm the Tuesday prior to the Council meeting.
- 1.2 A member's activity report received after the time specified in paragraph 1.1 above will be treated as an item for a subsequent meeting of the Council.

## **2. Agenda**

- 2.2 There will be no item of "Other business" on the agenda for meetings. Sufficient opportunity is afforded to members to raise any issue in accordance with this Code of Practice, the Act and the Regulations.
- 2.3 The Presiding Member may alter the order of the agenda, subject to the leave of the Council or Committee, where it is expedient to do so.

## **3. Fire Evacuation Process**

A copy of the Fire Evacuation process will be displayed in the Council chamber.

## **4. Meeting Protocols**

Council and Committee meetings will conclude no later than 10.30pm, unless the meeting formally resolves on each specific occasion to continue beyond that time. When a meeting is likely to continue beyond 10.30pm a motion is to be put to the meeting whether to continue or adjourn to another date and time.

## **5. Appointment to External Bodies**

- 5.1 The Presiding Member is to call for nominations before debate on a motion to appoint members to Committees and/or organisations (Council and external) can occur. If there are more nominations than positions a ballot is conducted.
- 5.2 All elected members (including the Presiding Member) indicate which member(s) they wish to vote for on the ballot paper or by show of hands.
- 5.3 A senior officer collects the ballot papers and/or conducts the count.
- 5.4 The Chief Executive Officer is to report the numbers to the Presiding Member and confirms the vote count.
- 5.5 In the case of a tied ballot, elected members are to cast a further vote for their preferred candidate from the candidates who are tied (repeat paragraph 5.2 and 5.3 above). In the event that a revote cannot determine a clear winner (there is a continuing tie), then lots must be drawn to determine which candidate(s) will be excluded.
- 5.6 The Presiding Member will then announce the successful candidate.
- 5.7 The meeting will then make the appointment by resolution.

Item No: **13.1**

Subject: **MINUTES – JETTY ROAD MAINSTREET COMMITTEE – 26 JUNE 2019**

Date: 9 July 2019

Written By: General Manager Community Services

General Manager: Community Services, Ms M Lock

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### **SUMMARY**

The Minutes of the Jetty Road Mainstreet Committee meeting held on 26 June 2019 are attached and presented for Council's information.

Jetty Road Mainstreet Committee Agendas, Reports and Minutes are all available on Council's website and the meetings are open to the public.

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### **RECOMMENDATION**

**That Council notes the minutes of the Jetty Road Mainstreet Committee of 26 June 2019.**

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### **COMMUNITY PLAN**

Placemaking: Creating lively and safe places  
Community: Providing welcoming and accessible facilities  
Economy: Supporting and growing local business  
Economy: Making it easier to do business  
Economy: Boosting our visitor economy  
Culture: Being financially accountable  
Culture: Supporting excellent, efficient operations  
Culture: Being financially accountable

### **COUNCIL POLICY**

Not applicable.

### **STATUTORY PROVISIONS**

Not applicable.

## **BACKGROUND**

The Jetty Road Mainstreet Committee (JRMC) has been established to undertake work to benefit the traders on Jetty Road Glenelg, using the separate rate raised for this purpose. Council has endorsed the Committee's Terms of Reference and given the Committee delegated authority to manage the business of the Committee.

Jetty Road Mainstreet Committee Agendas, Reports, and Minutes are all available on Council's website and the meetings are open to the public.

## **REPORT**

Minutes of the meeting of JRMC held on 26 June 2019 are attached for member's information.

## **BUDGET**

Not applicable.

## **LIFE CYCLE COSTS**

Not applicable.

## CITY OF HOLDFAST BAY

**Minutes of the meeting of the Jetty Road Mainstreet Committee of the City of Holdfast Bay held in the Glenelg Library Meeting Room, Colley Terrace, Glenelg on Wednesday 26 June 2019 at 6:00pm.**

### **PRESENT**

#### **Elected Members**

Councillor W Miller  
Mayor, A Wilson

#### **Community Representatives**

Maios Group, Mr C Maios  
GU Filmhouse, Mr S Robinson  
Elite Choice Home Improvements, Ms E Leenearts  
Skin Things, Ms L Boys  
Attitudes Boutique and Lightbox Gift and Home, Ms G Martin  
Beach Burrito, Mr A Warren  
Cibo Espresso, Mr T Beatrice

#### **Staff**

Acting Chief Executive Officer – Mr R Bria  
General Manager, Community Services – Ms M Lock  
Communications Advisor – Ms M Logie  
Strategic Planner - Ms E Kenchington  
Event Management Specialist – Mr S Sewell

### **1. OPENING**

The Chairman, Mr C Maios, declared the meeting open at 6.07pm

### **2. APOLOGIES**

- 2.1 Leave of Absence – Councillor Abley, Mr N Hughes, Ms S Heading, Ms A Brown, Mr A Fotopoulos
- 2.2 For Absence – Nil

### **3. DECLARATION OF INTEREST**

Members were reminded to declare any interest before each item.

**4. CONFIRMATION OF MINUTES****Motion**

**That the minutes of the Jetty Road Mainstreet Committee held on 5 June 2019 be taken as read and confirmed.**

Moved Councillor Miller, Seconded E Leenearts

**Carried**

**5. QUESTIONS BY MEMBERS**

5.1 Without Notice - Nil

5.2 With Notice – Nil

**6. MOTIONS ON NOTICE – Nil****7. ADJOURNED ITEMS – Nil****8. PRESENTATION –**

8.1 Michael McKeown, Director of Jensen Plus, Planning and Urban Design firm, as part of the Jetty Road Masterplan process the Jetty Road Mainstreet Committee (JRMC) requested that Jensen Plus work on a lighting masterplan for the street. The JRMC have identified the need for new concepts to be investigated as the LED strip lighting in the trees along Jetty Road are aged past the point of repair.

Mayor Wilson left meeting at 6:40pm

**9. REPORTS/ITEMS OF BUSINESS**

9.1 Strategic Workshop Actions (Report No: 245/19)

The Jetty Road Mainstreet Committee will undertake a strategic planning workshop at 5:00pm on 26 June 2019 to discuss its strategic direction and priorities. Following the workshop it is likely there will be actions arising to be discussed at this meeting.

**Motion**

**That the Jetty Road Mainstreet Committee identify any actions as motions as a result of the Strategic Planning Workshop to be discussed at the next meeting**

Moved S Robinson, Seconded T Beatrice

**Carried**

9.2 Monthly Finance Report (Report No: 246/19)

The Jetty Road Mainstreet Committee May 2019 finance report is prepared by the Jetty Road Development Coordinator and is presented for information to the members of the Jetty Road Mainstreet Committee.

**Motion**

**That the Jetty Road Mainstreet Committee note this report.**

Moved Councillor Miller, Seconded E Leenearts

**Carried**

9.3 Winter Wonderland (Report No: 247/19)

This report provides an update on planning for the upcoming Winter Wonderland event that is scheduled to be held from 28 June to 22 July 2019. The Winter Wonderland festival was developed by the Jetty Road Mainstreet Committee (JRMC) in 2014 to help stimulate economic development during off peak visitation and to keep Glenelg front of mind as a destination during Winter.

**Motion**

**That the Jetty Road Mainstreet Committee note this report**

Moved L Boys, Seconded T Beatrice

**Carried**

A Warren and Councillor Miller declared a perceived conflict of interest for item 9.4 [New Music and Art Event (248/19)]. The nature of the perceived conflict of interest (pursuant to Section 74 of the Local Government Act 1999) is that the named resident Mr Papatolis and the nominated committee members all work for Beach Burrito Company.

A Warren and Councillor Miller dealt with this perceived conflict of interest by making it known to the meeting and remaining as they are acting for the interest of the community.

9.4 New Music and Art Event (Report No: 248/19)

The report provides an overview of a new music and art event concept. The City of Holdfast Bay has been approached by a local resident, Mr Papatolis, to host a new music and arts event on the top deck of the Partridge Street carpark. As this event concept supports activation of the eastern end of Jetty Road the JRMC may wish to consider supporting the event with a grant. Mr Papatolis will be invited to present the event concept at the 7 August JRMC meeting.

**Motion**

**That the Jetty Road Mainstreet Committee note this report**

Moved A Warren, Seconded Councillor Miller

**Carried**

9.5 October Street Party (Report No: 249/19)

This report provides an overview on Street Parties that have taken place in November 2017 and October 2018. The Street Parties are a jointly funded initiative between the City of Holdfast Bay and the Jetty Road Mainstreet Committee (JRMCM). The JRMCM must make a decision on the timing of the 2019 October Street Party and a long term vision for the event to allow administration to commence event planning.

Administration tabled amended data for item 9.5 [October Street Party (249/19)].

*Refer Attachment 1*

**Motion**

**1. The JRMCM to host the 2019 Street Party on 6 October 2019.**

Moved S Robinson, Seconded T Beatrice

**Carried**

**2. The JRMCM**

**Invite Jetty Road traders to submit an EOI by date to be determined and thereafter extend the invitation to invite traders from outside the Jetty Road Glenelg levied area to participate in the 2019 October Street Party for a fee.**

Moved E Leenearts, Seconded A Warren

**Carried**

S Sewell left meeting at 7:20pm

9.6 Community Safety and Wellbeing (Report No: 250/19)

On Monday 17 June 2019, the Jetty Road Mainstreet Committee hosted a trader briefing on community safety and wellbeing with the South Australian Police. The briefing was designed to provide traders with an overview of theft prevention, client aggression, armed hold up prevention and counterfeit money. The session was well attended by 26 Jetty Road traders and positive feedback has been received on the event.

**Motion**

**That the Jetty Road Mainstreet Committee:**

**1. Note this report and**

**2. A Brown to forward a letter to SAPOL to express disappointment with the presentation held on 17 June 2019 at Short Order Café.**

Moved A Warren, Seconded Councillor Miller

**Carried**



9.7 JRMC Governance Model (Report No: 251/19)

The Jetty Road Mainstreet Committee is an advisory committee of the City of Holdfast Bay formed under Section 41 of the Local Government Act 1999. The JRMC conducted a Special Meeting on 20 June 2018 to workshop alternative governance models with a facilitator and external subject matter experts. At its 4 July 2018 meeting the JRMC recommended to Council their preferred governance model of an Incorporated Association established under the Associations Incorporation Act 1985. At the 7 November JRMC meeting, the JRMC appointed Premier Retail Marketing and Peter McNabb and Associates to prepare a business case that was endorsed by the JRMC at their 5 December 2018 meeting. The Business Case was presented at a 26 February Council Workshop and was on the agenda for endorsement at the 12 March 2019 Council meeting. At the meeting Council adjourned the motion for 6 months from 12 March 2019.

**Motion**

**That the Jetty Road Mainstreet Committee conduct a Governance Workshop with new committee members on 4 September 2019 at 5.00pm to allow the newly established committee members to workshop the alternative governance models.**

Moved T Beatrice, Seconded G Martin

**Carried**

9.8 Marketing Update (Report No: 252/19)

The report provides an update on marketing initiatives being undertaken from the Jetty Road Mainstreet Committee 2018/19 Marketing Plan and initiatives aligned to the delivery of the Jetty Road Glenelg Retail Strategy 2018-2022.

**Motion**

**That the Jetty Road Mainstreet Committee note this report and order a limited print run of the Local Magazine of a quantity to be determined subject to budget**

Moved S Robinson, Seconded Councillor Miller

**Carried**

9.9 Retail Investment Brochure (Report No: 253/19)

The Jetty Road Mainstreet Committee endorsed the Jetty Road Glenelg Retail Strategy 2018-2022 in December 2018 and guides the future direction and identifies actions to maintain a prosperous retail sector. To support the delivery of the Strategy the Jetty Road Development Coordinator has been working on an investment brochure the will assist in investment attraction efforts.

**Motion**

**That the Jetty Road Mainstreet Committee note this report**

Moved E Leenearts, Seconded T Beatrice

**Carried**

9.10 Tourism Research Project (Report No: 255/19)

Every three years the City of Holdfast Bay undertakes tourism research to identify key motivations to visit Glenelg, perceptions, review our target markets, gaps in our offering and product development opportunities. The City of Holdfast Bay is scheduled to undertake a new tourism research project to provide market intelligence to inform the 2025 Tourism Plan. The research project is valued at \$50,000 and a contribution is sought from the JRMC.

**Motion**

**That the Jetty Road Mainstreet Committee note this report**

Moved S Robinson, Seconded Councillor Miller

**Carried**

**8. URGENT BUSINESS**

**9. DATE AND TIME OF NEXT MEETING**

The next meeting of the Jetty Road Mainstreet Committee will be held on Wednesday 7 August 2019 in the Glenelg Library Meeting Room, Colley Terrace, Glenelg.

**10. CLOSURE**

The meeting closed at 8:07pm.

**CONFIRMED:** Wednesday 7 August 2019

**CHAIRMAN**

# Attachment 1



Item No: 9.5  
Subject: **OCTOBER STREET PARTY**  
Date: 26 June 2019  
Written By: Jetty Road Development Coordinator  
A/General Manager: Community Services, Mr M Rechner

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### **SUMMARY**

This report provides an overview on Street Parties that have taken place in November 2017 and October 2018. The Street Parties are a jointly funded initiative between the City of Holdfast Bay and the Jetty Road Mainstreet Committee (JRMC). The JRMC must make a decision on the timing of the 2019 October Street Party and a long term vision for the event to allow administration to commence event planning.

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### **RECOMMENDATION**

**That:**

- 1. The JRMC select a date to host the 2019 October Street Party.**
  - 2. The JRMC**
    - 2.a. invite traders from outside the Jetty Road Glenelg levied area to participate in the 2019 October Street Party for a fee.**
    - OR**
    - 2.b. not invite traders from outside the Jetty Road Glenelg levied area to participate in the 2019 October Street Party for a fee.**
- 

### **COMMUNITY PLAN**

Economy: Supporting and growing local business  
Economy: Making it easier to do business  
Economy: Boosting our visitor economy

### **COUNCIL POLICY**

Not Applicable.

## STATUTORY PROVISIONS

Not Applicable.

## BACKGROUND

On Saturday 25 November 2017 Jetty Road hosted a Glenelg Street Party the night before the Glenelg Christmas Pageant, this was designed to put Glenelg in the minds of consumers at the beginning of summer and this also provided road closure costs savings to run two major events back to back. This was a successful event, attracting crowds of approximately 30,000 visitors.

Expenditure in the suburb of Glenelg on the event day (all hours) was valued at \$2.55 million.

*Source: SPENDMAPP, Total Local Spend in Glenelg, Retail, allied industries and tourism expenditure, all hours, Saturday 25/11/2017*

By comparison retail, allied industries and tourism expenditure on other Saturday's:

- Saturday 18/11/2017 - \$2.26M
- Saturday 11/11/17 - \$2.25M
- Saturday 2/12/17 - \$2.04M
- Saturday 24/11/2018 - \$1.99M

*Source: SPENDMAPP, Total Local Spend in Glenelg, Retail, allied industries and tourism expenditure, all hours*

The estimated economic impact from the 2017 November Street Party was valued at approximately \$420,000.

On Sunday 21 October 2018, Jetty Road hosted the Stay and Street Party aligned with the Adelaide Fashion Festival. The family friendly event received 20,000 event attendees from 11:00am – 7:00pm, with Jetty Road traders popping up with food and fashion stalls, plus three fashion parades were well attended. The event was designed to provide increased economic opportunities for the retail sector on Jetty Road, encourage local and day trip visitors to shop in the precinct with this messaging promoted through the event marketing. Positive feedback has been received from retailers, who held special sales for the day/weekend (eg. 20% off store wide) to capitalise on the event which was promoted through the Jetty Road social media channels.

Expenditure in the suburb of Glenelg on the event day was valued at \$1.58 million.

*Source: SPENDMAPP, Total Local Spend, Retail, allied industries and tourism expenditure, All Hours, Sunday 21/10/2017.*

By comparison retail, allied industries and tourism expenditure on other Sunday's:

- Sunday 14/10/2018 - \$1.18 million
- Sunday 28/10/2018 - \$1.35 million
- Sunday 22/10/2017 - \$1.30 million

The estimated economic impact from the October Street Party was valued at approximately \$310,000.

*Disclaimer: The above data is an indicative indication of expenditure in the suburb of Glenelg.*

**REPORT**

The Street Parties are a jointly funded initiative between the City of Holdfast Bay and the JRMC.

To assist with planning for a 2019 Street Party, the JRMC must consider what type of Street Party they wish to implement to allow administration to commence planning.

The JRMC also need to consider what the long term strategy for this event is. Factors to consider include:

1. Visitation from locals, day trippers and intrastate visitors
2. Expenditure in the precinct and the best return on investment for the community
3. Positioning of the precinct from a branding perspective and
4. Media exposure
5. Extending the year round event calendar as there is a high concentration of events over Summer.

It is known that the Adelaide Fashion Festival will not continue in the same capacity as previous years, therefore Jetty Road is unable to align itself to this event.

In 2019, Adelaide will host the 2019 Australian Masters Games from 5-12 October 2019 and Jetty Road has the opportunity to host a Street Party over the October long weekend on Sunday 6 October, and promoting this to approximately 5,000 athletes and their families.

Administration would also like the JRMC to give consideration opening up participation in the Street Party from traders outside of the Jetty Road Glenelg levied area. A fee structure would be developed to charge a small, medium or large street activation, which would increase the event budget and provide additional offerings on the street that would improve the visitor experience. This model would be benchmarked against a similar scenario as the Unley Gourmet Gala, implemented by the City of Unley.

The increased budget would provide additional funds to add new event elements like theming to enhance the visitor experience.

**BUDGET**

The 2019/20 JRMC budget includes \$30,000 for the October Street Party.

**LIFE CYCLE COSTS**

To be determined post 2019 event.

Item No: **13.2**

Subject: **DRAFT MINUTES – ALWYNDOR MANAGEMENT COMMITTEE – 20 JUNE 2019**

Date: 9 July 2019

Written By: Personal Assistant, GM Alwyndor

A/General Manager: Alwyndor, Mr B Capes

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### **SUMMARY**

The draft minutes of the Alwyndor Management Committee meeting held on 20 June 2019 are provided for information.

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### **RECOMMENDATION**

- 1. That the draft minutes of the Alwyndor Management Committee meeting held on 20 June 2019 be noted.**
  - 2. That having considered Attachment 2 to Report No: 271/19 Draft Minutes – Alwyndor Management Committee – 20 June 2019 in confidence under section 90(2) and (3)(b) 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.**
- 

### **COMMUNITY PLAN**

Community: Building a healthy, active and resilient community  
Community: Providing welcoming and accessible facilities  
Culture: Supporting excellent, efficient operations

### **COUNCIL POLICY**

Not applicable

### **STATUTORY PROVISIONS**

Not applicable

### **BACKGROUND**

This report is presented following the Alwyndor Management Committee Meetings.

The Alwyndor Management Committee was established to manage the affairs of Alwyndor Aged Care Facility. The Council has endorsed the Committee's Terms of Reference and given the Committee delegated authority to manage the business of Alwyndor Aged Care Facility.

## **REPORT**

At the AMC meeting, the following items were discussed:

- The Committee received a verbal update from the Acting Chief Executive Officer regarding the recruitment of Alwyndor's General Manager.
- The Acting General Manager's report provided an update on the following standing items:
  - Meeting Dates and Task Schedule
  - WHS Implementation Plan
  - Corporate Risk Register
  - Feedback Analysis Report
  - Legal and Industrial Matters
  - Enterprise Bargaining Agreement Update
  - General Update
- Two reports were considered in confidence.
  - Monthly Financial Report (AMC agenda Item 8.1) which includes the following attachments:
    - DashBoard
    - Financial report, including P&L Variance and forecast
    - Investment report
  - Short-Term Strategy Action Plan (AMC agenda Item 8.2)

The draft minutes of the meeting are attached for Members' information.

*Refer Attachment 1 & 2*

If an Elected Member requires further detail, the public Agenda and papers to the AMC are available on the Council's website and on the Hub, while the confidential papers are only available to the Elected Members on the Hub in the Alwyndor Committee section.

## **BUDGET**

Not Applicable

## **LIFE CYCLE COSTS**

Not Applicable



## CITY OF HOLDFAST BAY

**Minutes of the meeting of the Alwyndor Management Committee of the City of Holdfast Bay held at Alwyndor Aged Care, Dunrobin Road, Hove on Thursday 20 June 2019 at 6.30 pm.**

### PRESENT

#### Elected Members

Councillor P Chabrel  
Councillor S Lonie

#### Independent Members

Chairperson – Ms T Aukett  
Mr T Bamford  
Ms J Bonnici  
Ms J Cudsi  
Mr K Cheater  
Mr K Whitford

#### Staff

Acting Chief Executive Officer – Mr R Bria  
Acting General Manager Alwyndor – Mr B Capes  
Personal Assistant – Ms R Gordon

### 1. OPENING

The Chairperson declared the meeting open at 6.34pm.

### 2. KAURNA ACKNOWLEDGEMENT

With the opening of the meeting the Chairperson stated:

We acknowledge the Kaurna 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 Kaurna People today.

### 3. APOLOGIES

- 3.1 For Absence - nil
- 3.2 Leave of Absence - nil

### 4. DECLARATION OF INTEREST

Members were reminded to declare any interest before each item.

## 5. CONFIRMATION OF MINUTES

### 5.1 Minutes of the Previous Meeting

#### Motion

**That the minutes of the Alwyndor Management Committee held on 16 May 2019 be taken as read and confirmed.**

Moved Cr Chabrel Seconded Ms Bonnici

**Carried**

### 5.2 Confidential Minutes of the Previous Meeting

#### Motion

**That the confidential minutes of the Alwyndor Management Committee held on 16 May 2019 be taken as read and confirmed.**

Moved Cr Chabrel, Seconded Mr Whitford

**Carried**

## Leave of the Meeting

The Chairperson sought leave of the meeting to change the order of the Reports on the Agenda, Confidential Report No: 22/19 Short-term Strategy – Action Plan and Progress – June 2019, then Review of Action Items.

Leave of the meeting was granted.

## 8. CONFIDENTIAL

### 8.2 Short-term Strategy – Action Plan and Progress – June 2019 (Report No: 22/19)

#### **Exclusion of the Public – Section 90(3)(d) Order**

- 1. That pursuant to Section 90(2) of the *Local Government Act 1999* Alwyndor Management Committee hereby orders that the public be excluded from attendance at this meeting with the exception of the General Manager and Staff in attendance at the meeting in order to consider Report No: 22/19 Short-term Strategy – Action Plan and Progress – June 2019 in confidence.**
- 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Alwyndor Management Committee is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 22/19 Short-term Strategy – Action Plan and Progress – June 2019 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 as the knowledge of our requirements to employ additional resources may provide a commercial advantage to a third party regarding the sourcing and employment of those resources.

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 Alwyndor Management Committee 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 Cr Lonie, Seconded Mr Bamford

Carried

#### Motion

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

2. That having considered Agenda Item 8.2 Short-term Strategy – Action Plan and Progress – June 2019 (Report No: 22/19) in confidence under section 90(2) and (3)(d) of the *Local Government Act 1999*, the Alwyndor, 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 Cr Chabrel, Seconded Cr Lonie

Carried

## 6. REVIEW OF ACTION ITEMS

### 6.1 Action Items

*Action items were reviewed by the Committee.*

### 6.2 Confidential Action Items

*Confidential action items were reviewed by the Committee.*

## 7. REPORTS/ITEMS OF BUSINESS

### 7.1 Recruitment of Alwyndor General Manager (verbal)

*The Acting Chief Executive Officer provided a verbal update on the recruitment of General Manager, Alwyndor.*

**Motion**

**That the Alwyndor Management Committee received the verbal update provided.**

Moved Cr Chabrel Seconded Ms Cudsi

**Carried**

**7.2 Acting General Manager's Report (Report No: 20/19)**

These items are presented for the information of Members. After noting the report any items of interest can be discussed and, if required, further motions proposed.

*The Acting General Manager advised that the online WHS hazard and incident system is being rolled out further across the organisation. The Committee asked whether we have truly mitigated risks around worker who has allergies and the Acting General Manager agreed to further review this matter.*

*The Acting General Manager advised that the updating of the Corporate Risk Register is still in progress.*

*The Committee queried whether there is a policy in place that covers the risk around the squalor issue. The Acting General Manager confirmed that there is a policy in place and that staff have clear instructions not to enter a client's home if unsafe. In addition, staff complete a risk assessment when taking on a new client, and monitor for hazards at each visit as per their training.*

*The Acting General Manager provided an update on legal and industrial matters.*

*The Acting General Manager confirmed that the first Enterprise Bargaining Agreement negotiation meeting with staff and union representatives has been held.*

*The Acting General Manager provided an update on recruitment, confirming that the Residential Services Manager and Care Manager commenced this week. Alwyndor's new Care Manager joins us with very strong iCare experience providing an additional on-site expert. In addition, the ACFI Manager is now on board, bringing strong experience to Alwyndor. Interviews for a potential Finance Manager were also held this week.*

*The Acting General Manager advised that the Draft Governance Framework is likely to be ready by end of month and will be circulated to Committee members as soon as it's available.*

**Motion**

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

- 1. Meeting Dates and Task Schedule**

2. WHS Implementation Plan
3. Corporate Risk Register
4. Feedback Analysis Report
5. Legal and Industrial Matters
6. Enterprise Bargaining Agreement Update
7. General Update

Moved Cr Lonie Seconded Ms Cudsi

Carried

8. **CONFIDENTIAL**

8.1 **Monthly Financial Report – May 2019** (Report No: 21/19)

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

1. That pursuant to Section 90(2) of the *Local Government Act 1999* Alwyndor Management Committee hereby orders that the public be excluded from attendance at this meeting with the exception of the General Manager and Staff in attendance at the meeting in order to consider Report No: 21/19 Monthly Financial Report – May 2019 in confidence.
2. That in accordance with Section 90(3) of the *Local Government Act 1999* Alwyndor Management Committee is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 21/19 Monthly Financial Report – May 2019 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 of Alwyndor, in addition Alwyndor's financial position is reported as part of Council's regular budget updates.

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 Alwyndor Management Committee 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 Mr Bamford Seconded Mr Whitford

Carried

Motion

RETAIN IN CONFIDENCE - Section 91(7) Order

5. **That having considered Agenda Item 8.1 Monthly Financial Report – May 2019 (Report No: 21/19) 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 18 months and that this order be reviewed every 12 months.**

Moved Ms Cudsi Seconded Mr Cheater

**Carried**

**9. URGENT BUSINESS – Subject to the leave of the meeting**

Nil

**10. DATE AND TIME OF NEXT MEETING**

The next meeting of the Alwyndor Management Committee will be held on Thursday 18 July 2019 in the Meeting Room, Alwyndor Aged Care, 52 Dunrobin Road, Hove.

**11. CLOSURE**

The meeting closed at 8.39pm.

**CONFIRMED 18 July 2019**

**CHAIRPERSON**

Item No: **14.1**  
Subject: **ITEMS IN BRIEF**  
Date: 9 July 2019  
Written By: Personal Assistant  
A/General Manager: Business Services, Ms P Jackson

---

### **SUMMARY**

These items are presented for the information of Members.

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

---

### **RECOMMENDATION**

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

1. **Letter from Hon Michelle Lensink, Minister for Human Services, in response to Mayor Amanda Wilson's letter regarding Glenelg Lodge**
- 

### **COMMUNITY PLAN**

Culture: Supporting excellent, efficient operations

### **COUNCIL POLICY**

Not applicable

### **STATUTORY PROVISIONS**

Not applicable

### **REPORT**

1. **Letter from Hon Michelle Lensink, Minister for Human Services, in response to Mayor Amanda Wilson's letter regarding Glenelg Lodge**

A letter to the Hon Michelle Lensink, Minister for Human Services, with a copy to Stephen Patterson MP and Hon Corey Wingard MP, from Mayor Amanda Wilson was sent on the 8 March 2019 in relation to the Glenelg Lodge situated at 26 Byron Street

Glenelg in reference to their perceived anti-social behavior. Hon Michelle Lensink has responded to Mayor Wilson with a letter received 21 June 2019.

Both letters are attached for Members information.

*Refer Attachment 1*





[holdfast.sa.gov.au](http://holdfast.sa.gov.au)

Brighton Civic Centre 24 Jetty Road, Brighton SA 5048

PO Box 19 Brighton SA 5048

P 08 8229 9999 F 08 8298 4561

Glenelg Customer Service Centre and Library  
2 Colley Terrace, Glenelg SA 5045

## OFFICE OF THE MAYOR

7 March 2019

Hon. Michelle Lensink  
Minister for Human Services  
Level 12, 1 King William Street  
ADELAIDE SA 5000

EMAIL: [michelle.lensink@parliament.sa.gov.au](mailto:michelle.lensink@parliament.sa.gov.au) and [dhsministerforhumanservices@sa.gov.au](mailto:dhsministerforhumanservices@sa.gov.au)

Dear Minister Lensink,

**Re: Glenelg Lodge – 26 Byron Street, Glenelg**

I write with regard to a concerning issue that has recently been raised by both Council and residents, which pertains to the Glenelg Supportive Care, otherwise known as Glenelg Lodge, located at 26 Byron Street Glenelg.

While I acknowledge Glenelg Lodge both offers accommodation to and provides various important services for the aged, persons with a disability, those undergoing rehabilitation, as well as those needing emergency accommodation, it has been brought to my attention that in addition to the aforementioned, the facility now hosts guests who have been released from correctional services/facilities and/or suffering from a mental illness.

I have received recent anecdotal feedback of a negative change in the overall behavior of occupants residing at the facility, which has been validated by the knowledge that this facility and those residing there have become increasingly known to the South Australian Police; due to increased instances of public and domestic disturbance at the address.

I have a growing concern that should services continue to be provided to this 'new' clientele, the reasonable peace of our residents, the amenity of the area, and the community's safety will be jeopardised.

Can you please advise:

1. How many boarding houses/support accommodation facilities there are in the Glenelg area?
2. What steps can be taken to ensure that such individuals living in such facilities within the Glenelg area do not result in an increase in criminal activity?

In addition, I have a valid concern that the recent increase in anti-social behavior from this location has been compounded by the reduction in operational hours of the Glenelg Police Station, as well as the apparent reduction of police presence in Glenelg.

Yours sincerely,

Amanda Wilson  
MAYOR

Cc: *Stephen Patterson - Member for Morphett*  
[morphett@parliament.sa.gov.au](mailto:morphett@parliament.sa.gov.au)

*Hon. Corey Wingard - Member for Gibson*  
[gibson@parliament.sa.gov.au](mailto:gibson@parliament.sa.gov.au)

*Vicki Richards – Resident of Sussex Street, Glenelg*





Government of South Australia

Minister for Human Services

Level 12 South  
1 King William Street  
Adelaide SA 5000  
GPO Box 2832  
Adelaide SA 5001  
DX 115  
Tel 08 8463 6560  
Fax 08 8463 4480

19MHS/0215

Mayor Amanda Wilson  
City of Holdfast Bay  
PO Box 19  
BRIGHTON SA 5048

Dear Mayor Wilson

Thank you for your letter of 7 March 2019 regarding Glenelg Supportive Care.

Supported Residential Facilities (SRFs) offer an important service to provide accommodation and personal care services to people who may be vulnerable due to a disability, mental health or risk of homelessness. Housing stability improves wellbeing and health outcomes.

As the licencing authority for Glenelg Supportive Care, I understand Council maintains records of SRFs in your area and you have the capacity to work with the proprietor and staff to achieve outcomes for the community. Under the *Supported Residential Facilities Act 1992*, you have the authority to impose licence conditions relating to management of the facility.

I understand on 16 April 2019 you met with representatives from SA Housing Authority (SAHA), SA Police, St Andrews Church and staff from my office to discuss the issues raised in your letter. At that meeting Mr Michael Buchan, Chief Executive SA Housing Authority agreed that subject to the council's wishes, SAHA would work with council to facilitate a round table of existing service providers to ensure that there is an understanding of the existing support agencies and to ensure a collaborated and coordinated response. If you have any further queries, please contact Michael Buchan on (08) 8207 1311 or Michael.buchan@sa.gov.au.

I trust you will find this information useful.

Yours sincerely

Hon Michelle Lensink MLC  
MINISTER FOR HUMAN SERVICES

17/6 / 2019

CC: Stephen Patterson MP, Member for Morphett



Item No:	<b>14.2</b>
Subject:	<b>JUNCTION PRIORITY CHANGE - HARTLEY ROAD AND WENLOCK STREET, BRIGHTON</b>
Date:	9 July 2019
Written By:	Transport Consultant
General Manager:	City Assets and Services, Mr H Lacy

---

## **SUMMARY**

Residents have expressed concern about the recent construction of a high boundary wall for a new residential development on the south-east corner of Hartley Road and Wenlock Street. From the Give Way line on Hartley Road, the location and height of the wall obstructs sight lines to the south along Wenlock Street. The previous property had no boundary fence.

It is proposed to change the priority of the junction to address the sight distance problems and provide safe traffic movement through the intersection. The proposed priority will be along Hartley Road into/out of the northern leg of Wenlock Street, with the southern leg of Wenlock at its junction with Hartley having to Give Way.

---

## **RECOMMENDATION**

### **That Council:**

- 1. approves reconfiguration of the intersection of Hartley Road and Wenlock Street to give priority to traffic travelling on Hartley Road into/out of Wenlock Street (north leg) with installation of a Give Way sign in Wenlock Street (south) as shown in Attachment 1 together with associated line marking and pavement bar median changes; and**
  - 2. authorises Administration to advise nearby residents of the proposed changes and to promote the changes via Council's website and social media services.**
- 

## **COMMUNITY PLAN**

A Place that is Well Planned

## **COUNCIL POLICY**

Asset Management Policy

## **STATUTORY PROVISIONS**

Local Government Act 1999

## Road Traffic Act 1961

**BACKGROUND**

The residential development on the south-east corner of Hartley Road and Wenlock Avenue included the construction of a solid high wall along the boundary. The previous property had no boundary fence. The impact at the intersection is that there is now limited sight lines to and from the south to oncoming traffic, resulting in an increased risk of collisions.

Currently traffic arrangements establish Wenlock Street as the priority movement in a north-south direction between Jetty Road to the north and Old Beach Road to the south. The road alignment has a deviation at its junction with Hartley Road and a tight inside bend with stobie pole on the western side. This requires drivers to slow considerably, but creates a hazard if driven at higher speeds.

Hartley Road traverses east-west between Brighton Road and Wenlock Street and has a Give Way control sign and lines at Wenlock Street. There are pavement bar medians on all approaches to the intersection to alert drivers to the deviated road alignment along Wenlock Street and to control turning movements. Both streets have a 50km/h speed limit.

There have been no reported crashes at the intersection for the 5-year period, 2013 to 2017 (latest available data).

Recorded traffic volumes and 85<sup>th</sup> percentile speeds are as follows:

Street	Location of Count	Year	Traffic Volume (vehicles/day)	85 <sup>th</sup> percentile speed
Hartley Road	Adjacent to Wenlock	2018	430-680	40km/h
Wenlock Street	Between Old Beach Road and Hartley Road	2013	490-675	40km/h
Wenlock Street	Between Hartley Road and Jetty Road	2013	800	45km/h

It is expected that traffic volumes along Wenlock Street will decrease in the future with the closure of the St Teresa's School site on the corner of Old Beach Road and Commercial Road.

The traffic volume and speed along these local streets is considered low.

**Traffic Review**

Some residents have suggested that the Hartley Road Give Way sign is replaced by STOP control or a convex mirror to be installed.

Installing a STOP sign does not alleviate or remove the problem with inadequate sight distance to oncoming northbound traffic approaching Hartley Road from the southern leg of Wenlock Street.

Convex mirrors are generally used to overcome severe sight restrictions and should only be considered if all other attempts to improve sight distance fail. The traffic volumes and low approach speeds do not warrant installation of a convex mirror at the intersection.

## REPORT

To address the sight distance problem and restrictive movement through the deviated section of Wenlock Street at the intersection, it is proposed to change the priority at the intersection.

The traffic volumes on Hartley Road and Wenlock Street south of the intersection are similar. However, it is anticipated that the traffic volumes along the southern section of Wenlock Street will reduce with the closure of the St Teresa's School site. This indicates that there will be a higher volume of traffic travelling along Hartley Road and Wenlock Street (north) which supports a proposed change in junction priority at this location. Also, the geometry of the junction and the deviated section of Wenlock Street at its intersection with Hartley Road will easily facilitate this change and improve turning movements at the intersection.

The proposal includes:

- Give Way sign and line marking changed from Hartley Road to Wenlock Street (south);
- existing pavement bar medians to be realigned;
- existing No Stopping yellow line restrictions remain;
- no impact to existing on street parking.

The proposed changes are shown on the drawing in Attachment 1.

*Refer Attachment 1*

The proposal improves road safety and traffic operation. The problem with sight lines is removed. The deviated road alignment along Wenlock Street is conducive to implementing Give Way control as it is safer to slow considerably from this approach. Other than the changes to the operation of the intersection there are no other impacts or loss of parking as a result.

Residents should be notified rather than consulted regarding the change as they relate to intersection safety. The proposals should be implemented as soon as possible.

Temporary traffic signs will be installed on all approaches to advise drivers of the 'Changed Intersection' priority.

## BUDGET

The estimated cost of the proposed changes is around \$1500 mainly line marking and pavement bar installation. This work can therefore be funded from the existing signage and line marking maintenance budgets. There are no further budget implications associated with the recommendation.

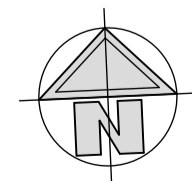
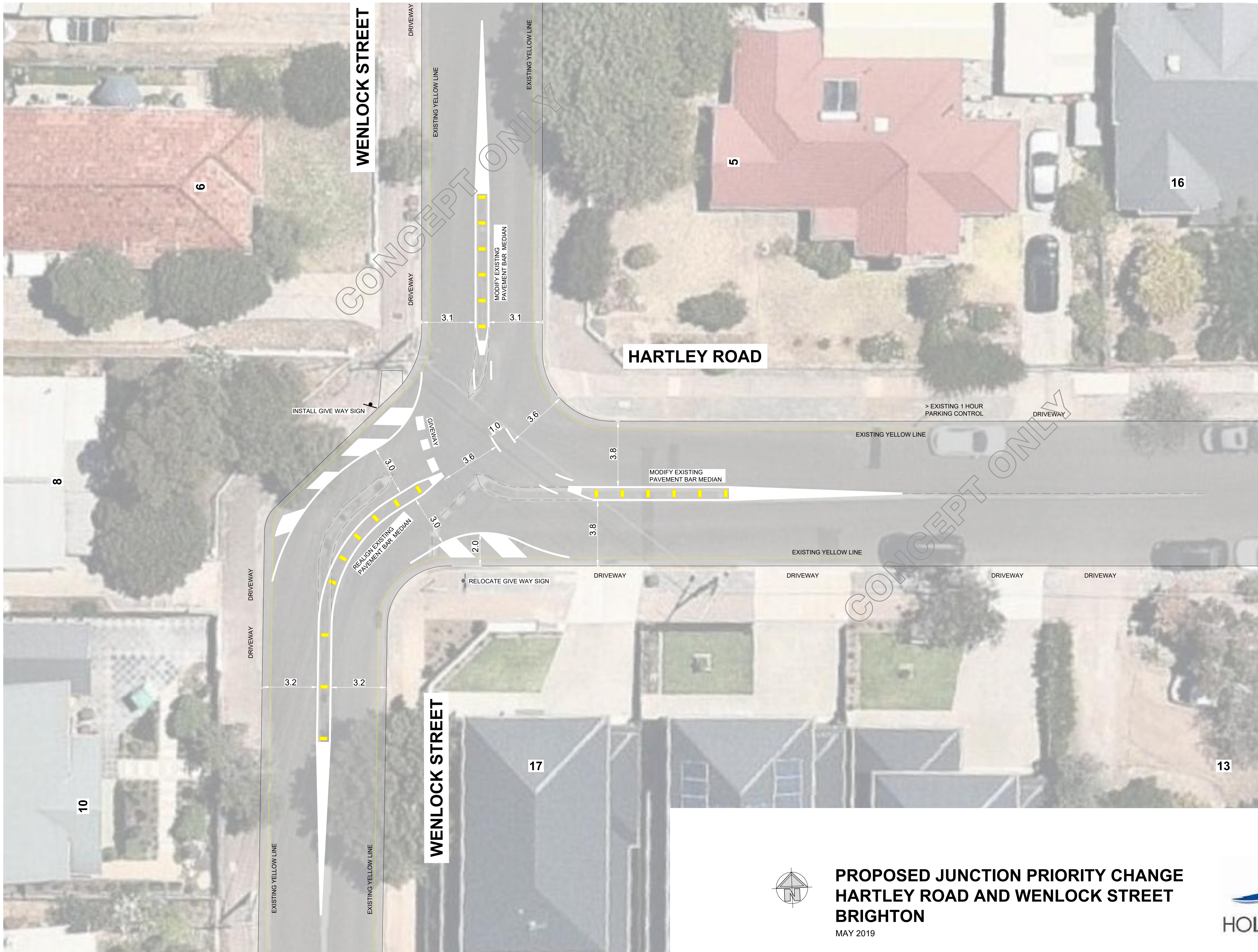
## LIFE CYCLE COSTS

Maintenance of signage, line marking and pavement bar medians as required from the yearly signage and line marking maintenance budgets. There are no further life cycle costs associated with the recommendation.

# Attachment 1







**PROPOSED JUNCTION PRIORITY CHANGE  
HARTLEY ROAD AND WENLOCK STREET  
BRIGHTON**

MAY 2019



Item No: **14.3**

Subject: **PEDESTRIAN IMPROVEMENTS – KIBBY AVENUE, GLENELG NORTH**

Date: 9 July 2019

Written By: Traffic and Transport Technical Officer

General Manager: City Assets and Services, Mr H Lacy

---

## **SUMMARY**

The Department for Planning, Transport & Infrastructure (DPTI) contacted Council with a proposal to fund an upgrade to pedestrian infrastructure at Kibby Avenue in proximity of the Glenelg North Community Centre and Baden Pattinson Kindergarten to improve pedestrian safety. Council has previously received concerns about road safety at this location and DPTI have raised the matter as the community have made representations to the local MP Hon Matt Cowdrey, Member for Colton to install improved pedestrian crossing facilities.

DPTI have reviewed pedestrian crossing movements on Kibby Avenue with Council staff. Several safety improvements have been identified as being warranted including installation of a pedestrian refuge on Kibby Avenue, west of Alison Street; kerb extensions and installation of kerb ramps on Goldsworthy Crescent; and footpath installation and new kerb ramps at a bus stop on Shannon Avenue.

The total project cost is estimated at \$100,000 (ex GST) which DPTI is proposing to fully fund. Council would traditionally cover the costs for any pedestrian crossing or footpath works on a local road and own the infrastructure. For this proposal, Council will undertake local community consultation with nearby residents and community groups at Glenelg North Community Centre and Baden Pattinson Kindergarten. Council will also project manage construction.

---

## **RECOMMENDATIONS**

### **That Council:**

- 1. endorses improvements to pedestrian infrastructure on Kibby Avenue, Goldsworthy Crescent and Shannon Avenue at Glenelg North (in proximity of the Glenelg North Community Centre and Baden Pattinson Kindergarten) in partnership with DPTI to improve pedestrian safety;**
  - 2. authorises the undertaking of community consultation regarding the upgrade, including consultation with nearby residents and community groups at Glenelg North Community Centre and Baden Pattinson Kindergarten;**
  - 3. notes the overall project cost estimate of \$100,000 (ex GST), which will be fully funded by DPTI and will be added to the 2019/20 Capital Works Program.**
-



**COMMUNITY PLAN**

Placemaking: Creating lively and safe places

**COUNCIL POLICY**

Asset Management Policy

**STATUTORY PROVISIONS**

Local Government Act 1999

Road Traffic Act 1961

AS1742.10 Pedestrian control and protection

DPTI's Manual of Legal Responsibilities and Technical Requirements for Traffic Control Devices  
Part 2 - Code of Technical Requirements

**BACKGROUND**

Following representations from local residents to the Hon Matt Cowdrey, Member for Colton, DPTI have made a funding commitment to improve pedestrian safety on Kibby Avenue in proximity of the Glenelg North Community Centre and Baden Pattinson Kindergarten. Council has also received several complaints from residents regarding the speed of traffic on Kibby Avenue and Shannon Avenue. DPTI and Council staff have therefore worked to develop a joint proposal to improve pedestrian safety at this location.

Kibby Avenue is a local road which provides access over the Sturt River and provides local pedestrian access to the nearby St Leonards Primary School, Baden Pattinson Kindergarten, the Glenelg North Community Centre, William Kibby VC Men's Shed and a community garden. In the future, this section of Kibby Avenue will also be an important access point to the part of the State Government's Sturt River Lineal Path and recreational space.

A pedestrian survey was conducted between 6am and 7pm on Thursday 21 March 2019 which found that most pedestrians in proximity of the Glenelg North Community Centre and Baden Pattinson Kindergarten, were crossing Kibby Avenue near Alison Street.

The pedestrian survey identified that school students from St Leonards Primary school use Kibby Avenue and Shannon Avenue to walk and ride to/from school.

The pedestrian survey also found that many people were walking between Kibby Avenue and Shannon Avenue via the bridge over the Sturt River. As the only footpath on the bridge is on the southern side; and, as there is no footpath on the western side of Shannon Avenue, pedestrians are forced to cross Shannon Avenue south of Kibby Avenue. There is also public Bus Stop 23 (South) on the western side of Shannon Avenue; however, there is no footpath or kerb ramps available to access this bus stop; therefore, the bus stop is not DDA compliant.

DPTI and Council are proposing pedestrian improvements be undertaken to improve amenity and safety. DPTI will fully fund the upgrades, which would normally be Council's responsibility on a local road. As the project is on the local road network, Council will take ownership of any infrastructure associated with the pedestrian improvements and be responsible for any future maintenance. Council staff are proposing to undertake the public consultation and manage construction of the project.

## REPORT

DPTI engaged Tonkin Consulting to conduct an independent assessment of the crossing in the form of a report, which included development of a concept design to improve pedestrian safety, in consultation with Council Administration.

*Refer Attachments 1 & 2*

Tonkin's report recommends a range of modifications which will improve pedestrian safety including the following:

### Kibby Avenue

- installation of a pedestrian refuge on Kibby Avenue, west of Alison Street;
- reduction of lane widths to reduce vehicle speeds approaching the bend;
- solid medians to replace painted islands to further slow vehicles;
- altering the kerb protuberance at the entrance to the kindergarten and Glenelg North Community Centre to allow for service vehicles to turn left onto Kibby Avenue.

NB. Whether an upgrade of street lighting is required on Kibby Avenue due to the installation of the pedestrian refuge and solid medians is yet to be confirmed.

### Goldsworthy Crescent

- corner radii substantially tightened to reduce turning speeds;
- kerb ramps located at tangent points to improve visibility of pedestrians when crossing.

### Alison Street

- sub-standard kerb ramps replaced with 1.8m wide pedestrian cut through and compliant kerb ramps.

### Shannon Avenue

- 1.5m wide pedestrian footpath provided on the western side of Shannon Avenue connecting to Bus Stop 23 (South);
- Bus Stop 23 (South) relocated 20m north to allow kerb ramps to be positioned for pedestrians to cross Shannon Avenue;
- Bus Stop 23 (South) upgraded to meet DDA requirements.

In order to accommodate the pedestrian refuge on Kibby Avenue, the existing yellow line on the northern side of Kibby Avenue will be extended 25m west of the proposed refuge to prevent parked cars obstructing the sight line of waiting pedestrians. This yellow line will result in the removal of 4 car parks at the frontage of the property of 23 Kibby Avenue. This property and all other nearby properties have access to off-street parking, therefore, the removal of parking will have a lesser impact on residential amenity. The removal of parking is considered warranted due to the improvement to pedestrian safety resulting from the installation of the refuge.

In order to accommodate new kerb ramps and a 1.8m wide pedestrian cut out through at the kerb protuberance on Alison Street, the existing garden area at the entrance to the Glenelg North Community Centre and Baden Pattinson Kindergarten car park will need to be reduced to provide for sufficient footpath width behind the nearest kerb ramp to the car park entrance. Two small Mountain Ash (*Fraxinus griffithii*) and a bush in the garden area will need to be removed to accommodate the changes (refer Photo 1). The Mountain Ash are a species that hold minimal biodiversity value and will be replaced with low level native vegetation to improve visibility of cars and pedestrians within the car park.

Photo 1: Mountain Ash at Car Park Entrance.



In order to improve visibility of pedestrians crossing at the intersection of Shannon Avenue and Kibby Avenue, on the southwest corner of this intersection, some large bushes will need to be removed and replaced with low level native vegetation to improve visibility for pedestrians crossing at this location (refer Photo 2).

Photo 2: Bushes to be removed at the intersection of Shannon Avenue and Kibby Avenue.



In order to accommodate the new footpath and kerb ramps on Shannon Avenue linking Bus Stop 23 (South), one *Eucalyptus* (species not verified) may need to be removed to facilitate relocation of the bus stop 20m north together with the existing shelter (refer Photo 3). However every effort will be made to retain this street tree and it will only be removed and replaced if absolutely necessary. This will be determined in consultation with Council's Technical Arboriculture Officer in the design phase.

Photo 3: Eucalyptus which may require removal to relocate bus stop and shelter.



An Athel Pine (*Tomarisk aphylla*), on the southern side of Bus Stop 23 (South), will also need to be removed to improve sight lines for pedestrians crossing from the bus stop to the eastern side of Shannon Avenue (refer Photo 4). This species is recognised as a declared weed plant under the *Natural Resources Management Act 2004*. This species is also exempt from controls under the *Development Act 1993*. This particular specimen also supports poor form with a multi-leader main stem supporting included primary unions. The Athel Pine will be replaced with one Red Gum (*Eucalyptus camaldulensis*) together with various low level native plants.



Photo 4: Athel Pine to be removed to improve pedestrian sight lines at Shannon Avenue bus stop.



In summary, the upgrade of pedestrian infrastructure will combine to improve pedestrian safety in this area; with the main features of the upgrade including: the installation of a pedestrian refuge on Kibby Avenue; kerb extensions and installation of kerb ramps on Goldsworthy Crescent; and, footpath installation and new kerb ramps on Shannon Avenue. Also the reduction of traffic lane widths on the approaches to the bend on Kibby Avenue; and, at the intersection of Goldsworthy Crescent, will reduce vehicle speeds, further improving road safety.

#### **BUDGET**

DPTI have allocated \$100,000 (ex GST) to the upgrade of pedestrian infrastructure.

DPTI have spent \$6,935 (ex GST) on Tonkin's report, concept plan and pedestrian survey; and, a further \$10,970 (ex GST) on the civil design, survey and a street lighting assessment.

The remaining \$82,095 (ex GST) will be allocated to Council for construction. Based on the concept plan, Council Administration has estimated that this amount will fully cover construction costs.

The extent and cost of street lighting for the project is yet to be confirmed; however, there is contingency built into the estimate which should cover any lighting upgrade costs, should this be required.

**LIFE CYCLE COSTS**

Ongoing maintenance of kerbing, footpaths and protuberances will be funded from future asset maintenance budgets.

All traffic signage, line marking and holding rails maintenance will be funded from future traffic signage and line marking maintenance budgets.

# Attachment 1





# Improved Pedestrian Infrastructure at Kibby Avenue, Glenelg North

Concept Design Report

**Department of Planning, Transport and Infrastructure**

20 May 2019  
Ref: 20181917



Building exceptional  
outcomes together



## Document History and Status

Rev	Description	Author	Reviewed	Approved	Date
1	For client review	CH	AN		20 May 2019
2	Final	CH	AN		23 May 2019
3	Minor revisions	CH			28 May 2019

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**Client: Department of Planning, Transport and Infrastructure**  
**Ref: 20181917**

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## Appendices

**Appendix A – Figure 1**



# 1 Design Investigations

The Department of Planning, Transport and Infrastructure (DPTI) in collaboration with the City of Holdfast Bay (CoHB), have engaged Tonkin to develop a concept design to improve the safety of pedestrians in the vicinity of the Kibby Avenue/Goldsworthy Crescent and Kibby Avenue/Shannon Avenue intersections. The local community have raised concerns with speeding vehicles and the subsequent difficulty in crossing Kibby Avenue, Goldsworthy Crescent and Shannon Avenue, particularly for people attending the Baden Pattinson Kindergarten, the Glenelg North Community Centre and the bus stops located in Goldsworthy Crescent and Shannon Avenue.

## 1.1 Site Characteristics

Members of the project team from DPTI, CoHB and Tonkin walked the site and identified the following street characteristics:

- Sturt River/Warriparri bridge has one footpath, located on the eastern side
- 25 km/h school zones located on Kibby Avenue
- No footpath on Shannon Avenue connecting Kibby Avenue to Bus Stop 23 (Shannon south)
- Large radius corners allowing higher turning speeds
- Wide street cross-sections, particularly at intersections
- Narrow vehicular access to Baden Pattinson Kindergarten; vehicles wanting to turn into the Kindy stand in Kibby Avenue, allowing a vehicle to exit the access before making the turn.
- Existing kerb ramps not DDA compliant
- Bus route; bus routes 167 and 168 use the Goldsworthy/Kibby Ave/Shannon Ave intersections, crossing the Sturt River. Public Transport Services have confirmed that 18m artic and 12.5m rigid buses are used on this route.
- Observations of high vehicle speeds on Kibby Ave and Shannon Ave
- Pedestrians crossing Goldsworthy at the bus stops
- School children cycling along Kibby Ave on the footpath, crossing Alison St and Shannon Ave

## 1.2 Surveys

To verify the observed pedestrian desire lines and the speed of vehicles surveys were undertaken.

### 1.2.1 Pedestrian

The pedestrian survey recorded all pedestrian movements from 6am to 7pm on Thursday 21<sup>st</sup> March 2019 dividing Kibby/Goldsworthy/Shannon into a series of zones from A to Q (see below) to gain an understanding of where people are currently crossing.



The following table summarises the key pedestrian and cyclist movements:

**Table 1 - Pedestrian Movement Survey**

Zone	Road crossed	Pedestrians	Cyclists
A	Shannon	13	3
B	Shannon	66	19
	Kibby	0	0
C	Kibby	10	0
D	Kibby	3	0
E	Kibby	5	0
F	Kibby	24	0
G	Kibby	6	0
K	Goldsworthy at tangent point	2	0
L	Goldsworthy, between bus stops and tangent point	11	0
M	Goldsworthy at bus stops	9	0



Zone	Road crossed	Pedestrians	Cyclists
O	Alison	61	8

The survey identified that the greatest pedestrian movement is taking place near the Glenelg Community Child Care Centre with 125 movements (zones J, I, H), compared to 38 for the Kindy (zones D, E, F, G). A future CoB project will investigate the opportunity to improve the pedestrian facilities in the area of the child care centre.

The highest number of pedestrian movements recorded within the project area were at Zone B (Shannon) with 66, Zone O (Alison) 61 and Zone F (Kibby) at 24.

### 1.2.2 Vehicle Speed and Volumes

A summary of the traffic data provided by the CoHB is given in the table below.

**Table 2 - Vehicle Speed and Volumes**

Road	Location	ADT	Peak time	85 <sup>th</sup> percentile speed
Shannon Ave	Between Kibby and McCann	3,100	8am and 3 pm	50 km/h
Kibby Ave	Between Goldsworthy and Alison St	2,800	8am and 3 pm	35 km/h
Goldsworthy Crescent	Near bus stop	800	8am and 3 pm	55 km/h

The data indicates that vehicles are slowing to traverse the bend on Kibby Avenue near the Kindy. However, the 85<sup>th</sup> percentile speed would be influenced by the operation of the School Zone, with higher speeds expected outside of the school zone hours of operation.

The peak traffic volumes occur during the morning school/commuting time and at the end of the school day.

## 1.3 Opportunities and Constraints

Following a review of the data and further discussions with DPTI and the CoHB the following opportunities and constraints were identified:

- Reduce vehicle speeds by narrowing the road width and reducing the corner radii where possible
- Provide a pedestrian refuge to compliment the pedestrian desire to cross in Zone F
- Provide 1.5m wide kerb ramps
- Footpath width on eastern side to be minimum 2.7m wide for continuity of alignment from northern side, existing island to be reduced in width accordingly between car park and footpath, with low level landscaping.



- Ramps to and from large traffic doesn't cater for pedestrians using Kibby Avenue southern footpath\
- 18m artic and 12.5m rigid buses will need to be accommodated on the Goldsworthy-Kibby-Shannon route
- Service vehicles will need to be catered including access to the Baden Pattinson Kindergarten
- Provide improved crossing of Shannon Ave

## 2 Concept Design

### 2.1 Figure 1

This concept was developed to provide a pedestrian refuge to cater for pedestrians to cross Kibby Ave outside of the Kindy. By providing a convenient and safer crossing in this location, the 24 movements of Zone F are likely to be complimented by the 11 pedestrian crossing movements recorded in the zones either side this zone..

The modifications also include:

- Kibby Ave
  - A 2.3m wide pedestrian refuge located to the west of Alison Street is provided to accommodate for parents pushing a buggy and for bicycles to safely store within a refuge.
  - The behaviour of pedestrians Kibby Ave will need to be monitored, if they are not using the refuge then pedestrian fencing will need to be installed to guide pedestrians to it.
  - This position allows for standard length islands to be used whilst allowing for service vehicles to turn from Alison Street.
  - The location of the refuge requires the no stopping extended by 25m to meet the crossing sight distance requirement.
  - A diverge taper of 25.9m is required using the following parameters:
    - 1.4m lateral movement
    - Design speed of 40km/h (the recorded 85<sup>th</sup> percentile speed is 35 km/h)
    - Rate of lateral movement of 0.6m/sHowever, due to the amount of parking that is required to be moved to provide crossing sight distance, the diverge taper can be extended by a further 15m if required.
  - To reduce speeds through visually narrowing the lanes whilst allowing for service vehicle movements the following lane widths have been provided:
    - 4.25m northbound
    - 4m southbound
  - The width of the carriageway has been narrowed by 1.3m to increase 'side friction' and reduce vehicle speeds. This will require an MRV service vehicle to overhang the landscaped area when turning right from the Kindy access. To ensure no pedestrians are in this area some form of landscaping does need to be installed
  - Concrete median provided to increase 'side friction' top slow vehicles with subsequent street lighting upgrade
  - The Alison Street lozenge island has been trimmed back to allow for a service vehicle to turn left out of the Kindy access.
  - Small triangular median has been replaced with a painted median supplemented with pavement bars to ease the right turn from
  - The location of the refuge requires the no stopping extended by 28m to meet the crossing sight distance requirement.
- Goldsworthy Crescent
  - Corner radii substantially tightened to reduce turning speeds



- ramps are located at the tangent points to improve visibility of pedestrians when crossing. However, site observations and the pedestrian movement survey indicate that these ramps won't be in alignment pedestrian behaviour when crossing this road.
- Alison Street
  - Lozenge island – a 1.8m wide pedestrian cut-through has been shown. This width of cut-through allows for small street sweeper to enter a clean. Alternatives include providing a system of ramps with tactile guidance
  - The Kindy planter will need to be modified to provide a 2.7m wide footpath on the eastern side of Alison Street and to allow for the landing area behind the kerb ramp
- Shannon Avenue
  - A pedestrian refuge near the intersection with Kibby Avenue could not be provided due to the need to accommodate the turning movement of buses
  - 1.5m wide (allows 1.2m path of travel plus street posts etc) footpath provided on the southern side connecting Kibby Avenue to bus stop 23
  - Bus stop relocated 20m north to allow a ramp to be positioned to the rear of a standing 12.5m long bus
  - Bus stop to meet DDA requirements
- McCann Avenue
  - New ramps provided in alignment with back of footpath/tap line



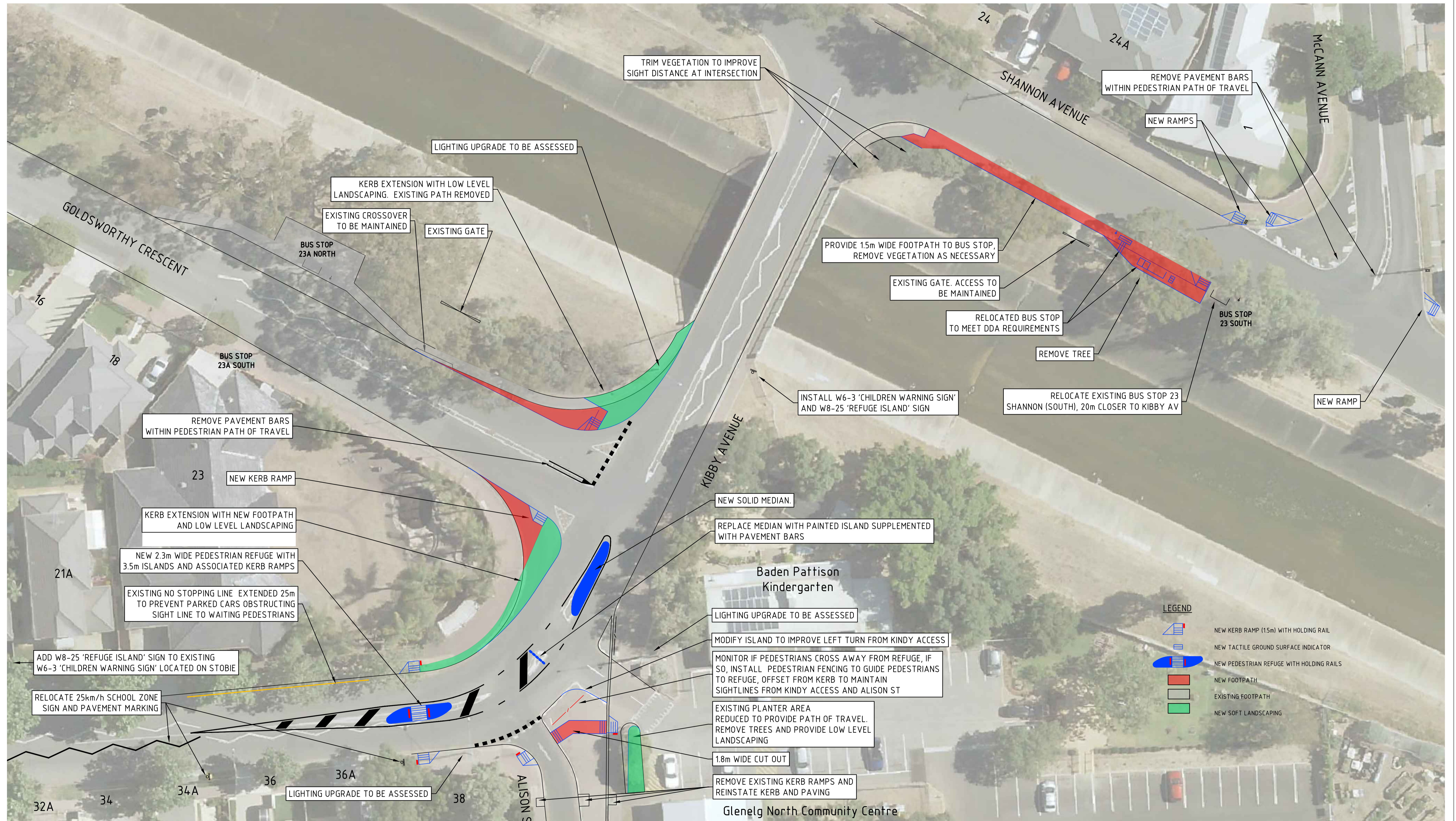


## Appendix A – Figure 1

# Attachment 2





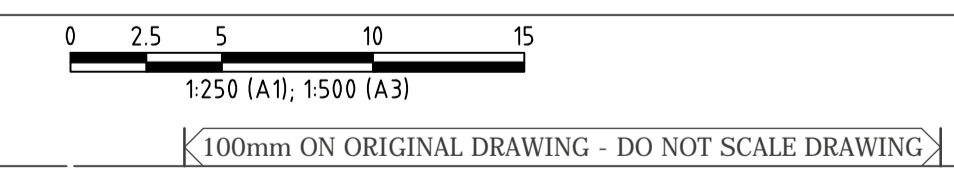


**LEGEND**

	NEW KERB RAMP (15m) WITH HOLDING RAIL
	NEW TACTILE GROUND SURFACE INDICATOR
	NEW PEDESTRIAN REFUGE WITH HOLDING RAILS
	NEW FOOTPATH
	EXISTING FOOTPATH
	NEW SOFT LANDSCAPING

THIS DRAWING IS TO BE VIEWED IN COLOUR AS SOME FEATURES / SYMBOLS ARE DIFFERENTIATED BY COLOUR. DRAWING NOT TO BE RELIED ON IF PRINTED IN GREYSCALE.

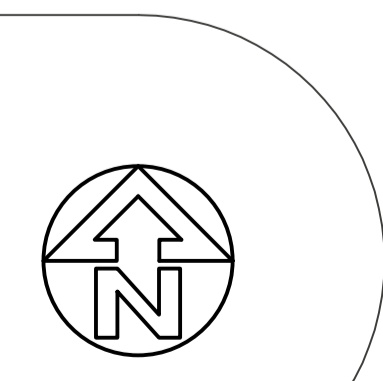
PRELIMINARY



SCALE: 1:250  
 SURVEYED: [ ]  
 SURVEY DATE: [ ]

COORDS & DATUM  
 COORDINATES TO MGA94 ZONE?  
 ALL LEVELS TO A.H.D.

SHEET SIZE  
**A1**



**PUBLIC UTILITIES:**  
 THE SERVICES SHOWN ARE DERIVED FROM PLANS OBTAINED FROM THE RELEVANT SERVICE AUTHORITIES. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ARRANGE WITH THE RELEVANT SERVICE AUTHORITIES FOR CONFIRMATION OF SERVICES AND THEIR LOCATION BEFORE EXCAVATION WORK COMMENCES.



DPTI  
**KIBBY AVENUE, GLENELG NORTH  
 PEDESTRIAN ENHANCEMENT CONCEPT**

REV	AMENDMENT / REASON FOR ISSUE	DATE	DES.	DWN.	DWGCHK.	VERIFIED	APPROVED
B	Minor revisions	29/5/19	CH		CH		
A	Minor revisions	28/5/19	CH		CH		

FILENAME: 20181917\_FIGURE01 2019-05-29.DWG  
 JOB NUMBER: 20181917  
 SHEET NUMBER: FIGURE 1  
 REVISION: B



Item No: **14.4**

Subject: **REVIEW NO RIGHT TURN FROM BEACHOUSE CAR PARK TO COLLEY TERRACE, GLENELG**

Date: 9 July 2019

Written By: Transport Consultant

General Manager: City Assets and Services, Mr H Lacy

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## **SUMMARY**

Council at its meeting held on 14 May 2019 carried Motion C140519/1470 *‘That Administration review the current No Right Turn restriction that applies to vehicles exiting the Beachouse Underground Car Park onto Colley Terrace at Glenelg with a view to removing the restriction’.*

This motion followed receipt of a petition signed by 37 residents, many of whom live in the Platinum Apartments which share the same access road as the Beachouse underground car park.

The No Right Turn from the Beachouse car park access to Colley Terrace; and, the Left Turn In/Out only at Augusta Street, were implemented in 2006 when the access road was constructed to improve road safety by reducing the number of conflicting road user movements in this high traffic environment, with frequent bus services and bicycle lanes along both sides of the road and a high number of pedestrian crossing movements.

This report reviews the road safety implications of reinstating the right turn movement from the Beachouse/Platinum Apartments carpark access road and makes recommendations for Council consideration.

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## **RECOMMENDATION**

### **That Council:**

- 1. retains the existing No Right Turn prohibition from the Beachouse/Platinum Apartments car park access road to Colley Terrace and that traffic movements remain the same as existing; and**
  - 2. authorise Administration to publish details of Council’s decision and that the Head Petitioner be advised.**
- 

## **COMMUNITY PLAN**

A Place that is Well Planned

## **COUNCIL POLICY**

Asset Management Policy

## **STATUTORY PROVISIONS**

Local Government Act 1999

Road Traffic Act 1961

## **BACKGROUND**

### **2006/2007**

Council Administration developed the detailed concept plan for the Glenelg Bus Interchange for Adelaide Metro and tourist coach services with indented bus stops on the western side of Colley Terrace to the south of the car park access and proposed traffic and pedestrian management improvements along Colley Terrace as a result of the Beachouse car park access location.

From the consultation feedback received at the time, it was evident that improved pedestrian crossing facilities along Colley Terrace were supported. A number of comments were received regarding the proposed Holdfast Shores 2B car park access (referred herein as the Beachouse car park access) onto Colley Terrace; in particular the location, traffic congestion and safety. Whilst the location of this access was approved through the Development Assessment process, a range of traffic control measures were proposed along Colley Terrace and at its junction with Augusta Street to improve traffic safety and reduce congestion associated with this access.

Traffic controls included installation of:

- Right Turn Lane southbound on Colley Terrace into the car park access (opposite Augusta Street junction) to provide a dedicated right turn entry to the car park access and not impede through southbound traffic flow.
- No Right Turn restriction from the Beachouse car park access to Colley Terrace to remove conflict with right turn movements into the carpark access road and to not impede traffic flow out of the access road or along Colley Terrace. A key determinant was restricted sight distance to the south when buses and coaches occupied the indented bus bay to the south of the access road.
- As a result of the right turn lane on Colley Terrace, Augusta Street was restricted to Left in/Left out turns only. It is an illegal movement to turn across the right turn lane into and from Augusta Street.

The traffic controls and the indented bus bay were implemented in 2006/07. (Bus zone was subsequently further extended to the north in January 2016).

### **2013/2014**

Further improvements were implemented to improve road safety and deter illegal and unsafe turning movements.

These additional features included installation of a removable pedestrian refuge immediately to the south of the car park access in line with the existing pedestrian kerb ramps. This refuge provides a safe crossing point across Colley Tce and has a high number of pedestrian crossing movements. It is the only designated safe crossing point along this section of road. It facilitates movements east from Augusta Street and local residential and parking areas and west from the bus stops and Beachouse area.

A traffic island with pedestrian walk through was also installed at the Augusta Street junction to deter illegal right turn movements and to improve safety for pedestrians crossing the wide junction.

### **2014/2015**

To further reduce conflict and improve road safety, a kerb separator was installed along the centre line of the southbound right turn lane on Colley Terrace into the car park access. This additional traffic control device was intended to prevent illegal right turns from Colley Terrace northbound into Augusta Street eastbound. It also reduced the likelihood of drivers illegally turning from Augusta Street across Colley Terrace into the Beachouse car park access. The width between the kerb separator and the pedestrian refuge also deterred illegal right turns from the Beachouse carpark to Colley Tce southbound.

### **2015/2016**

At the request of the Department of Planning, Transport and Infrastructure, Council Administration extended the Glenelg bus/coach interchange on the western side Colley Terrace between the Beachouse car park access and Hope Street. This doubled the length of the zone to meet demand and frequency of bus services.

### **2018**

During 2018, Council Administration received a website submission from a resident of the Platinum Apartments (also the head petitioner) requesting:

*'I'm asking that a review may be made of the road restrictions on Colley Tce. That a right turn would be allowed on to Augusta St from Colley Tce while travelling North. See diagram below please for further detail. I plead that someone would review this and use common sense for the good of the public and residents of Glenelg.'*

Council Administration considered the request at the time and provided the following email response to the resident:

*There are currently No Right Turns that apply to traffic to traffic turning from Colley Terrace into Augusta Street, Augusta Street into Colley Terrace and a Left Turn Only from the Underground Car Park onto Colley Terrace.*

*At the time these measures were installed, Council considered the impacts to all road users including underground car park users, other motorists, pedestrians and cyclists at the intersection.*

*The protected right turn lane into the underground car park, was deliberately installed to both provide access into the underground car park and to discourage access from Colley Terrace into Augusta Street and to discourage access from the underground car park into Augusta Street. The main reason for this is to reduce congestion on Colley Terrace that would result if these right turn movements were permitted. Similarly, the No Right Turn from Augusta Street to Colley Terrace was installed to reduce congestion and improve traffic flow on Colley Terrace.*

*Put simply, if right turn movements were permitted, the close proximity of the underground car park access road to Augusta Street would result in cars staggered across the roadway, across lanes of traffic causing an unsafe situation and obstructions to traffic flow. Right turn movements in general create congestion and are less safe for drivers to perform, whereas left turn only movements improve traffic flow and are safer to perform, reducing the chance of collisions.*

*There are also bicycle lanes on Colley Terrace and vehicles performing right turns across bicycle lanes increases risk.*

*The pedestrian refuge south of Augusta Street cannot be relocated. It is currently located as close as possible to the desire line of pedestrians that need to access Augusta Street. Relocating it further south will not benefit pedestrians.*

*Any proposal to widen Colley Terrace to accommodate further protected right turn lanes would have flow on implications. Footpath widths would be reduced, car parks would be lost, the bus zone would be reduced in length and disabled car parking would be moved further afield.*

*In summary, allowing right hand turns would improve exit arrangements for underground car park users, however, the detrimental impacts on traffic flow, safety and other infrastructure such as car parks, means that Council does not consider changes to the intersection as warranted at this time.*

Subsequently the resident responded and asked how they may appeal the right turn restrictions which appears to have lead to the petition being received.

*'Thank you for email and I appreciate your response. These restrictions really seem overcomplicated and are making life difficult for the public and residents of Glenelg when it is unnecessary. We need to keep things simple. It's so much easier this way. I plead with the Holdfast Council may these restrictions be reviewed. How may I further appeal these restrictions?'*

## **2019**

At the Council meeting on 23 April 2019, Council Report No: 156/19 Petition – Review of Road Restrictions on Colley Terrace was considered. Council carried Motion C230419/1453 that the petition from 37 residents of the Platinum Apartments be received by Council. The petition stated that:

*"Petition to review road restrictions (Colley Tce. Glenelg 5045). As illustrated, when exiting from the car park at "Platinum Apartments and Wilson Public (now Care Park) Car*

*Park”, RIGHT TURN on to Colley Tce or RIGHT TURN on to Augusta St, is not possible due to road restrictions. It’s required to drive north down Colley Tce or sometimes down to the roundabout at Anzac Hwy, turn around and then come back to the desired direction of travel. We request for Holdfast Council to consider and review these road restrictions to allow traffic to turn right in both of these scenarios if possible. This should help ensure traffic can flow more efficiently and safely in our environment.”*

## REPORT

### TRAFFIC REVIEW

There are significant traffic volumes along Colley Terrace in both directions. Colley Terrace functions as a major collector road and is a tourist, public bus and coach interchange and bicycle route and has on-street parking along both sides and a high number of pedestrian crossing movements.

During peak times, there is frequently a continuous flow of traffic in both directions. This is combined with regular bus, cyclist and pedestrian movements along this section of road. Given the popularity of the area, there are many families with young children and tourists frequenting the area. The mix of road user movement at and near the car park access, and at the Augusta Street junction and pedestrian refuge, increases the risk of conflict and as a result some turn movements at Augusta Street and at the Beachouse Access Road have been banned over the past years to improve road safety.

Key considerations as to whether a right turn from the Beachouse Access Road onto Colley Tce is the adequacy of the safe stopping sight distance and whether a driver can determine an adequate gap in traffic flow at the car park access to turn right safely. Observations on site indicate that the sight distance to oncoming northbound traffic is restricted when the bus bay to the south is occupied, which give the nature of the bus interchange occurs regularly. Similarly, the sight distance to oncoming southbound traffic is also regularly restricted due to nearside parked cars within the angle parking area and particularly during times of peak traffic flow.

### TRAFFIC VOLUME AND SPEED

#### Colley Terrace

The traffic volumes along Colley Terrace recorded in March 2014 (most recent data) are summarised below:

- Moseley Square to Augusta Street portion (combined 2 way data):

13,500	Vehicles per day weekend
10,000	Vehicles per day (weekday average)
800	AM Peak vehicles per hour
900	PM Peak vehicles per hour
43.8 km/h	Speed 85 <sup>th</sup> percentile

In this section, typically northbound traffic volumes are higher than southbound traffic.



- Augusta Street to Anzac Hwy portion (combined 2 way data):

12,000	Vehicles per day weekend
10,000	Vehicles per day (weekday average)
800	AM Peak vehicles per hour
800	PM Peak vehicle per hour
38.5 km/h	Speed 85 <sup>th</sup> percentile

In this section, typically southbound volumes are higher than northbound traffic.

- Augusta Street (between Colley Tce and Durham Street) - traffic volume is 1,500 vehicles per day with around 1,000 travelling westbound.

## SAFE SIGHT DISTANCE REQUIREMENTS

### Stopping Sight Distance

Stopping Sight Distance (SSD) is the distance to enable a normally alert driver, travelling at the design speed on wet pavement, to perceive, react and brake to a stop before reaching a hazard on the road ahead. The provision of stopping sight distance is a mandatory design condition for all roads and intersections. Stopping sight distance should be provided for both cars and trucks for all roads in daytime conditions.

### Minimum Gap Sight Distance Requirements

Minimum gap sight distance (MGSD) is based on distances corresponding to the critical acceptance gap that drivers are prepared to accept when undertaking a crossing or turning manoeuvre at intersections. The required minimum MSGD is for both left and right turns from the car park access.

Technical standards for road design indicate that the following design safe Stopping Sight Distance and Minimum Gap sight distances would apply for a road with an urban speed limit of 50km/h and for a road with an 85<sup>th</sup> percentile speed recorded at an average of 40km/h:

	50km/h	40km/h
Stopping Sight Distance (SSD)	55m (62m buses/trucks)	40m (44m buses/trucks)
Minimum Gap Sight Distance (MGSD)	69m	55m

Both the Safe Stopping Sight Distance and the Minimum Gap Sight Distance are measured from a point 3.0m into the car park access to the centre of the approaching travel lane on Colley Terrace.

When a bus is stationary at Bus Stop A, immediately to the south of the Beachouse access road, the sight distance is approximately 25m.

Given the frequency of use of Stop A, it is considered that a right turn movement from the Beachouse Access Road would be an unsafe turn for a high proportion of the time.

## **CRASH HISTORY**

The crash data along the section of Colley Terrace between Hope Street and the Anzac Highway roundabout was reviewed. There were 15 reported crashes during the 5 year period 2013-2017, which resulted in 9 casualty crashes, 2 of which were serious injuries. In the previous 5 year period 2008-2012 there were 19 reported crashes.

The majority of the crashes were as a result of failing to give way, resulting in side wipe type crashes mainly attributed to parking and U-turn manoeuvres. Vulnerable road users were involved in 9 of the crashes, 8 cyclists and 1 pedestrian. 8 Crashes were northbound and 7 were southbound, most occurred during daylight hours.

## **REVIEW OF EXISTING RIGHT TURN RESTRICTIONS**

### **Benefits of existing No Right Turn Restrictions**

- Installed as a direct result of the Beachhouse car park access location;
- Restrictions have been in place for over 10 years for road safety to reduce conflict and maintain traffic flow;
- Improves road safety for all road users at all times;
- Reduces conflict between traffic, cyclist and pedestrian movements;
- Traffic from the car park access is not impeded and does not impede traffic flow on Colley Terrace.

### **Impacts of existing No Right Turn Restrictions**

- Southbound drivers have to use the roundabout 200m north at Anzac Highway to turn around;
- U-turns could be undertaken 60m to the north, however the turn is restrictive with parking along both sides of the road;
- No access east to Augusta Street.

### **Considerations for removing the No Right Turn Restriction**

- Car park access road has one traffic lane in and one out. There is no opportunity to separate left and right turning traffic on exit to Colley Terrace;
- Colley Tce has a bicycle lane on both sides of the road and one traffic lane in each direction and a right turn lane southbound to the car park access;
- The right turn into Augusta Street from Colley Terrace northbound is prohibited due to the provision of the right turn lane into the car park access;
- There is a removable pedestrian refuge located 10m to the south;
- Sight distance to the south is restricted by the indented bus bay, that regularly has bus movements in and out;
- Sight distance to the north is restrictive due to parked cars in the angle parking and during periods where there is continuous traffic flow in the northbound lane;
- Left turning traffic from the car park access road would have to wait until a right turner has moved to enter Colley Terrace, likely to result in queuing during peak times through an area of high pedestrian and cyclist activity;

- Right turning vehicles would impact pedestrian safety at the pedestrian refuge immediately to the south. Conflict would occur between the close proximity of a right turning vehicle and a pedestrian crossing from the refuge to and from the east not seeing each other with enough time to stop safely;
- The right turn movement from the car park southbound would be restrictive between the existing kerb separator and pedestrian refuge and would require drivers to exit in the same space the opposing right turners are entering, increasing the risk of conflict;
- Keep Left signs for the removable pedestrian refuge are also located within the road surface in front of the refuge, creating an obstacle when turning right;
- Larger vehicle turning movements would impede the bicycle lane and vehicle overhang would encroach into pedestrian areas i.e.: a pedestrian standing at the kerb ramp waiting to cross the road. Trucks would have to be prohibited from using the access road;
- The pedestrian refuge cannot be relocated or moved to accommodate this further. Reducing the length of the existing kerb separator for the right turn lane is likely to result in drivers illegally crossing from Augusta Street to the car park access;
- Traffic delays are likely to result for drivers exiting from the Beachouse car park to Colley Tce, particularly during peak times and on weekends as a result of a right turning driver having to wait for a gap within three traffic lanes to turn right, whilst observing oncoming cyclists and pedestrians at the refuge crossing. Left turning drivers would have to wait;
- Right turning drivers from side roads can be focused on gaps in the main traffic streams and not notice a right turner has entered the opposing lane to turn, or be aware of other road user crossing movements resulting in an increased risk of crashes occurring.

#### **Impacts of allowing the Right Turn**

- Allowing the right turn would increase conflict for all road users and reduce road safety, particularly the most vulnerable – pedestrians.
- A pedestrian who is crossing from the west to east will not have visibility or be aware of a vehicle coming from behind. A pedestrian who is crossing east to west may think the road is clear and a driver turning right may not observe the pedestrian, particularly if they are concentrating in approaching traffic to determine an adequate gap to turn;
- To provide adequate sight lines to the south the Glenelg bus interchange Bus Stop A zone would need to be restricted, which would significantly impact bus services; or the bus zone would need to be indented further resulting in reduced footpath width and budget implications for implementation;
- Traffic flow out of the car park access and Colley Terrace could be impeded, particularly during peak weekday and weekend periods. Right turning drivers would hold left turning traffic from the car park;
- A sign to prohibit trucks from making a right turn from the Beachouse access road will need to be installed as the right turn is too tight for a larger vehicles to turn safely.

#### **Conclusion**

On balance, it is recommended that the right turn prohibition from the Beachouse Access Road to Colley Tce be retained. The review has identified significant safety risks from removing the right turn ban which would potentially increase safety risks to pedestrians, potentially

impeded traffic flow (principally during peak periods and on weekends) and potentially require the closure of one of the bus parking bays immediately south of the access road.

**BUDGET**

There are no budget implications associated with the recommendation.

The estimated cost to remove the right turn restriction, should Council wish to proceed in that way, is estimated at \$2000 which can be funded from within existing maintenance budgets.

**LIFE CYCLE COSTS**

There are no life cycle costs associated with the recommendation.

Item No: **14.5**

Subject: **COASTAL COUNCIL ALLIANCE – CALL FOR PROJECT COMMITTEE NOMINATION**

Date: 9 July 2019

Written By: Manager, Assets and Facilities

General Manager: City Assets and Services, Mr H Lacy

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### **SUMMARY**

Metropolitan Seaside Council Committee is an unincorporated association of 7 metropolitan seaside councils. We have been participating in the Metropolitan Seaside Council Committee for many years. Councillor Lynda Yates was the previous representative on this committee, however Council has not been represented since the new Council term. Administration recommends an Elected Member be nominated to this Committee.

In addition, it is recommended that a nomination be made to the proposed Inaugural Executive Committee for the Coastal Council Alliance. In November 2018 a project was launched to bring 34 Councils, the Local Government Association (LGA) and the Coast Protection Board (CPB) together under a single Coastal Alliance. Members of the Alliance are proposing a small executive committee of Mayors and/or Elected Member be appointed to provide oversight, guidance and advocacy with the coordination and support of the LGA.

Nominations have been called for the membership of inaugural Executive Committee which will comprise two (2) elected representatives from each of the four coastal zones (North, South, West and Metro). If there are more than two nominations from any of the four zones, the project steering committee will make a decision for a way forward.

---

### **RECOMMENDATION**

#### **That Council:**

- 1. nominate \_\_\_\_\_ to represent Council at the Metropolitan Seaside Council Committee; and**
  - 2. nominate \_\_\_\_\_ to be considered for membership of the Executive Committee for the Coastal Council Alliance.**
-

**COMMUNITY PLAN**

A Place with a Quality Lifestyle  
A Place for Every Generation  
A Place that is Safe and Secure  
A Place that Values its Natural Environment  
A Place that Manages its Environmental Impacts  
A Place that is Well Planned  
A Place that Provides Choices and Enhances Life

**COUNCIL POLICY**

Not Applicable

**STATUTORY PROVISIONS**

Not Applicable

**BACKGROUND**

In South Australia there are 34 Councils that has coastal boundaries. These councils have been working together through a number of groups based on their geographical locations. City of Holdfast Bay is a member of the Metropolitan Seaside Councils Committee.

Metropolitan Seaside Council Committee is an unincorporated association of 7 metropolitan seaside councils. We have been participating in the Metropolitan Seaside Council committee for many years. Cr Linda Yates represented the City of Holdfast Bay on the Committee, however Council has not be represented since the new Council term. Administration recommends an Elected Member be nominated to this Committee.

*Refer Attachment 1– ToR Metropolitan Seaside Council Committee*

**REPORT**

In November 2018 a project was launched to unite the voices of the 34 SA local councils and the Local Government Association to help find solutions to the increasing cost, liability and resourcing impacts facing local government. The project partners are Limestone Coast LGA; Metropolitan Seaside Councils; Eyre Peninsula LGA; Southern & Hills LGA; Spencer Gulf Cities; Legatus Group of Councils and the LGA.

A Project Steering Committee has been formed which includes the Coast Protection Board and LGA representatives. The Committee has now identified that "...there should be a strong relationship and coordination support from the LGA (rather than creating a new separate entity) and that a small executive committee of Mayors/Elected Members should be appointed to provide oversight, guidance and advocacy."

The project will review the current coastal legislation and develop an overall coastal management strategy that will shape the way in which the coastal issues are managed. A briefing paper is attached.

*Refer Attachment 2 - The Alliance information summary  
Refer Attachment 3 – The Project Brief*

Nominations have been called by the Project Steering Committee for the membership of an Inaugural Executive Committee. Closing date for the nominations is 31st July 2019. The Executive Committee will comprise of two elected representatives from each of the four coastal zones (North, South, West and Metro). If there are more than two nominations from any of the four zones, the Project Steering Committee will make a decision for a way forward.

This Project and the Executive Committee is to help shape the final administrative arrangements and terms of reference for the full Coastal Councils Alliance and guide transition by the end of 2019. They are looking for an elected representatives with an active interest, knowledge and networks in coastal issues from Councils within each of the following coastal zones.

*Refer Attachment 4 – A letter from the Project Steering Committee Project Coordinator*

If a nomination is made, Administration will complete the nomination form and submit it to the Project Coordinator before the nomination closing date.

Our beaches are our best assets. Sand erosion and coastal protection are significant issues for the City of Holdfast Bay. For more than a decade, City of Holdfast Bay has been enjoying the benefits of the State Government's multi-million dollar Adelaide Living Beach program; in particular the yearly sand replenishment program that replenishes our beaches using the accumulating sand at Glenelg. Since we have a significant stake in coastal management, it is recommended that a nomination be made to the proposed inaugural Executive Committee.

## **BUDGET**

There is no impact of expenditure on the budget.

## **LIFE CYCLE COSTS**

Not Applicable

# Attachment 1





# SA Coastal Councils Alliance

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## PROJECT AIM

Establish SA Coastal Councils Alliance to provide an informed, coordinated advocacy voice for coastal issues, with a focus on:

- Information sharing and networking on coastal management issues
- Collaboration and efficiency gains through shared resources and initiatives
- Coordinating a list of current and emerging coast protection works and costings
- Preparing SA Coast Protection Strategy and prioritised, risk-based actions.
- Developing options for sustainable funding model and cost-sharing arrangements

## PROJECT PARTNERS

- Limestone Coast LGA (lead)
- Metropolitan Seaside Councils
- Eyre Peninsula LGA
- Southern & Hills LGA
- Spencer Gulf Cities
- Legatus Group of Councils
- LGA

## PROJECT STEPS

1. Key Stakeholder Meetings (Dec18)
2. Initial visit to all Coastal Councils (Dec/Jan)
3. Situation Analysis - Data for each Council (Dec/Feb)
4. Regional Workshops - Initial (Mar/Apr19)
5. Legislative, Governance and Methodology Review (Mar/May19)
6. Regional Workshops – Follow up (JunJul19)
7. Finalise Alliance and Strategy (Aug/Sep19)
8. Coastal Councils SA Launch/Conference (Oct/Nov19)
9. Project Steering Committee and Reporting

# Attachment 2





LG Research & Development Scheme

**Local Government Association**  
of South Australia

# South Australian Coastal Councils Alliance

---

# PROJECT AIM

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1. Establish governance and resourcing arrangements for a South Australian Coastal Councils Alliance to support an informed, coordinated advocacy voice.
2. Prepare a Coastal Councils advocacy document including:
  - current and emerging coast protection/management works and costings
  - options for more sustainable funding and cost-sharing arrangements

# PROJECT PARTNERS

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Limestone Coast LGA (lead)

Metropolitan Seaside Councils

Eyre Peninsula LGA

Southern & Hills LGA

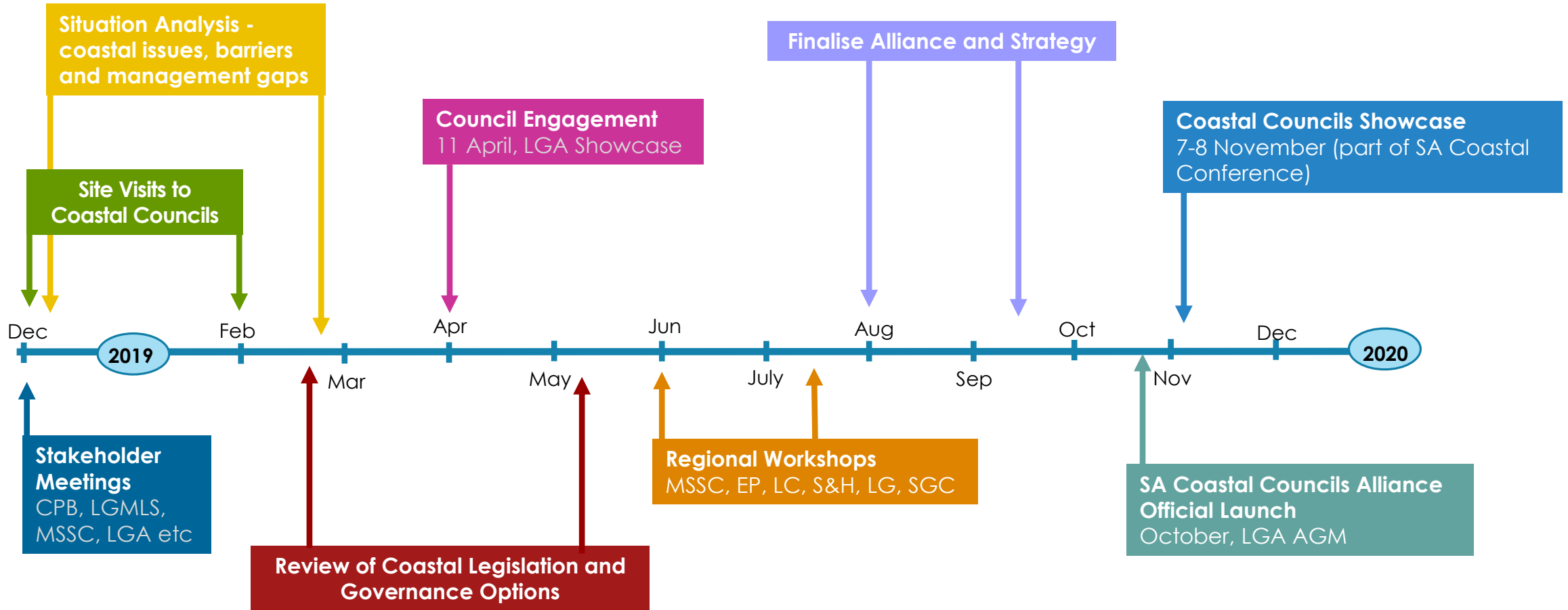
Spencer Gulf Cities

Legatus Group of Councils

LGA

➤ *Plus Steering Committee: Regional LGAs, MSSC, LGA, LGMLS, CPB*

# PROJECT TIMELINES AND STEPS

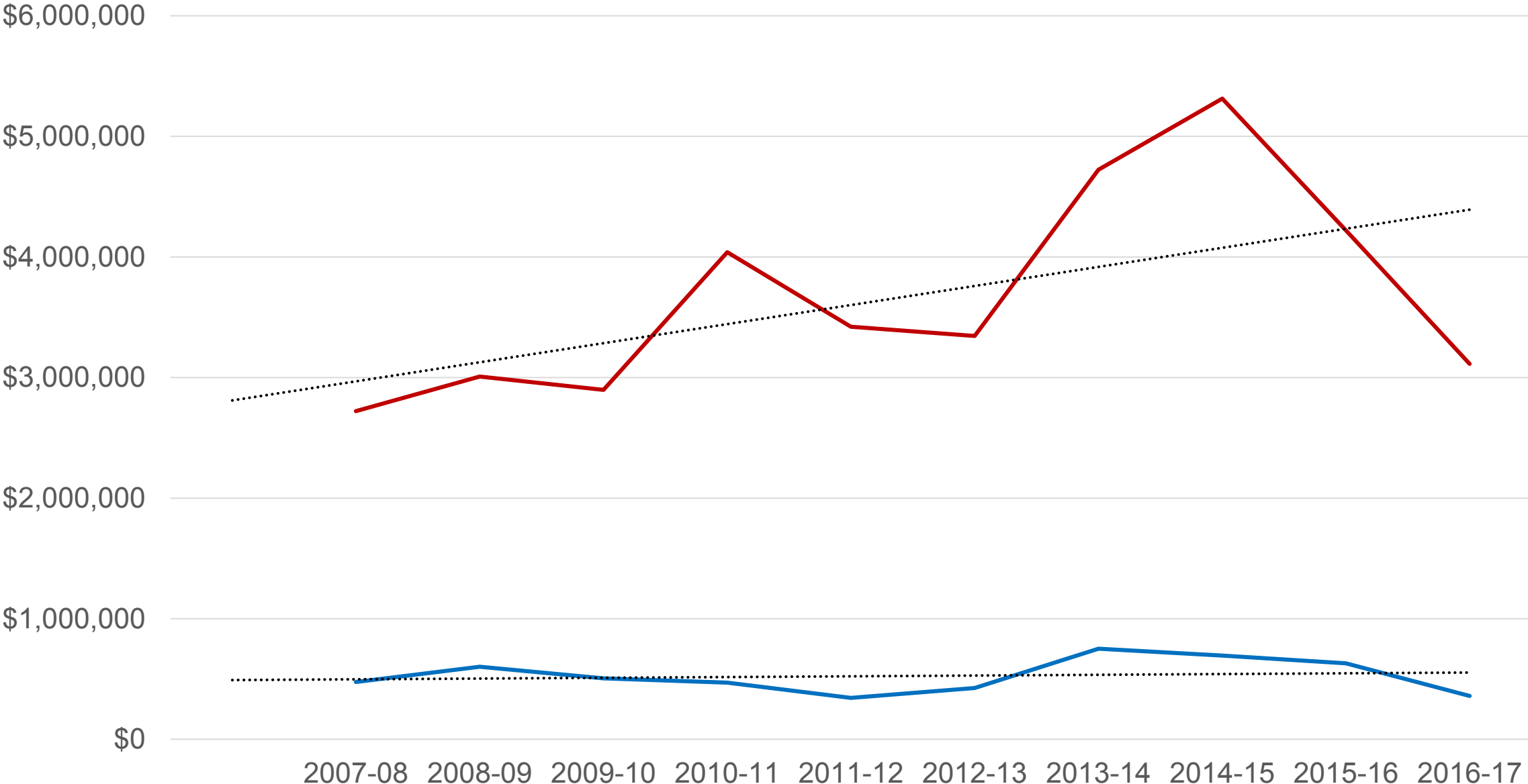


# COASTAL ISSUES

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- Sand/beach management
- Cliff erosion
- Access management and signage
- Environmental management – weeds, shorebirds, reveg, illegal dumping
- Dredging
- Protection infrastructure – levees, seawalls, groynes
- Coastal infrastructure – jetties, boat ramps, marinas (*\*jetties discussion paper\**)
- Planning and development, shack freeholding

# Coastal Protection Expenditure vs Income - SA Council Summary



— Operating Expenses    — Operating Income    ..... Linear (Operating Expenses)    ..... Linear (Operating Income)

\$

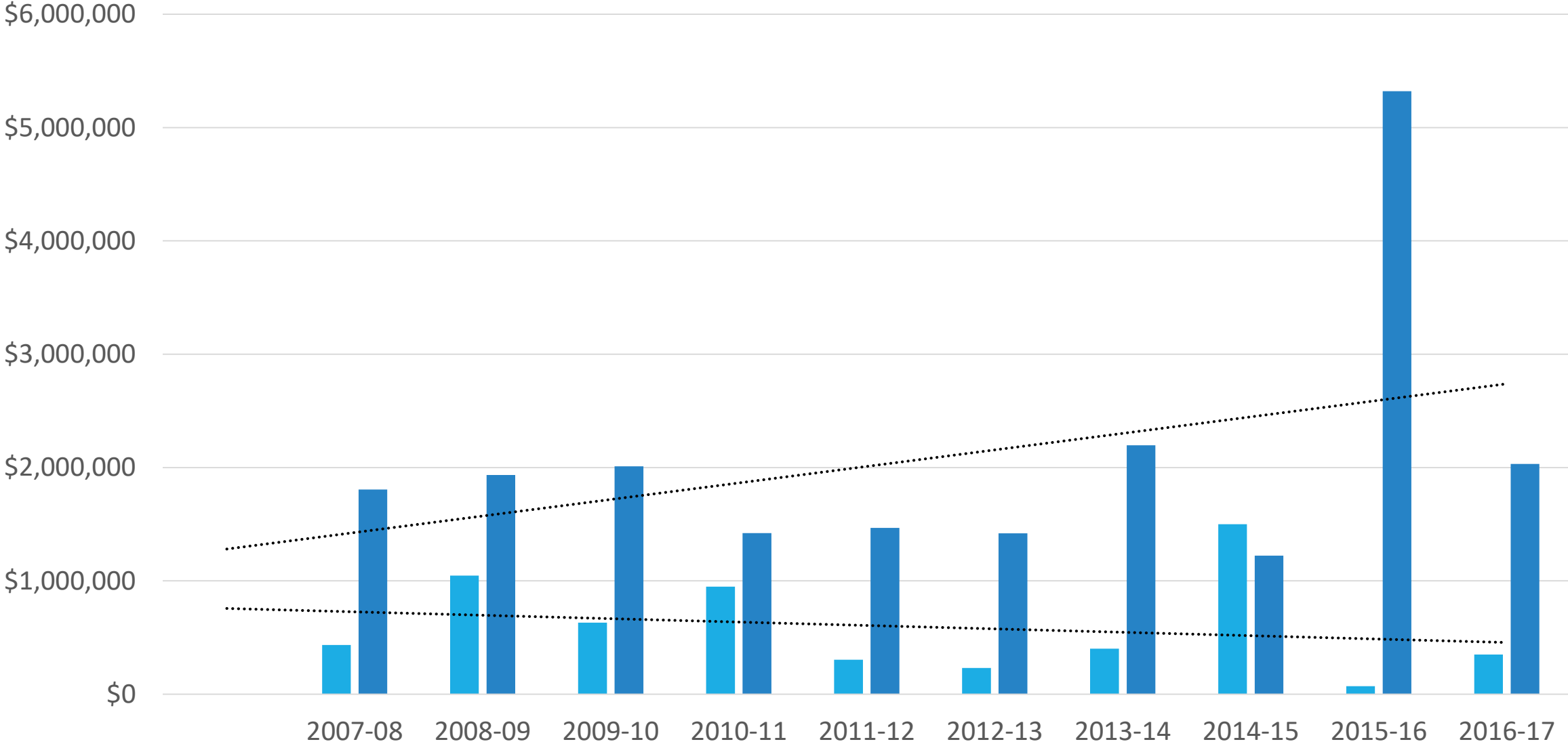
\$

\$)

\$)



# Coast Protection Capital Works - SA Council Summary



■ Capital Revenue (\$)    
 ■ Purchases / Construction of Fixed Assets (\$)    
 ..... Linear (Capital Revenue (\$)    
 ..... Linear (Purchases / Construction of Fixed Assets (\$)

# WHAT'S COMING

---

\$80 million unfunded Council works identified (so far.....)

vs

\$350,000 annual State Coast Protection grants

= new funding model required

- all levels of Govt
- forward program of works (ie SMA, Infrastructure SA)
- multiple outcomes (ie protection, tourism, health, sport&rec, environment)
- public vs private benefit
- govt intervention vs market/insurance driven

# COASTAL COUNCILS ALLIANCE

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- Provide an informed, coordinated advocacy voice for SA coastal council issues
- Forum for information sharing and networking on coastal management issues
- Collaboration and efficiency gains through shared resources and initiatives
- Coordinate list of current and emerging coast management works and costings
- Developing options and advocating for sustainable funding model and cost-sharing arrangements



**Minister for Environment**

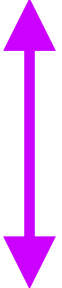
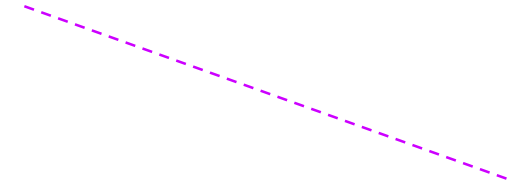
*Coast Protection Act*

**Coast Protection Board**

**SA Coastal  
Councils Alliance**

Regional Groups – MSSC, EPLGA,  
S&H, LCLGA, SGC, CLGR

**34 Coastal Councils**



# COASTAL COUNCILS ALLIANCE

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## MEMBERSHIP

- 34 Coastal Councils – automatic membership vs paid membership?
- One elected member per Coastal Council vs election of smaller ‘executive committee’?
- Appointment of chair from a member of the alliance vs independent appointment?

# COASTAL COUNCILS ALLIANCE

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## MEETINGS

- Regular schedule of formal meetings
- Informal email network
- Once or twice update/workshop per year – maybe concurrent with LGA OGM/AGM
- Formal meeting structure vs information workshops/networking
- Role of executive committee

# COASTAL COUNCILS ALLIANCE

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## RESOURCES

- Coordination/executive support:
  - Full time vs part time
  - Rotated between Councils/regions in-kind
  - Provided by LGA as part of Council advocacy
  - Paid support engaged through Council contributions
- Links and additional support through Australian Coastal Councils, MLS
- Technical support from an expert working group (council staff, academics, agencies)

# COASTAL COUNCILS ALLIANCE

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## **GOVERNANCE OPTIONS**

- Informal Information Sharing Network
- MOU between 34 Coastal Councils
- New Entity – LG Regional Subsidiary or Incorporated Association
- Network supported by LGA as peak advocacy body
- Network supported by Australian Coastal Councils

### **Council Feedback:**

- No new committees
- No extra meetings
- No additional cost



# PROJECT CONTACTS

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Anita Crisp

Project Coordinator

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Prae Wongthong

Project Researcher

Mob: 0437 783 992

Em: [climate@lclga.sa.gov.au](mailto:climate@lclga.sa.gov.au)

# Attachment 3



# SA COASTAL COUNCILS ALLIANCE

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Mayor Amanda Wilson  
City of Holdfast Bay  
24 Jetty Road  
BRIGHTON SA 5048  
Attn: Roberto Bria, A/CEO

27 May 2019

## **RE: COASTAL COUNCILS ALLIANCE – PROJECT UPDATE AND CALL FOR EXECUTIVE COMMITTEE MEMBERS**

Dear Mayor Wilson

I am writing to provide your Council with an update on the South Australian Coastal Councils Alliance and to seek your ongoing engagement as we aim, by the end of 2019, to:

1. Establish the governance and resourcing arrangements for a South Australian Coastal Councils Alliance that supports an informed, coordinated advocacy voice.
2. Prepare a Coastal Councils advocacy document including:
  - a list of current and emerging coastal management works and costings
  - options for more sustainable funding and cost-sharing arrangements.

Following my initial correspondence to you at the start of the project in December 2018, I have now met with representatives from 31 of the 34 Coastal Councils to identify current and emerging local coastal issues and resourcing challenges and gain initial feedback on how you think the Alliance could best work for your Council. Discussions have also been held with a range of other stakeholders, including the LGA and Local Government Mutual Liability Scheme, Australian Coastal Councils Association, Coast Protection Board and the Australian Local Government Association.

Our project initiative was also featured at the recent LGA Showcase in April, with a presentation and display booth generating positive feedback and additional Council input.

This initial phase of engagement has highlighted that, regardless of size or location, Coastal Councils across SA are generally facing similar issues – from the impacts of coastal erosion and flooding, environmental degradation and storm damage, through to managing coast protection and recreational infrastructure, dredging and coastal planning.

Feedback has overwhelmingly reinforced that now, more than ever, Coastal Councils in South Australia need a strong, united voice to help find solutions to the increasing cost, liability and resourcing impacts facing local government.

Through the Coastal Councils project to date, a discussion paper on the management of jetties has been prepared for Councils; work is well underway to identify current and emerging coastal management works and costings across Councils in SA; and a review of funding and legislative arrangements here and in other jurisdictions has also commenced.

Council input has also provided some clear direction for the governance and operation of the Alliance into the future. In particular, that there should be a strong relationship and coordination support from the LGA (rather than creating a new separate entity) and that a small executive committee of Mayors/Elected Members should be appointed to provide oversight, guidance and advocacy.

To help shape the final administrative arrangements and terms of reference for the full Coastal Councils Alliance and guide transition by the end of 2019, our next step is to establish an Executive Committee, comprising two elected representatives with an active interest, knowledge and networks in coastal issues from Councils within each of the following coastal zones:

South

- Grant, Wattle Range, Robe, Kingston, Coorong, Alexandrina, Victor Harbor, Kangaroo Island, Yankalilla

Metropolitan

- Onkaparinga, Marion, Holdfast Bay, West Torrens, Charles Sturt, Port Adelaide Enfield, Salisbury, Playford

North

- Adelaide Plains, Wakefield, Yorke Peninsula, Copper Coast, Barunga West, Mount Remarkable, Port Pirie, Port Augusta, Whyalla

West

- Franklin Harbor, Cleve, Tumby Bay, Port Lincoln, Lower Eyre, Elliston, Streaky Bay, Ceduna

A nomination form for inaugural Executive Committee members is attached, with nominations due by **31<sup>st</sup> July 2019**. In the event there are more than two nominations received for a zone, the project steering committee will make the final selection based on the criteria outlined in the nomination form.

On behalf of the project partners - Limestone Coast LGA; Metropolitan Seaside Councils; Eyre Peninsula LGA; Southern & Hills LGA; Spencer Gulf Cities; Legatus Group of Councils and the LGA - thank you for your ongoing interest and involvement in this important initiative.

We look forward to finalising the establishment of the Coastal Councils Executive Committee over the next few months.

Should you have any further queries about the project, please contact me by email: [ceo@upperspencergulf.com.au](mailto:ceo@upperspencergulf.com.au) or mobile: 0427 609 404.

Yours sincerely



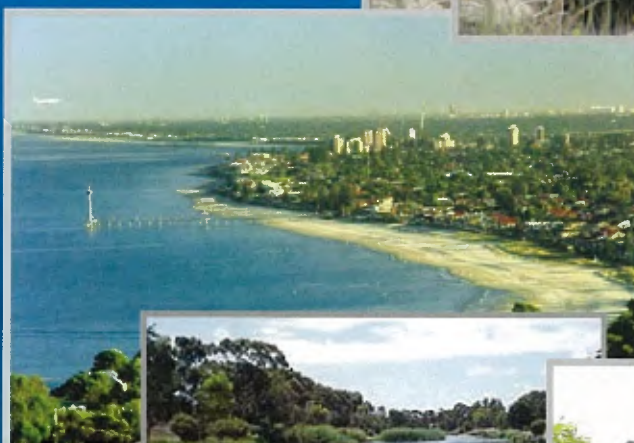
Anita Crisp  
Project Coordinator  
SA Coastal Councils Alliance

# Attachment 4



# Metropolitan Seaside Councils' Committee

## Working together for tomorrow's Coasts





## TABLE OF CONTENTS

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## About the Metropolitan Seaside Councils Committee

The Metropolitan Seaside Councils Committee (MSCC) is a successor unincorporated body to the former MSCC Inc. and is a body of Local Government representatives of long standing, pre-dating the Coast Protection Act of 1972, which established the Coast Protection Board.

Concern by metropolitan councils over increasing storm damage led to a predecessor of the current MSCC commissioning the University of Adelaide to undertake a study of metropolitan beaches. The outcome of this study – The Culver Report 1970 – proposed both the modern sand replenishment strategy and a Coast Protection Act.

The MSCC has existing links to the Coastal Protection Board, through the Chair of the MSCC being an advisory member of the Board, Natural Resources Adelaide and Mount Lofty Ranges Region and Adelaide Shores (West Beach Trust). Council staff representatives are drawn from parks, engineering and planning departments, at middle to senior management level.

The MSCC provides a valuable forum for councils to develop a common response to shared concerns, to facilitate collaboration to source funding to address priority concerns across council boundaries, and to raise the profile of our coastal environments. Other benefits to councils include preparation of submissions on coastal issues during public consultation on government initiatives which specifically relate to the coastal environment.





# TERMS OF REFERENCE

## 1. PRELIMINARY

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### 1.1. Name

The name of this unincorporated association is the "Metropolitan Seaside Councils' Committee".

### 1.2. Interpretation

In these Terms of Reference unless the contrary is apparent:

- 1.2.1. "Act" means the *Local Government Act 1999* (SA).
- 1.2.2. "Council" means a council constituted under the Local Government Act 1999 and any other authority of a local government nature constituted or established under South Australian legislation.
- 1.2.3. "Representative" means a representative appointed by a Member Council for the purposes of these Terms of Reference to represent a Member Council at meetings of MSCC.
- 1.2.4. "Elected Member" means any councillor of a Council.
- 1.2.5. "Host Council" means the Member Council that is chosen to be the Host Council for the MSCC for the term of 4 years.
- 1.2.6. "Member Council" means a Council which is a signatory to the MSCC Memorandum of Understanding.
- 1.2.7. "MSCC" means the Metropolitan Seaside Councils Committee.
- 1.2.8. "Suitable advisory organisation" means a Government entity or other association which meets the requirements of the MSCC for membership.
- 1.2.9. Words importing the masculine gender include the feminine gender and vice versa.
- 1.2.10. Words importing the singular include the plural and vice versa.



## 2. AIMS AND OBJECTS

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### 2.1. Aims

The principal aims of the MSCC are to:

- 2.1.1. Ensure the maintenance and improvement of coastal environments;
- 2.1.2. Re-establish and rehabilitate coasts areas where possible;
- 2.1.3. Determine the present and future conditions of the Adelaide metropolitan coast, and the best method of preserving and improving the foreshore and beaches.
- 2.1.4. Develop strategic partnerships to protect, enhance and promote the coast.

### 2.2. Objects

The Primary Objects of the MSCC are to:

- 2.2.1. Promote cooperation between Member Councils and advisory organisations and stakeholders, and coordinate actions on issues of regional significance regarding the sustainability of the urban coastal environment.
- 2.2.2. Ensure the co-operation and co-ordination of all the Member Councils and advisory organisations and stakeholders to take any action necessary for the improvement and betterment of facilities, amenities and conveniences in order to provide enjoyment and recreation to the public.
- 2.2.3. Represent the Member Councils and advocate on issues relating to the sustainability of coastal and estuarine environments to regional, state and federal bodies.
- 2.2.4. Facilitate the sustainable and integrated planning and management of natural and built coastal and estuarine assets.
- 2.2.5. Identify and address emerging issues affecting metropolitan coasts and estuaries, including any human impacts upon St Vincent's Gulf, through research and project development.
- 2.2.6. Facilitate knowledge and tools development and exchange to enhance community awareness and engagement on sustainability of coasts and estuaries.
- 2.2.7. Develop strategic partnerships with other appropriate organisations to devise, prioritise and implement protection strategies and address emerging issues which affect the metropolitan coast.





### 3. POWERS OF THE MSCC

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- 3.1. To associate with other associations (both incorporated and unincorporated), clubs and organisations having similar objects to those of the MSCC.
- 3.2. To seek funding through the Host Council for suitable coastal management projects.
- 3.3. To publish material such as reports and papers.
- 3.4. To do things which are conducive to the Objects of these Terms of Reference and to further the interests of the MSCC.
- 3.5. To as required, with the assistance of the Host Council, raise funds at any time from Government Grants or other external sources as required to carry out the aims and objectives of the MSCC.
- 3.6. To as required, utilise the funds of the MSCC held by the HOST Council as necessary to carry out the aims and objectives of the MSCC.

### 4. MEMBERSHIP AND VOTING

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#### 4.1. Eligibility for Membership

- 4.1.1. A Council shall be eligible for membership if the Council has a coastal boundary as defined by the Coast Protection Board's Metropolitan Coastal Protection District and has signed the MSCC Memorandum of Understanding.
- 4.1.2. Eligible Member Councils and suitable advisory organisations shall each be represented by two Representatives from each organisation - one elected member and one officer of a Council, or two staff of an advisory organisation.

#### 4.2. Appointment of Representatives

- 4.2.1. The recording of the names and contact details of all Representatives, the date of appointment and the Member Council they represent shall be the responsibility of the Host Council.
- 4.2.2. The appointment of additional Representatives to the MSCC shall be at the discretion of, and in a manner determined by, the Member Council's.
- 4.2.3. The office of a Representative shall become vacant if:
  - 4.2.3.1. The Representative resigns by letter addressed to the Council which appointed him/her;
  - 4.2.3.2. The Representative is replaced by his/her Council at any time.
  - 4.2.3.3. The Representative ceases to remain an Elected Member or staff member of that Council.
- 4.2.4. Where the office of a Representative becomes vacant, the Council concerned may appoint another Representative.



#### 4.3. Voting

- 4.3.1. Each Member Council will have one vote per Representative;
- 4.3.2. Advisory organisations invited by the MSCC to participate in its meetings will not have voting rights;
- 4.3.3. The Chairperson shall have a deliberative vote only.

#### 4.4. Opportunity and respect

- 4.4.1. All Members of the MSCC will be provided with equal opportunity in an atmosphere of equal respect in discussions and voting.

### **5. INDEMNITY AND INSURANCE**

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- 5.1. The Representatives of each Member Council will be protected by the general protections for Council members and employees as provided for in the Act.

### **6. HOST COUNCIL**

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- 6.1. The Representatives shall at the Meeting following the Local Government elections elect a Host Council from amongst the Member Councils of the MSCC which have indicated a willingness to accept that position and role.
- 6.2. The Host Council will maintain that position for a term, being the four years between Local Government periodic elections.
- 6.3. A Host Council shall not be elected to this position for any more than two consecutive terms.
- 6.4. The Host Council will provide administration services and support to assist in the ongoing management of the MSCC, as well as hosting the MSCC's meetings.
- 6.5. The Host Council will maintain an account to hold the funds of the MSCC and will provide access to those funds when requested.
- 6.6. The Host Council will pursue funding on behalf of the MSCC when required.
- 6.7. The Host Council shall keep and retain proper books of accounts and records of accounting records and meeting proceedings to correctly record and explain the financial transaction and financial position of the MSCC.
- 6.8. The Host Council will receive and bank all monies and issue receipts for the same, pay all accounts which have been passed by the MSCC and shall keep a proper record of all such receipts and payments in such a manner as an auditor may determine.
- 6.9. The Host Council shall prepare or have prepared a full financial statement and balance sheet annually.





## **7. CHAIRPERSON**

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- 7.1. The Representatives shall appoint a Chairperson from the Representatives of the Host Council as well as a Vice Chairperson from the other Representatives of the MSCC.
- 7.2. The Chairperson or in his/her absence, a Vice Chairperson shall preside at all meetings of the MSCC.
- 7.3. The Chairperson and Vice Chairperson shall hold office for a period of 4 years.
- 7.4. The Chairperson and Vice Chairperson may be removed from office at any time by a resolution carried by two thirds of the MSCC Representatives.
- 7.5. If at any stage the office of Chairperson or Vice Chairperson becomes vacant a replacement Chairperson may be appointed by the MSCC to hold office for the balance of the term of the original appointment.

## **8. MEETINGS**

---

- 8.1. Meetings of the MSCC shall be held at regular quarterly intervals. The MSCC may also choose to hold additional meetings throughout the year.
- 8.2. 14 days' notice of a meeting will be given to all Members. The notice shall set out where and when the meeting will be held, and particulars of the nature and order of the business to be transacted at the meeting.
- 8.3. The notice may be delivered by email or by post.
- 8.4. Meetings of the MSCC will be held at the Host Council's offices which will be the official address of the MSCC or at an agreed location as notified.
- 8.5. The quorum of any meeting of the MSCC shall be the attendance of at least one Representative from a minimum of half the Member Councils plus one.
- 8.6. If there are insufficient Members present to constitute a quorum, the meeting shall take place but no decisions will be made.
- 8.7. An ordinary resolution is a resolution passed by a simple majority at a meeting.

## **9. MINUTES**

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- 9.1. Minutes of all proceedings of meetings of the MSCC shall be entered within one month after the relevant meeting in minute books for the purpose.
- 9.2. The minutes kept pursuant to this rule must be confirmed by the Representatives at a subsequent meeting.



- 9.3. The minutes kept pursuant to this rule shall be signed by the Chairperson of the meeting at the succeeding meeting at which the minutes are confirmed.

## **10. ALTERATION TO THE TERMS OF REFERENCE**

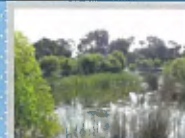
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These Terms of Reference may be amended by a resolution of two thirds of all the Member Council's.

## **11. DISSOLUTION**

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- 11.1. The MSCC may be dissolved or wound up by resolution of two thirds of all the Member Council's.
- 11.2. If after the winding up of the association there remains 'surplus funds', these funds are to be distributed amongst the Member Councils in an equal proportion.



Item No: **14.6**

Subject: **BY-LAW REVIEW**

Date: 9 July 2019

Written By: Manager Regulatory Services

General Manager: City Assets and Services, Mr H Lacy

---

### **SUMMARY**

The City of Holdfast Bay's draft By-laws were endorsed for public consultation and submission to both the Dog and Cat Management Board and the Minister of Transport on 26 March 2019.

The results of the public consultation and submissions are presented in this report. Minor amendments and wording changes have been made to the draft By-laws based on the feedback received.

If endorsed by Council, the By-laws are then referred to the Legislative Review Committee and if approved, are gazette by publication in the Government Gazette. The By-laws commence operation 4 months from the date of their gazettal.

As Council's existing By-laws expire on 31 December 2019, the new By-Laws will need to be gazetted no later than 31 August 2019 to be in effect by 1 January 2020.

---

### **RECOMMENDATION**

#### **That Council:**

- 1. in exercise of the powers contained in Section 246 of the Local Government Act 1999, having satisfied the consultation requirements of the Act and having had regard to the submissions received from the public, the National Competition Policy Report, the Certificates of Validity provided by the Council's legal practitioner and the comments from the Dog and Cat Management Board in relation to By-Laws Number 5 and 6, the majority of Council, in the presence of at least two thirds of its members, hereby makes and passes the following By-laws as attached and marked 'Attachment 1 (a to f)';**
  - **Permits and Penalties By-law No. 1 of 2019;**
  - **Moveable Signs By-law No. 2 of 2019;**
  - **Local Government Land By-law No. 3 of 2019;**
  - **Roads By-law No. 4 of 2019;**
  - **Dogs By-law No. 5 of 2019; and**

- **Cats By-law No. 6 of 2019.**
- 2. that the Chief Executive officer be authorised to undertake all steps necessary to finalise the By-law review process and to give effect to the newly adopted By-laws.**
- 

## **COMMUNITY PLAN**

Placemaking: Creating Lively and Safe Places  
Environment: Protecting Biodiversity

## **COUNCIL POLICY**

Not Applicable

## **STATUTORY PROVISIONS**

*Local Government Act 1999*

## **BACKGROUND**

Council Report No: 110/19 - meeting held 26 March 2019.

Council's current by-laws cease to operate on 31 December 2019. Hence a new, updated suite of By-laws are required to be put in place for a further period of 7 years, which should commence from 1 January 2020.

*Refer Attachment 1 (a-f)*

Draft By-Laws were prepared by Council's lawyers following internal review by Administration and Council. Following this process, the draft By-laws were endorsed by Council at its meeting on 26 March 2019. Draft By-Law No's 5 and 6 were then submitted to the Dog and Cat Management Board with draft By-law No's 3 and 4 submitted to the Minister for Transport respectively for review and concurrence as required by legislation.

Following concurrence from these authorities, the By-laws were then presented for public consultation for 21 days.

The draft By-laws were further modified based on community feedback and are now ready for final endorsement by Council. Following Council's resolution, the By-laws are referred to the Legislative Review Committee and if approved, are gazette by publication in the Government Gazette. The By-laws commence operation 4 months from the date of their gazettal.

As Council's existing By-laws expire on 31 December 2019, the new By-Laws need to be gazetted no later than 31 August 2019 to be in effect by 1 January 2020.



## REPORT

### Agency Feedback

Details of the feedback received from the Department of Planning, Transport and Infrastructure and the Dog and Cat Management Board are summarized as follows:

**a) By-law No 3 - Feedback from Department of Planning, Transport and Infrastructure**

The Department of Planning, Transport and Infrastructure reviewed By-Law No.3 – Local Government Land and had no comments, including no comments on the new foreshore clauses included in the draft By-law.

*Refer Attachment 2*

**b) By-law No 5 and 6 - Feedback from Dog and Cat Management Board**

The Dog and Cat Management Board's only suggestion for the dog by-law (draft By-Law 5) was to match the definition of "assistance dog" with the definition within the Dog and Cat Management Act. This has been amended in the updated draft by-law.

*Refer Attachment 3(a and b)*

### Public Consultation

A report presenting results of the public consultation is attached at Attachment 4. In summary, there was support for the draft By-laws, with a number of requests for additional wording to protect Hooded Plovers. There were 2 submissions received after the consultation deadline, with feedback also supporting changes to the draft By-laws regarding Hooded Plovers. Below is a discussion about the feedback received.

*Refer Attachment 4 (a and b)*

**a) Hooded Plovers**

Nine (9) submissions were in regards to the draft Dog By-law No 5 and the topic of Hooded Plovers. Three (3) submissions raised issues requesting that the terminology in Clause 6.7 of the draft Dog By-law be amended to include that dogs remain on leashes near Hooded Plovers for the entire breeding period, not just when the eggs are present.

The definition of Hooded Plover breeding site (clause 6.7) has been changed to include "eggs or chick(s)"

Further to this, the term "effective control" was discussed ensuring the by-law's definition includes that dogs are kept on a leash and remain a safe distance from the breeding site and other wildlife and animals.

The draft Dogs by-law has been changed to better define the term “effective control”.

Eight (8) submissions commended the draft Dog By-laws with the new inclusion of Hooded Plover protections.

**b) Cat By-law No 6**

One (1) submission was received regarding the draft Cat By-laws No 6 in reference to cat control, specifically for owners to have their cats under control 24/7.

This presents some challenges unless the cats are kept inside at all times. The draft Cat By-law does however require cats to be under control to the extent that they are not allowed to cause a nuisance. No changes were made to draft wording.

**c) Road By-law No 4**

One (1) submission was regarding the draft Roads by-law. To ensure Clause 3.1 of the draft By-law is being met, the submission suggested additional context be added to “implement and review traffic management principles for all council roads including the Esplanade”. This submission also included a request for skateboards to be added to point 7.7.1.

Administration received legal advice recommending not to change clause 3.1 of the draft Roads by-law. The purpose of this by-law is to manage and control certain uses of roads. Council already reviews traffic management through other means and therefore changes are not necessary.

Furthermore, they do not recommend adding an additional clause banning skateboards from roads. The Australian Road Rules allow for skateboarding on certain roads. Section 239 of the Local Government Act does not list "restricting certain vehicles" as a measure that Councils can enforce within road by-laws. Finally, Council already has clause 9.41 of the Local Government Land By-law No 3, which bans wheeled recreational devices (including skateboards) from areas resolved by the Council.

**d) Local Government Land By-Law 3 - Activities around Jetties**

One (1) submission raised issues in Local Government By-law 3 regarding activities around jetties, in particular at Clause 9.27 jetty jumping and 9.8.1 bathing. The submission requested both these points be removed.

It is recommended that both these sections will remain in the by-law in the interest of public safety.

### **Purpose of By-laws**

Council's updated By-laws aim to do the following:

- a) Provide a safe environment for residents, visitors and business
- b) Maintain Council facilities to meet the expectations of the community
- c) Prohibit, regulate and control activities that may have an adverse effect on residents, visitors, businesses or any of council's facilities, land or infrastructure.

### **Matters to which Council must have regard**

Council **must** have regard to the following information and documents in making and endorsing the By-laws:

- a) response from the Dog and Cat Management Board;  
*Refer Attachment 3a and 3b*
- b) approval from DPTI for the Local Government Land By-law No 4;  
*Refer Attachment 2*
- c) draft By-Laws attached including the attached Certificates of Validity;  
*Refer Attachment 1a to 1f*
- d) National Competition Policy report;  
*Refer Attachment 5*
- e) the outcome and feedback from public consultation.  
*Refer Attachment 4a and 4b*

Once endorsed the by-laws will then be sent for parliamentary scrutiny (Legislative Review Committee). The By-laws then need to be published in the Government Gazette no later than 31 August 2019. The By-laws commence operation 4 months from the date they are gazetted.

### **BUDGET**

There are no budget implications at this stage unless there are extensive changes required which will require additional support from the lawyers involved in the process.

### **LIFE CYCLE COSTS**

There are no full life cycle costs associated with this by-law except for the subsequent 7 year reviews.

# Attachment 1a



SECTION 249 LOCAL GOVERNMENT ACT 1999

**CERTIFICATE OF VALIDITY**

I, RONAN EMMET O'BRIEN of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law:

**City of Holdfast Bay**

**By-law No 1 – Permits and Penalties By-Law 2019**

*A By-law to create a permit system for Council By-laws, to fix maximum and continuing penalties for offences, and to clarify the construction of Council By-laws;*

and do certify that in my opinion:


City of Holdfast Bay

has the power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1999: sections 246(1), 246(2), 246(3)(a), 246(3)(c), 246(3)(f) and 246(3)(g);*

and the by-law is not in conflict with the *Local Government Act 1999*.

**DATED** the 14<sup>th</sup> day of June 2019

.....  


Ronan O'Brien, Legal Practitioner



**CITY OF HOLDFAST BAY**  
**PERMITS AND PENALTIES BY-LAW 2019**  
**By-law No. 1 of 2019**

*This By-law is to create a permit system for Council By-laws, to fix maximum and continuing penalties for offences, and to clarify the construction of Council By-laws.*

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3. Purpose.....2

4. Commencement, revocation and expiry.....2

5. Application.....2

6. Interpretation.....2

7. Construction of By-laws generally .....3

**PART 2 – PERMITS AND PENALTIES.....3**

8. Permits .....3

9. Offences and Penalties .....3

## PART 1 -PRELIMINARY

### 1. Title

This By-law may be cited as the *Permits and Penalties By-law 2019* and is By-law No. 1 of the City of Holdfast Bay.

### 2. Authorising law

This By-law is made under section 246 of the Act.

### 3. Purpose

The objectives of this By-law are to provide for the good rule and government of the Council area, and for the convenience, comfort and safety of its inhabitants by:

- 3.1 creating a permit system for Council By-laws;
- 3.2 providing for the enforcement of breaches of Council By-laws and fixing penalties; and
- 3.3 clarifying the construction of Council By-laws.

### 4. Commencement, revocation and expiry

4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation<sup>1</sup>:

By-Law No.1 – Permits and Penalties 2012.<sup>2</sup>

4.2 This By-law will expire on 1<sup>st</sup> January 2027.<sup>3</sup>

#### Note-

1. Generally, a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

### 5. Application

This By-law applies throughout the Council's area.

### 6. Interpretation

In this By-law, unless the contrary intention appears;

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **Council** means the City of Holdfast Bay; and
- 6.3 **person** includes a natural person, a body corporate, an incorporated association or an unincorporated association.

**Note-**

Section 14 of the Acts *Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Act.

**7. Construction of By-laws generally**

- 7.1 Every By-law of the Council is subject to any Act of Parliament and Regulations made thereunder.
- 7.2 In any By-law of the Council, unless the contrary intention appears **permission** means permission of the Council, or such other person as the Council may authorise, granted in writing (including, by way of the Council adopting a policy of general application for this purpose) prior to the act, event or activity to which it relates.

**PART 2 – PERMITS AND PENALTIES****8. Permits**

- 8.1 Where a By-law requires that permission be obtained any person seeking the grant of permission must submit a written application to the Council in the form (if any) and accompanied by the fee (if any) prescribed by the Council.
- 8.2 The Council (or such other person as the Council may authorise) may attach such conditions as it thinks fit to a grant of permission and may vary or revoke such conditions or impose new conditions by notice in writing to the person granted permission.
- 8.3 A person granted permission must comply with every such condition. Failure to do so is an offence (to the extent that it gives rise to a contravention of a By-law).
- 8.4 The Council (or such other person authorised by the Council) may suspend or revoke a grant of permission at any time by notice in writing to the person granted permission.

**9. Offences and Penalties**

- 9.1 A person who commits a breach of any By-law of the Council is guilty of an offence and may be liable to pay:
- 9.1.1 a maximum penalty being the maximum penalty referred to in the Act that may be fixed by a By-law for any breach of a By-law
- 9.1.2 subject to any resolution of the Council to the contrary, the expiation fee fixed by the Act for alleged offences against By-laws, being a fee equivalent to 25 per cent of the maximum penalty fixed for any breach of a By-law.

**Note-**

A person who commits a breach of a By-law of the Council of a continuing nature is guilty of an offence and, in addition to any other penalty that may be imposed, is liable to a further penalty for every day on which the offence continues, such penalty being the maximum amount referred to in the Act that may be fixed by a By-law for a breach of a By-law of a continuing nature.

The maximum penalty for a breach of a By-law is currently \$750.00, and the maximum penalty for every day in which a breach of a continuing nature continues is currently \$50.00 – see section 246(3)(g) of the Act.



Pursuant to section 246(5) of the Act expiation fees may be fixed for alleged offences against by-laws either by a by-law or by resolution of the Council. However, an expiation fee fixed by the Council cannot exceed 25 per cent of the maximum penalty for the offence to which it relates.

This By-law was duly made and passed at a meeting of the City of Holdfast Bay held on **INSERT DATE 2019** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....  
ROBERTO BRIA  
Acting Chief Executive Officer

# Attachment 1b



SECTION 249 LOCAL GOVERNMENT ACT 1999

**CERTIFICATE OF VALIDITY**

I, RONAN EMMET O'BRIEN of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law:

**City of Holdfast Bay**

**By-law No 2 – Moveable Signs By-Law 2019**

*A By-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs for the purpose of protecting visual amenity and public safety;*

and do certify that in my opinion:

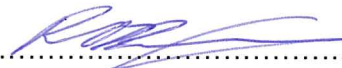
City of Holdfast Bay

has the power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1999*: sections 226, 238, 239(1)(a), 246(1), 246(2), 246(3)(a), 246(3)(c), 246(3)(f) and 246(3)(h)(iii);

and the by-law is not in conflict with the *Local Government Act 1999*.

**DATED** the 14<sup>th</sup> day of June 2019

.....  


Ronan O'Brien, Legal Practitioner



**CITY OF HOLDFAST BAY**  
**MOVEABLE SIGNS BY-LAW 2019**  
**By-law No. 2 of 2019**

*A By-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs for the purpose of protecting visual amenity and public safety.*

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13. Removal of Moveable Signs .....6

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## PART 1 – PRELIMINARY

### 1. Title

This By-law may be cited as the *Moveable Signs By-law 2019* and is By-law No. 2 of the City of Holdfast Bay.

### 2. Authorising law

This By-law is made under sections 226, 238, 239 and 246 of the Act.

### 3. Purpose

The objectives of this By-law are to set standards for moveable signs on roads:

- 3.1 to protect the comfort and safety of road users and members of the public;
- 3.2 to enhance the amenity of roads and surrounding parts of the Council area;
- 3.3 to prevent nuisances occurring on roads;
- 3.4 to prevent unreasonable interference with the use of a road; and
- 3.5 for the good rule and government of the Council area.

### 4. Commencement, revocation and expiry

4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation<sup>1</sup>:

By-Law No.2 - Moveable Signs 2012.<sup>2</sup>

4.2 This By-law will expire on 1 January 2026.<sup>3</sup>

#### Note -

1. Generally, a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

### 5. Application

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2019*.
- 5.2 This By-law applies throughout the Council's area and is subject to the exemptions set out in clause 12.

### 6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;

- 6.2 **authorised person** means a person appointed as an authorised person pursuant to section 260 of the Act;
- 6.3 **business premises** means premises from which a business is being conducted.
- 6.4 **Council** means the City of Holdfast Bay;
- 6.5 **footpath area** means:
- 6.5.1 that part of a road between the property boundary of the road and the edge of the carriageway on the same side as that boundary;
- 6.5.2 a footway, laneway or other place made or constructed for the use of pedestrians and not for the use of vehicles;
- 6.6 **Local Government land** has the same meaning as in the Act;
- 6.7 **moveable sign** has the same meaning as in the Act;
- 6.8 **road** has the same meaning as in the Act; and
- 6.9 **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

**Note-**

Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

## **PART 2 – MOVEABLE SIGNS**

### **7. Construction**

A moveable sign must:

- 7.1 be of a kind known as an 'A' frame or sandwich board sign, an 'inverted 'T'' sign, a flat sign, or, with the permission of the Council (including as may be set out in a Council policy from time to time), a sign of some other kind;
- 7.2 be designed, constructed and maintained in good condition so as not to present a hazard to any member of the public;
- 7.3 be of strong construction and sufficiently stable or securely fixed in position so as to keep its position in any adverse weather conditions;
- 7.4 not contain any sharp or jagged edges or corners;
- 7.5 not be unsightly or offensive in appearance or content;
- 7.6 not rotate or contain moving parts;
- 7.7 be constructed of timber, cloth, metal, plastic or plastic coated cardboard, or a mixture of such materials;

- 7.8 not contain flashing lights or be illuminated internally;
- 7.9 not have balloons, flags, streamers or other things attached to it;
- 7.10 not be more than 1100mm high, 700mm wide and 700mm deep;
- 7.11 not have a display area exceeding 700mm square in total or, if the sign is two sided, 700mm square on each side;
- 7.12 in the case of an 'A' frame or 'sandwich board' sign:
  - 7.12.1 be hinged or joined at the top;
  - 7.12.2 be of such construction that its sides are securely fixed or locked in position when erected; and
- 7.13 in the case of an 'inverted 'T'' sign, contain no struts or supports that run between the display area and the base of the sign.

## 8. Appearance

A moveable sign must, in the opinion of an authorised person:

- 8.1 be painted or otherwise detailed in a competent and professional manner;
- 8.2 be aesthetically appealing, legible and simply worded to convey a precise message;
- 8.3 be of such design and contain such colours as are compatible with the architectural design of the premises adjacent to the sign, and which relate well to the townscape and overall amenity of the locality in which it is situated and which do not detract from or conflict with traffic, safety or direction signs or signals; and
- 8.4 contain combinations of colour and typographical styles which blend in with and reinforce the heritage qualities of the locality and the buildings where it is situated.

## 9. Placement

A moveable sign must:

- 9.1 only be placed on the footpath area of a road;
- 9.2 where there is no kerb to define the footpath area, be set back from the edge of the carriageway by no less than 400mm;
- 9.3 in the case of a flat sign, the message of which only contains newspaper headlines and the name of a newspaper, be in line with and against the business to which it relates;
- 9.4 be placed no less than 2 metres from any structure, fixed object, tree, bush or plant (including another moveable sign);
- 9.5 be placed directly in front of the business premises to which it relates;

- 9.6 not be placed on a sealed part of any footpath area unless the sealed part is wide enough to contain the sign and still leave a clear thoroughfare of at least
- 9.7 1.8 metres;
- 9.8 not be placed on a road where the width of the road (including the footpath area and the carriageway) is less than 4 metres;
- 9.9 not be placed within 10 metres of the corner of a road;
- 9.10 not be placed on a landscaped area;
- 9.11 not be placed on a designated parking area or within 1 metre of an entrance to or exit from premises;
- 9.12 not unreasonably restrict the use of the footpath area; and
- 9.13 not be placed in such a position or in such circumstances that:
  - 9.13.1 it compromises the safety of any person or places a person at risk of harm; or
  - 9.13.2 it obstructs or impedes (or would be likely to obstruct or impede) a vehicle door when opened, provided that the vehicle is parked lawfully on a road.

## 10. Restrictions

- 10.1 A moveable sign must:
  - 10.1.1 only display material which advertises a business being conducted on business premises adjacent to the sign or the products available from that business;
  - 10.1.2 be limited in number to one moveable sign per business premises;
  - 10.1.3 only be displayed when the business to which it relates is open to the public;
  - 10.1.4 not be displayed during the hours of darkness unless it is in a clearly lit area and is clearly visible; and
- 10.2 A moveable sign must not, without the Council's permission, be displayed on any road, footpath or local government land within Moseley Square.
- 10.3 A moveable sign must not be displayed on any road, footpath or local government land along Jetty Road, Glenelg.
- 10.4 If in the opinion of the Council a road is unsafe for a moveable sign to be displayed, the Council may by resolution prohibit or restrict the display of a moveable sign thereon on such conditions as the Council thinks fit.

## 11. Moveable Signs on Vehicles

A person must not, without the Council's permission, display or cause to be displayed a moveable sign on or attached to or adjacent to a vehicle that is parked on Local Government



land or a road primarily for the purpose of advertising or offering for sale a product (including the vehicle) or business to which the sign relates.

## 12. Exemptions

- 12.1 Subclauses 9.5 and 10.1 do not apply to a moveable sign which is used:
- 12.1.1 to advertise a garage sale taking place from residential premises;
  - 12.1.2 as a directional sign to an event run by an incorporated association or a charitable body; or
- 12.2 Subclause 10.1 does not apply to a flat sign the message of which only contains newspaper headlines and the name of a newspaper and which must be displayed and located flat against a wall of the business premises at all times.
- 12.3 A requirement of this By-law will not apply where the Council has granted permission (which may include by way of adopting a policy for this purpose) for a moveable sign (or class of moveable sign) to be displayed contrary to that requirement.

### Note-

This By-law does not apply to moveable signs placed and maintained on a road in accordance with section 226(3) of the Act, which includes any sign:

- placed there pursuant to an authorisation under the Act or another Act; or
- designed to direct people to the open inspection of any land or building that is available for purchase or lease; or
- related to a State or Commonwealth election and is displayed during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or related to an election held under this Act or the *Local Government (Elections) Act 1999* and is displayed during the period commencing four (4) weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day.

## 13. Removal of Moveable Signs

- 13.1 If:
- 13.1.1 the design or construction of a moveable sign that has been placed on a road does not comply with a requirement of this By-law; or
  - 13.1.2 the positioning of a moveable sign does not comply with a requirement of this By-law; or
  - 13.1.3 any other relevant requirement of this By-law is not complied with; or
  - 13.1.4 the moveable sign unreasonably:
    - 13.1.4.1 restricts the use of the road; or
    - 13.1.4.2 endangers the safety of members of the public,
- an authorised person may order the owner of the sign to remove the sign from the road.
- 13.2 A person must comply with an order of an authorised person made pursuant to subparagraph 13.1 of this By-law.

- 13.3 If the authorised person cannot find the owner, or the owner fails to comply with the order of an authorised person, the authorised person may remove and dispose of the moveable sign.
- 13.4 The owner of or other person entitled to recover a moveable sign removed by an authorised person pursuant to section 227(2) of the Act, may be required to pay to the Council any reasonable costs incurred by the Council in removing, storing, and/or disposing of the moveable sign before being entitled to recover the moveable sign.
- 13.5 The owner, or other person responsible for a moveable sign must remove or relocate the moveable sign at the request of an authorised person:
  - 13.5.1 if, in the opinion of an authorised person, and notwithstanding compliance with this By-law, there is any hazard or obstruction or there is likely to be a hazard or obstruction arising out of the location of the moveable sign; or
  - 13.5.2 for the purpose of special events, parades, roadworks or in any other circumstances which, in the opinion of the authorised person, require relocation or removal of the moveable sign to protect public safety or to protect or enhance the amenity of a particular locality.

**14. Liability of vehicle owners**

- 14.1 For the purposes of this clause 14, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 14.2 The owner and the driver of a vehicle driven, parked or standing in contravention of this By-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the City of Holdfast Bay held on **INSERT DATE** 2019 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....  
ROBERTO BRIA  
Acting Chief Executive Officer

# Attachment 1c



SECTION 249 LOCAL GOVERNMENT ACT 1999

**CERTIFICATE OF VALIDITY**

I, RONAN EMMET O'BRIEN of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law:

**City of Holdfast Bay**

**By-law No 3 – Local Government Land By-Law 2019**

*A By-law to manage and regulate the access to and use of Local Government land (other than roads), and certain public places;*

and do certify that in my opinion:

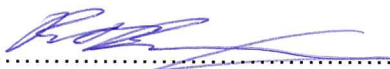
City of Holdfast Bay

has the power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1999: sections 238, 246(1), 246(2), 246(3)(a), 246(3)(c), 246(3)(e), 246(3)(f) and 246(3)(h)(iii); and  
Harbors and Navigation Act 1993: section 18A.*

and the by-law is not in conflict with the *Local Government Act 1999*.

**DATED** the 14<sup>th</sup> day of June 2019



.....  
Ronan O'Brien, Legal Practitioner



**CITY OF HOLDFAST BAY**

**LOCAL GOVERNMENT LAND BY-LAW 2019**

**By-law No. 3 of 2019**

*A By-law to manage and regulate the access to and use of Local Government land (other than roads), and certain public places.*

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## **PART 1 – PRELIMINARY**

### **1. Title**

This By-law may be cited as the *Local Government Land By-law 2019* and is By-law No. 3 of the City of Holdfast Bay.

### **2. Authorising law**

This By-law is made under sections 238 and 246 of the Act and section 18A of the *Harbors and Navigation Act 1993*.

### **3. Purpose**

The objectives of this By-law are to regulate the access to and use of Local Government land (other than roads), and certain public places:

- 3.1 to prevent and mitigate nuisances;
- 3.2 to prevent damage to Local Government land and promote conservation of the foreshore;
- 3.3 to protect the convenience, comfort and safety of members of the public;
- 3.4 to enhance the amenity of the Council area; and
- 3.5 for the good rule and government of the Council's area.

### **4. Commencement, revocation and expiry**

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation<sup>1</sup>:

By-law No.3 – Local Government Land 2012.<sup>2</sup>

- 4.2 This By-law will expire on 1 January 2027.<sup>3</sup>

#### **Note-**

1. Generally, a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

### **5. Application**

- 5.1 This By-law operates subject to the Council's Permits and Penalties By-law 2019.
- 5.2 Subject to subclauses 5.3 and 5.4, this By-law applies throughout the Council area.
- 5.3 Subclauses 9.2, 9.4.2, 9.9.2, 9.9.5, 9.25.1, 9.25.3, 9.25.4, 9.29.2, 9.31, 9.42, 10.2 and 10.7 of this By-law only apply in such part or parts of the Council area as the Council may, by resolution direct in accordance with section 246(3)(e) of the Act.

- 5.4 Subclauses 9.4.4, 9.9.1, 9.9.3, 9.9.4 and 9.13.2 of this By-law apply throughout the Council area except in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

## 6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **animal or animals** includes birds and insects but does not include a dog;
- 6.3 **aquatic life** means any animal or plant living or growing in water including, but not limited to, yabbies, molluscs, fish, insects, insect pupa or larvae and water plants
- 6.4 **authorised person** is a person appointed by the Council as an authorised person under section 260 of the Act;
- 6.5 **boat** includes a raft, pontoon, houseboat, personal watercraft or other similar device;
- 6.6 **boat ramp** means a facility constructed, maintained and operated for the launching and retrieval of a boat;
- 6.7 **camp** includes setting up a camp, or causing a tent, swag and/or similar bedding, a caravan or motor home to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land or foreshore;
- 6.8 **Council** means the City of Holdfast Bay;
- 6.9 **electoral matter** has the same meaning as in the *Electoral Act 1985* provided that such electoral matter is not capable of causing physical damage or injury to any person within its immediate vicinity;
- 6.10 **effective control** means a person exercising effective control of an animal either:
- 6.10.1 by means of a physical restraint; or
- 6.10.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.11 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules-Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.12 **foreshore** means land owned by or under the Council's care, control and management (including a road) that:
- 6.12.1 extends from the low water mark on the seashore to the nearest road or section boundary, or to a distance of 50 metres from high water mark (whichever is the lesser distance) or;
- 6.12.2 extends from the edge of any other navigable waterway or body of water in the Council's area to the nearest road or section boundary or for a distance of 50 metres (whichever is the lesser).

- 6.13 **funeral ceremony** means a ceremony only (i.e. a memorial service) and does not include a burial;
- 6.14 **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;
- 6.15 **Local Government land** means all land owned by the Council or under the Council's care, control and management (except roads);
- 6.16 **low water mark** means the lowest meteorological tide;
- 6.17 **offensive** includes threatening, abusive, insulting or annoying behaviour and offend has a complementary meaning;
- 6.18 **open container** means a container that after the contents of the container have been sealed at the time of manufacture:
- 6.18.1 being a bottle, it has had its cap, cork or top removed (whether or not it has since been replaced);
  - 6.18.2 being a can, it has been opened or punctured;
  - 6.18.3 being a cask, it has had its tap placed in a position to allow it to be used;
  - 6.18.4 being any other form of container, it has been opened, broken, punctured or manipulated in such a way as to allow access to its contents; or
  - 6.18.5 is a flask, glass, mug or other container able to contain liquid.
- 6.19 **personal watercraft** means a device that –
- 6.19.1 is propelled by a motor; and
  - 6.19.2 has a fully enclosed hull; and
  - 6.19.3 is designed not to retain water if capsized; and
  - 6.19.4 is designed to be operated by a person who sits astride, stands, or kneels on the device,
- and includes the device commonly referred to as a jet ski;
- 6.20 **tobacco product** has the same meaning as in the *Tobacco Products Regulation Act 1997*;
- 6.21 **'road'** has the same meaning as in the Local Government Act 1999;
- 6.22 **'vehicle'** has the same meaning as in the *Road Traffic Act 1961*;
- 6.23 **waters** includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council; and
- 6.24 **wheeled recreational device** has the same meaning as in the *Road Traffic Act 1961*.



**Note-**

Section 14 of the Acts *Interpretation Act 1915* provides that an expression used in a By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

**PART 2 – ACCESS TO LOCAL GOVERNMENT LAND****7. Access****Note-**

Pursuant to section 238(3) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council should erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the By-law applies.

The Council may:

- 7.1 close, or regulate or restrict access to, any part of Local Government land to the public for specified times and days; and
- 7.2 fix charges or fees payable for entry onto any part of Local Government land.

**8. Closed lands**

A person must not without permission, enter or remain on any Local Government land:

- 8.1 which has been closed, or in respect of which access by the public is regulated or restricted in accordance with subclause 7.1;
- 8.2 where entry fees or charges are payable, without paying those fees or charges; or
- 8.3 where the land has been enclosed by fences and/or walls and gates that have been closed and locked.

**PART 3 – USE OF LOCAL GOVERNMENT LAND****9. Activities requiring permission****Note-**

Pursuant to section 238(3) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council should erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the By-law applies.

A person must not without the permission of the Council, do any of the following on Local Government land or, where stated, the foreshore.

**9.1 Advertising**

Display, paint or erect or cause to be displayed, painted or erected, on Local Government Land or a structure, building or fixture on Local Government Land any sign, advertising or hoarding for the purpose of commercial advertising or any other purpose.

**9.2 Alcohol**

Consume, carry or be in possession or in charge of any liquor on Local Government land comprising parks or reserves to which the Council has determined this paragraph applies.

### 9.3 **Amplification**

Use an amplifier or other mechanical or electrical device for the purpose of amplifying sound or broadcasting announcements or advertisements.

### 9.4 **Animals**

9.4.1 Cause or allow an animal to stray onto, move over, graze or be left unattended on Local Government land.

9.4.2 Cause or allow an animal to enter, swim, bathe or remain in any waters located on Local Government land to which the Council has resolved this subparagraph shall apply;

9.4.3 Cause or allow any animal to swim or bathe in any waters adjacent to the foreshore to the inconvenience, annoyance or danger of any other person bathing or swimming;

9.4.4 Take, drive or ride any horse, or allow it to remain, on the foreshore or to bathe in any waters adjacent the foreshore except between the hours of midnight and 9.00am and then only in such areas of the foreshore as the Council may be resolution direct and if the horse remains under effective control;

9.4.5 Lead, herd or exercise an animal, except where the Council has set aside a track or other area for use by or in connection with an animal of that kind, and provided that the animal or animals are under effective control.

### 9.5 **Annoyance**

Do anything likely to offend or unreasonably interfere with any other person:

9.5.1 using that land; or

9.5.2 occupying nearby premises,

by making noise or creating a disturbance.

### 9.6 **Aquatic Life**

Introduce any aquatic life to any waters located on Local Government Land.

### 9.7 **Attachments**

Subject to subclause 9.1, attach or cause to be attached, hang or fix anything to a tree, plant, equipment, fence, post, structure or fixture on Local Government land.

### 9.8 **Bathing**

In any waters adjacent the foreshore:

9.8.1 swim or bathe within five metres of any jetty; or

- 9.8.2 swim or bathe at a time when swimming or bathing in that place has been prohibited by resolution of the Council (for reasons of public safety) as indicated by a sign or signs displayed on or near the foreshore.

## 9.9 Boats & Mooring

Subject to the provisions of the *Harbors and Navigation Act 1993* and the *Marine Safety (Domestic Commercial Vessel) National Law*:

- 9.9.1 launch or retrieve a boat to or from any waters adjacent to or on any Local Government land or foreshore except in an area to which the Council has resolved this subclause applies;
- 9.9.2 launch or retrieve a boat from or to any Local Government land to which the Council has determined this subclause applies without using a boat ramp constructed and set aside by the Council for that purpose;
- 9.9.3 propel, float or otherwise use a boat on or in any waters except:
- (a) in an area to which the Council has determined this subclause applies; and
  - (b) in accordance with any conditions that the Council may have determined by resolution apply to that use.
- 9.9.4 hire out a boat or otherwise use a boat for commercial purposes except in an area to which the Council has resolved this subclause applies and other than in accordance with any conditions determined by resolution of the Council; or
- 9.9.5 moor any boat on or to Local Government land to which the Council has determined this subclause applies.

## 9.10 Bridge Jumping

Jump or dive from a bridge on Local Government land.

## 9.11 Buildings

Use a building, or structure on Local Government land for a purpose other than its intended purpose.

## 9.12 Burials and Memorials

- 9.12.1 Bury, inter or spread the ashes of any human or animal remains.

- 9.12.2 Erect any memorial.

## 9.13 Camping and Tents

- 9.13.1 Subject to this subclause 9.1, erect a tent or other structure of calico, canvas, plastic or similar material as a place of habitation for a period of 24 hours.

9.13.2 Camp or sleep overnight on Local Government land other than on an area which has been designated by resolution of the Council for that purpose and only then, in accordance with such time limits and other conditions determined by resolution of the Council and contained in any signage erected thereon.

**9.14 Canvassing**

Subject to subclause 14.2, convey any advertising, religious or other message to any bystander, passer-by or other.

**9.15 Charge Admission**

Charge admission or seek payment for entering any part of the foreshore.

**9.16 Defacing Property**

Deface, remove, paint, spray, write upon, cut names, letters or make marks on any tree, rock, gate, fence, object, monument, building, sign, bridge or property of the Council.

**9.17 Distribution**

Subject to subclause 14.2 and the *Local Nuisance and Litter Control Act 2016*, place on a vehicle (without the consent of the owner of the vehicle), or give out or distribute any book, leaflet or other printed matter to any bystander, passer-by or other person.

**9.18 Donations**

Ask for or receive or indicate that he or she desires a donation of money or any other thing.

**9.19 Entertainment and Busking**

9.19.1 Sing, busk or play a recording or use a musical instrument for the apparent purpose of either entertaining others whether or not receiving money.

9.19.2 Conduct or hold a concert, festival, show, public gathering, circus, meeting, performance or any other similar activity.

**9.20 Equipment**

Use an item of equipment, facilities or property belonging to the Council other than in accordance with any conditions of use contained on a sign or notice in the vicinity of the equipment, facility or property.

**9.21 Fires**

Subject to the *Fire and Emergency Services Act 2005* light a fire except:

9.21.1 in a place provided by the Council for that purpose; or

9.21.2 in a portable barbeque, as long as the barbeque is used in an area that is clear of flammable material for a distance of at least four (4) metres.

**9.22 Fireworks**

Ignite, explode or use any fireworks.

**9.23 Fishing**

9.23.1 Cast a fishing line or keep a fishing line in the water from any beach while there are other persons in the waters in the vicinity of the fishing line;

9.23.2 Cast a fishing line, net or trap to catch water creatures in areas to which this subparagraph applies.

**9.24 Flora and Fauna**

Subject to the *Native Vegetation Act 1991* and the *National Parks and Wildlife Act 1972*:

9.24.1 plant, damage, pick, cut, disturb, interfere with or remove any plant, tree or flower thereon;

9.24.2 cause or allow an animal to stand or walk on any flower bed or garden plot;

9.24.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;

9.24.4 take, interfere with, tease, harm or disturb any animal, bird or aquatic life or the eggs or young of any animal, bird or aquatic life;

9.24.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;

9.24.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;

9.24.7 use, possess or have control of any device for the purpose of killing or capturing any animal, bird or aquatic life; or

9.24.8 burn any timber or dead wood –

with the exception that subclauses 9.21.4 and 9.21.7 do not apply to lawful fishing activities.

**9.25 Games & Sport**

9.25.1 Participate in, promote or organise any organised competition or sport, as distinct from organised social play on Local Government land to which the Council has resolved this subclause applies.

9.25.2 Play or practise any game which involves the use of a ball, missile or other object which by the use thereof may cause or be likely to cause injury or discomfort to any person being on or in the vicinity of that land or detract from or be likely to detract from another person's lawful use and enjoyment of that land.

- 9.25.3 Engage or participate in or conduct any organised group fitness activity or training on Local Government land to which the Council has resolved this subclause applies.
- 9.25.4 Play or practise any game or sport on Local Government land to which the Council has resolved this subclause applies except at the times determined by the Council and indicated on a sign on or in the vicinity of the land (if any)
- 9.25.5 Participate in any game, recreational activity or event where the Council has caused a notice to be erected indicating the game, recreational activity or event is prohibited.

## 9.26 **Interference with Land**

Interfere with, alter or damage the land (including a building, structure or fixture located on the land) including:

- 9.26.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 9.26.2 erecting or installing a structure in, on, across, under or over the land;
- 9.26.3 changing or interfering with the construction, arrangement or materials of the land;
- 9.26.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or
- 9.26.5 otherwise use the land in a manner contrary to the purpose for which the land was designed to be used.

## 9.27 **Jetties**

- 9.27.1 Jump or dive from a jetty into water or onto a beach;
- 9.27.2 Tie or affix any water craft to a jetty;
- 9.27.3 After being requested to leave a jetty by an authorised officer for any contravention (alleged or actual) of this subclause 9.27, come back onto the jetty within 24 hours of the request being made.

## 9.28 **Model Aircraft, Boats and Cars**

Subject to the *Civil Aviation Safety Regulations 1998*:

- 9.28.1 fly or operate a model or drone aircraft, boat or model or remote control vehicle in a manner which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of the land or detract from or be likely to detract from another person's lawful use of and enjoyment of the land; or
- 9.28.2 fly or operate a model or drone aircraft, boat or model or remote control vehicle on any Local Government Land to which the Council has resolved this subclause applies.

**9.29 Moorings**

- 9.29.1 Enter or be on any mooring or mooring area between the hours of 12 midnight and 7.00am following other than with the consent of the person who has the right to use the mooring or mooring area to moor a vessel;
- 9.29.2 Enter a mooring area which is generally closed to the public and requires permission for entry.

**9.30 Kites**

Fly a kite with more than one control string on Local Government land to which the Council has resolved this subparagraph shall apply.

**9.31 Overhanging Articles or Displaying Personal Items**

Suspend or hang an article or object from a building, verandah, pergola, post or other structure on Local Government land where it might present a nuisance or danger to a person using the land or be of an unsightly nature.

**9.32 Playing Area**

Use or occupy a playing area:

- 9.32.1 in such a manner as to damage or be likely to damage the surface of the playing area or infrastructure (above and under ground level);
- 9.32.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or
- 9.32.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area.

**9.33 Preaching**

Preach, harangue or solicit for religious purposes.

**9.34 Removing Soil**

Carry away or remove any soil, sand, clay, timber, stones, pebbles, gravel, seaweed, rocks, minerals, vegetation, shells, or other organic or inorganic materials or any part of the land;

**9.35 Rubbish Dumps and Rubbish Bins**

- 9.35.1 Interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on Local Government Land.
- 9.35.2 Remove, disperse or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging) that has been discarded in a bin on any Local Government Land, or placed on Local Government Land for collection by the Council (or its agent).

**9.36 Structures**

Erect or allow to remain erected any shed, tent, hut or other structure;

### 9.37 **Swimming and Aquatic Activity**

Subject to the provisions of the *Harbors and Navigation Act 1993* enter, swim or engage in any aquatic activity in or on any waters except:

9.37.1 in waters that the Council has set aside for that purpose; or

9.37.2 in an area where a nearby sign states that such activity is allowed and in accordance with any conditions stated in the sign; or

9.37.3 in the sea.

### 9.38 **Trading**

9.38.1 Sell buy, offer or display anything for sale or hire or lease any goods, merchandise, commodity, article or thing.

9.38.2 Carry on any business or promote or advertise the same.

9.38.3 Set up a van or other vehicle, stall, stand, table or other structure, tray, carpet or device for the apparent purpose of buying, selling, offering, displaying or exposing for sale or the hiring or leasing of any goods, merchandise, commodity, article, service or thing.

### 9.39 **Vehicles**

9.39.1 Drive or propel a vehicle except on an area or road constructed and set aside by the Council for that purpose.

9.39.2 Promote, organise or take part in a race, test or trial of any kind in which vehicles take part, except on an area properly constructed for that purpose.

9.39.3 Repair, wash, paint, panel beat or carry out any other work to a vehicle, except for running repairs in the case of a breakdown.

### 9.40 **Weddings, Functions and Special events**

9.40.1 Hold, conduct or participate in a marriage ceremony, game, picnic, other event or entertainment on any local government land except where the number of persons attending the event or entertainment does not exceed forty (40).

9.40.2 Hold or conduct any filming where the filming is for a commercial purpose.

### 9.41 **Wheeled Recreational Devices**

Subject to the *Road Traffic Act 1961*, ride a wheeled recreational device on Local Government land to which the Council has determined this subclause applies.

## 10. **Prohibited activities**

A person must not do any of the following on Local Government land.



### 10.1 **Equipment**

Use any item of equipment, facilities or property belonging to the Council other than in the manner and for the purpose for which it was designed, constructed or intended to be used or in such manner as is likely to damage or destroy it.

### 10.2 **Fishing**

Fish in any waters to which the Council has determined this subclause applies.

### 10.3 **Glass**

Willfully break any glass, china or other brittle material.

### 10.4 **Helium Balloons**

Release an unsecured balloon containing helium unless the balloon is:

- 10.4.1 released unintentionally and without negligence; or
- 10.4.2 released inside a building or structure and does not make its way into the open air;
- 10.4.3 released for scientific, including meteorological, purposes; or
- 10.4.4 a balloon aircraft that is recovered after landing.

### 10.5 **Interference with Permitted Use**

Interrupt or unreasonably interfere with any other person's use of Local Government land where the person is using the land in a manner permitted by the Council or in accordance with any permission that has been granted by the Council.

### 10.6 **Nuisance**

Behave in such an unreasonable manner as to cause discomfort, inconvenience, annoyance or offence to any other person including by using profane, indecent or obscene language.

### 10.7 **Playing games**

Play or participate in a game:

- 10.7.1 which is likely to cause damage to the land or anything on it; or
- 10.7.2 in any area where a sign indicates that the game is prohibited.

### 10.8 **Smoking**

Subject to the *Tobacco Products Regulation Act 1997*, smoke, hold or otherwise have control over an ignited tobacco product on any land to which the Council has determined this subclause applies.

### 10.9 **Missiles**

Throw, roll or discharge any stone, substance or missile to the danger of any person or animal.

### 10.10 **Obstruction**

Obstruct:

10.10.1 any footpath or bicycle track;

10.10.2 any door, entrance, stairway or aisle in any building; or

10.10.3 any gate or entrance to local government land;

### 10.11 **Sand Dunes, Pebble Dunes, Coastal Slopes and Cliffs**

10.11.1 carry out any activity that may damage or threaten the integrity of sand dunes, pebble dunes, coastal slopes or cliffs; or

10.11.2 introduce non-indigenous flora or fauna or dump any material in a sand dune or pebble dune; or

10.11.3 destroy, remove or cause interference to any vegetation, whether living or dead, on or within a sand dune, coastal slope or coastal cliff.

### 10.12 **Solicitation**

Tout or solicit customers for the parking of vehicles or for any other purpose whatsoever.

### 10.13 **Toilets**

In any public convenience on Local Government land:

10.13.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;

10.13.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage;

10.13.3 use it for a purpose for which it was not designed or constructed;

10.13.4 enter a toilet that is set aside for use of the opposite gender except:

10.13.4.1 where a child under the age of eight years is accompanied by a parent or adult guardian of that gender; or

10.13.4.2 to provide assistance to a person with a disability; or

10.13.4.3 in the case of a genuine emergency.

#### 10.14 Waste

10.14.1 Deposit or leave thereon:

10.14.1.1 anything obnoxious or offensive;

10.14.1.2 any mineral, mineral waste, industrial waste or by-products;

10.14.2 Deposit any rubbish other than in receptacles provided by the Council for that purpose;

10.14.3 Deposit in any receptacle any rubbish emanating from domestic or trade purposes, unless designated by a sign or signs.

### PART 4 – ENFORCEMENT

#### 11. Directions

11.1 A person on Local Government land, including the foreshore, must comply with a reasonable direction from an authorised person relating to:

11.1.1 that person's use of the land;

11.1.2 that person's conduct and behaviour on the land;

11.1.3 that person's safety on the land; or

11.1.4 the safety and enjoyment of other persons on the land.

11.2 A person who, in the opinion of an authorised person, is likely to commit or has committed, a breach of this By-law must immediately comply with a direction of an authorised person to leave that part of Local Government land.

#### 12. Orders

If a person fails to comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

##### Note –

Section 262(1) of the Act states:

- (1) *If a person (the offender) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-*
- (a) *if the conduct is still continuing - to stop the conduct; and*
  - (b) *whether or not the conduct is still continuing- to take specified action to remedy the contravention.*

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease smoking on Local Government land;
- remove an object or structure encroaching on Local Government land;
- dismantle and remove a structure erected on Local Government land without permission.

### 13. Removal of animals and objects

An authorised person may remove an animal or object that is on Local Government land in breach of a By-law if no person is in charge of, or apparently in charge of, the animal or object.

## PART 5 – MISCELLANEOUS

### 14. Exemptions

- 14.1 The restrictions in this by-law do not apply to any Police Officer, emergency worker, Council Officer or Council employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision or in accordance with a direction of a Council Officer.
- 14.2 The restrictions in subclauses 9.14 and 9.17 of this By-law do not apply to electoral matter authorised by a candidate and which is:
- 14.2.1 related to a Commonwealth or State election and occurs during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or
- 14.2.2 related to an election under the Act or the *Local Government (Elections) Act 1999* and occurs during the period commencing four weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or
- 14.2.3 related to, and occurs during the course of and for the purpose of a referendum.

### 15. Liability of vehicle owners

- 15.1 For the purposes of this clause 15, *owner* in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 15.2 the owner and the driver of a vehicle driven, parked or standing in contravention of this By-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the City of Holdfast Bay held on the **INSERT DATE 2019** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....  
ROBERTO BRIA  
Acting Chief Executive Officer

# Attachment 1d



SECTION 249 LOCAL GOVERNMENT ACT 1999

**CERTIFICATE OF VALIDITY**

I, RONAN EMMET O'BRIEN of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law:

**City of Holdfast Bay**

**By-law No 4 – Roads By-Law 2019**

*A By-law to manage, control and regulate certain activities on roads in the Council's area;*

and do certify that in my opinion:


City of Holdfast Bay

has the power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1999: sections 239, 246(1), 246(2), 246(3)(a), 246(3)(c), 246(3)(e), 246(3)(f) and 246(3)(h)(iii); and  
Local Government (General) Regulations 2013: regulation 28.*

and the by-law is not in conflict with the *Local Government Act 1999*.

**DATED** the 14<sup>th</sup> day of June 2019

.....  


Ronan O'Brien, Legal Practitioner



**CITY OF HOLDFAST BAY**

**ROADS BY-LAW 2019**

**By-law No. 4 of 2019**

*For the management, control and regulation of activities on roads in the Council's area.*

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**PART 1– PRELIMINARY****1. Title**

This By-law may be cited as the *Roads By-law 2019* and is By-law No. 4 of the City of Holdfast Bay.

**2. Authorising law**

This By-law is made under sections 239 and 246 of the Act and regulation 28 of the *Local Government (General) Regulations 2013*.

**3. Purpose**

The objectives of this By-law are to manage, control and regulate the prescribed uses of roads in the Council's area:

- 3.1 to protect the convenience, comfort and safety of road users and members of the public;
- 3.2 to prevent damage to buildings and structures on roads;
- 3.3 to prevent certain nuisances occurring on roads; and
- 3.4 for the good rule and government of the Council's area

**4. Commencement, revocation and expiry**

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation.<sup>1</sup>
- 4.2 By-Law No. 4 - Roads 2012.<sup>2</sup>
- 4.3 This By-law will expire on 1 January 2027.<sup>3</sup>

**Note-**

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

**5. Application**

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2019*.
- 5.2 Subject to subclauses 5.3 and 5.4, this By-law applies throughout the Council's area.
- 5.3 Subclause 7.3 of this By-law only applies to such part or parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act;
- 5.4 Subclause 7.4.2 of this By-law applies throughout the Council's area except in such part or parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.



## 6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **animal** includes birds, insects and poultry but does not include a dog;
- 6.3 **authorised person** is a person appointed by the Council as an authorised person under section 260 of the Act;
- 6.4 **camp** includes setting up a camp, or causing:
- 6.4.1 a tent (including a tent trailer) or other structure of calico, canvas, plastic or other similar material; or
  - 6.4.2 a swag or similar bedding; or
  - 6.4.3 subject to the *Road Traffic Act 1961*, a caravan or motor home;
- to remain on a road for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the road;
- 6.5 **Council** means the City of Holdfast Bay;
- 6.6 **effective control** means a person exercising effective control of an animal either:
- 6.6.1 by means of a physical restraint; or
  - 6.6.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.7 **electoral matter** has the same meaning as in the *Electoral Act 1995* provided that such electoral matter is not capable of causing physical damage or injury to a person within its immediate vicinity;
- 6.8 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.9 **moveable sign** has the same meaning as in the Act;
- 6.10 **road** has the same meaning as in the Act being, a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes—
- 6.10.1 a bridge, viaduct or subway; or
  - 6.10.2 an alley, laneway or walkway; and
- 6.11 **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

### Note-

Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

## **PART 2 – USE OF ROADS**

### **7. Activities Requiring Permission**

A person must not do any of the following activities on a road without the permission of the Council.

#### **7.1 Advertising**

Display or cause to be displayed on a road or on a structure on a road, any poster, advertising or sign for the purpose of advertising goods or services, other than a moveable sign that is displayed in accordance with the Council's Moveable Signs By-law.

#### **7.2 Amplification**

Use an amplifier or other device whether mechanical or electrical for the purpose of amplifying sound or magnifying sound including the broadcasting of announcements or advertisements.

#### **7.3 Animals**

Allow any horse, cattle, sheep or other livestock to stray onto, graze, wander or be left unattended on any road to which the Council has, by resolution, determined this subclause applies.

#### **7.4 Camping and Tents**

7.4.1 Subject to this subclause 7.4, erect a tent or other structure of calico, canvas, plastic or other similar material as a place of habitation.

7.4.2 Camp or remain overnight except:

7.4.2.1 on a road to which the Council has resolved this subclause applies (if any); and

7.4.2.2 in accordance with any conditions determined by the Council and displayed on any signage on or near the road.

#### **7.5 Obstructions**

Erect, install or place or cause to be erected, installed or placed any structure, object or material of any kind so as to obstruct a road, footway, water-channel, or watercourse in a road.

#### **7.6 Preaching**

Preach, harangue, solicit or canvass for religious or charitable purposes.

#### **7.7 Public Exhibitions and Displays**

7.7.1 Sing, busk, play a recording or use a music instrument, or perform similar activities.

7.7.2 Conduct, cause or hold a concert, festival, show, display public gathering, circus, performance or a similar activity.

7.7.3 Erect a stage or structure for the purpose of conducting or holding a concert, festival, show, circus, performance or a similar activity.

#### 7.8 **Rubbish Bins**

Deposit in any Council bin on a road any rubbish emanating from a domestic, commercial or trade source.

#### 7.9 **Soliciting**

Ask for or receive or do anything to indicate a desire for a donation of money or any other thing.

#### 7.10 **Repairs to Vehicles**

Repair, wash, paint, panel beat or perform other work of any nature on or to any vehicle, except for running repairs in the case of a vehicle breakdown.

**Note-**

Movable signs on roads are regulated by sections 226 and 227 of the Act and the Council's Moveable Signs By law.

### **PART 3- ENFORCEMENT**

#### **8. Directions**

A person who, in the opinion of an authorised person is committing or has committed a breach of this By-law, must immediately comply with a direction of the authorised person to leave that part of the road.

#### **9. Orders**

If a person does not comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

**Note-**

Section 262(1) of the Act states:

- 1) If a person (the offender) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-
  - a) if the conduct is still continuing – to stop the conduct; and
  - b) whether or not the conduct is still continuing – to take specified action to remedy the contravention.

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease busking on a road;
- remove an object or structure blocking a footpath;
- dismantle and remove a tent from a road.

**10. Removal of animals and objects**

- 10.1 The Council (or its delegate) may, pursuant to section 234 of the Act, remove an animal or object that is on a road in breach of a By-law if no person is in charge, or apparently in charge, of the animal or object.
- 10.2 The Council may recover from the owner or apparent owner of an object removed under subclause 10.1 the costs it incurs in removing that object.

**PART 4- MISCELLANEOUS**

**11. Exemptions**

The restrictions in this By-law do not apply to any emergency worker, Police Officer, Council Officer or employee acting in the course and within the scope of that person’s normal duties, or to a contractor while performing work for the Council and while acting under the supervision or in accordance with a direction of a Council Officer..

**12. Liability of vehicle owners**

- 12.1 For the purposes of this clause 12, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 12.2 The owner and the driver of a vehicle driven, parked or standing in contravention of this By-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the City of Holdfast Bay held on **INSERT DATE 2019** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....  
ROBERTO BRIA  
Acting Chief Executive Officer

# Attachment 1e



SECTION 249 LOCAL GOVERNMENT ACT 1999

**CERTIFICATE OF VALIDITY**

I, RONAN EMMET O'BRIEN of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law:

**City of Holdfast Bay**

**By-law No 5 – Dogs By-Law 2019**

*A By-law to limit the number of dogs kept on premises and for the management and control of dogs in the Council area;*

and do certify that in my opinion:


City of Holdfast Bay

has the power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1999: sections 238, 246(1), 246(2), 246(3)(a), 246(3)(c), 246(3)(e) and 246(3)(f);  
Dog and Cat Management Act 1995: section 90; and  
Harbors and Navigation Act 1993: section 18A.*

and the by-law is not in conflict with the *Local Government Act 1999*.

DATED the 14<sup>th</sup> day of June 2019

.....  


Ronan O'Brien, Legal Practitioner



**CITY OF HOLDFAST BAY**

**DOGS BY-LAW 2019**

**By-law No. 5 of 2019**

*A By-law to limit the number of dogs kept on premises and for the management and control of dogs in the Council's area.*

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## PART 1 – PRELIMINARY

### 1. Title

This By-law may be cited as the *Dogs By-law 2019* and is By-law No. 5 of the City of Holdfast Bay.

### 2. Authorising law

This By-law is made under section 90(5) of the *Dog and Cat Management Act 1995*, sections 238 and 246 of the Act, and section 18A of the *Harbors and Navigation Act 1993*.

### 3. Purpose

The objectives of this By-law are to control and manage dogs in the Council area:

- 3.1 to reduce the incidence of environmental nuisance caused by dogs; and
- 3.2 to promote responsible dog ownership; and
- 3.3 to protect the convenience, comfort and safety of members of the public; and
- 3.4 for the good rule and government of the Council's area.

### 4. Commencement, revocation and expiry

4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation<sup>1</sup>:

By-Law No. 5 – Dogs 2012.<sup>2</sup>

4.2 This By-law will expire on 1 January 2027.<sup>3</sup>

#### Note-

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

### 5. Application

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2019*.
- 5.2 Subject to subclause 5.3, this By-law applies throughout the Council's area.
- 5.3 Subclauses 9 and 10.1, of this By-law only apply in such part or parts of the Council area as the Council may, by resolution direct in accordance with section 246(3)(e) of the Act.



## 6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **approved kennel establishment** means a building, structure or area approved by a relevant authority, pursuant to the *Development Act 1993* for the keeping of dogs on a temporary or permanent basis;
- 6.3 **assistance dog** means a dog trained and used for the purpose of assisting a person who is wholly or partially disabled and includes a dog undergoing training of a kind approved by the Dog and Cat Management Board;
- 6.4 **Council** means the City of Holdfast Bay;
- 6.5 **dog** (except for in clause 7.1) has the same meaning as in the *Dog and Cat Management Act 1995*;
- 6.6 **effective control** means a person exercising effective control of a dog either:
- 6.6.1 by means of a physical restraint (as defined under the *Dog and Cat Management Act 1995*); or
- 6.6.2 by command, the dog being in close proximity to the person and the person being able to see the dog at all times;
- 6.7 **Hooded Plover breeding site** means any land within 100 metres of a sign on Local Government land that indicates a Hooded Plover breeding nest, eggs or chick(s) are or may be present on the land or in the vicinity.
- 6.8 **keep** includes the provision of food or shelter;
- 6.9 **park** has the same meaning as in the *Dog and Cat Management Act 1995*;
- 6.10 **premises** includes land and part of any premises or land whether used or occupied for domestic or non-domestic purposes;
- 6.11 **small dwelling** means a self-contained dwelling commonly known as a flat, service flat, home unit or the like.
- 6.12 For the purposes of clause 10 of the By-law, a dog is (under **effective control by means of a leash**) if the dog is secured to a leash, chain or cord that does not exceed 2 metres in length and:
- 6.12.1 the leash, chain or cord is either tethered securely to a fixed object; or
- 6.12.2 held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons, animals or birds.

### Note-

Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-laws was made.

## **PART 2 – LIMITS ON DOG NUMBERS**

### **7. Limits on dog numbers in private premises**

- 7.1 Subject to subclauses 7.3 and 7.5, a person must not, without the Council's permission keep or cause, suffer or permit to be kept:
- 7.1.1 more than one dog in a small dwelling; or
  - 7.1.2 more than two dogs in any premises other than a small dwelling.
- 7.2 For the purposes of subclause 7.1, 'dog' means a dog that is three (3) months of age or older or, a dog that has lost its juvenile teeth.
- 7.3 Subclause 7.1 does not apply to:
- 7.3.1 approved kennel establishments operating in accordance with all required approvals and consents; or
  - 7.3.2 any other business involving the keeping of dogs provided that the business is registered in accordance with the *Dog and Cat Management Act 1995* and operating in accordance with all required approvals and consents.
- 7.4 The Council may require that premises which are the subject of an application for permission to keep additional dogs, must be inspected by an authorised person for the purpose of assessing the suitability of the premises for housing dogs.
- 7.5 No dog is to be kept on any premises where, in the opinion of an authorised person, there is no secure or appropriate area where a dog may be effectively confined.

## **PART 3 – DOG CONTROLS**

### **8. Dog exercise areas**

Subject to clauses 9 and 10 of this By-law, a person may enter a park in the Council's area for the purpose of exercising a dog under his or her effective control.

#### **Note –**

If a person is exercising a dog in a park as permitted under this clause and the dog is not under effective control as that term is defined by the *Dog and Cat Management Act 1995*, this gives rise to a dog wandering at large offence under section 43(1) of the *Dog and Cat Management Act 1995*, for which the owner of or person responsible for the dog may be liable.

### **9. Dog Prohibited Areas**

A person must not allow a dog under that person's control, charge or authority (except an assistance dog) to enter or remain on any other Local Government land or public place to which the Council has determined that this subclause applies.

## 10. Dog on Leash Areas

- 10.1 A person must not, without the Council's permission, allow a dog under that person's control, charge or authority (except an assistance dog that is required to remain off-lead in order to fulfil its functions) to be or remain on Local Government land or in a public place to which the Council has resolved that this subclause applies unless the dog is under effective control by means of a leash.
- 10.2 A person must not allow a dog under that person's control, charge or authority to be or remain in a Hooded Plover breeding site unless the dog is under effective control by means of a leash.

## 11. Dog faeces

No person is to allow a dog under that person's control, charge or authority to be in a public place or on Local Government land unless that person has in their possession a bag or other suitable container for the collection and lawful disposal of any faeces that the dog may deposit (for the purpose of complying with their obligation under section 45A(6) of the *Dog and Cat Management Act 1995*).

## PART 4 – EXEMPTIONS

### 12. Council may grant exemptions

- 12.1 The Council may, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 12.2 An exemption—
- 12.2.1 may be granted or refused at the discretion of the Council; and
  - 12.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and
  - 12.2.3 is subject to any conditions specified in the instrument of exemption.
- 12.3 The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 12.4 The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

## PART 5 – ENFORCEMENT

### 13. Orders

- 13.1 If a person engages in conduct that is in contravention of this By-law, an authorised person may order that person:
- 13.1.1 if the conduct is still continuing – to stop the conduct; and

13.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.

13.2 A person must comply with an order under this clause.

13.3 If a person does not comply with an order, the authorised person may take action reasonably required to have the order carried out, and the Council may seek to recover its costs of any action so taken from the person to whom the order was directed.

13.4 However, an authorised person may not use force against a person under this section.

**Note-**

For example, an authorised person may order a person to:

- cease keeping more than the permitted number of dogs on that person’s premises; or
- remove a dog from a dog prohibited area or dog on leash area.

This By-law was duly made and passed at a meeting of the City of Holdfast Bay held on **INSERT DATE 2019** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....  
ROBERTO BRIA  
Acting Chief Executive Officer

# Attachment 1f



SECTION 249 LOCAL GOVERNMENT ACT 1999

**CERTIFICATE OF VALIDITY**

I, RONAN EMMET O'BRIEN of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law:

**City of Holdfast Bay**

**By-law No 6 – Cats By-Law 2019**

*A By-law to limit the number of cats kept on premises and for the management and control of cats in the Council's area;*

and do certify that in my opinion:


City of Holdfast Bay

has the power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1999: sections 238, 246(1), 246(2), 246(3)(a), 246(3)(c) and 246(3)(f); and  
Harbors and Navigation Act 1993: section 18A;*

and the by-law is not in conflict with the *Local Government Act 1999*.

**DATED** the 14<sup>th</sup> day of June 2019

.....  


Ronan O'Brien, Legal Practitioner



**CITY OF HOLDFAST BAY**

**CATS BY-LAW 2019**

**By-law No. 6 of 2019**

*A By-law to limit the number of cats kept on premises and for the management and control of cats in the Council's area.*

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9. Registration of cats .....4

**PART 3 – EXEMPTIONS .....4**

10. Council may grant exemptions .....4

**PART 4 – ENFORCEMENT .....5**

11. Orders .....5

## PART 1 – PRELIMINARY

### 1. Title

This By-law may be cited as the *Cats By-law 2019* and is By-law No. 6 of the City of Holdfast Bay.

### 2. Authorising law

This By-law is made under section 90(5) of the *Dog and Cat Management Act 1995* and section 246 of the Act.

### 3. Purpose

The objectives of this By-law are to control and manage cats in the Council's area:

- 3.1 to promote responsible cat ownership;
- 3.2 to reduce the incidence of the public and environmental nuisance caused by cats;
- 3.3 to protect the comfort and safety of members of the public; and
- 3.4 for the good rule and government of the Council's area.

### 4. Commencement, revocation and expiry

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation<sup>1</sup>:
  - 4.1.1 By-law No 6 – Cats 2012.<sup>2</sup>
- 4.2 This By-law will expire on 1 January 2027.<sup>3</sup>

#### Note-

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

### 5. Application

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2019*.
- 5.2 This By-law applies throughout the Council's area.

### 6. Interpretation

In this By-law, unless the contrary intention appears;

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **approved cattery** means a building, structure, premises or area approved by the relevant authority pursuant to the *Development Act 1993* for the keeping of cats on a



- temporary or permanent basis or, for use in connection with a business involving the keeping of cats, that is operating in the accordance with all approvals;
- 6.3 except for in clause 8, **cat** means an animal of the species *felis catus*, which is three months of age or has lost its juvenile canine teeth;
- 6.4 **Council** means the City of Holdfast Bay;
- 6.5 **keep** includes the provision of food or shelter;
- 6.6 for the purposes of clause 8, a cat (or cats) causes a **nuisance** if it:
- 6.6.1 unreasonably interferes with the peace, comfort or convenience of a person, including but not limited to by displaying aggressive nature or creating unpleasant noise or odour; or
- 6.6.2 damages or otherwise has an adverse impact upon native flora or fauna; or
- 6.6.3 acts in a manner that is injurious to a person's real or personal property; or
- 6.6.4 wanders onto premises without the consent of the owner or occupier of the premises; or
- 6.6.5 defecates or urinates on premises without the consent of the owner or occupier of the premises;
- 6.7 **owner** of a cat has the same meaning as in section 5 of the *Dog and Cat Management Act 1995*;
- 6.8 **premises** includes any land (whether used or occupied for domestic or non-domestic purposes) and any part thereof; and
- 6.9 the **person responsible for the control of a cat** has the same meaning as in section 6 of the *Dog and Cat Management Act 1995*.

**Note-**

Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law is made.

## **PART 2 – LIMITS ON CAT NUMBERS**

### **7. Limits on cat numbers**

- 7.1 Subject to this clause 7, a person must not, without the Council's permission keep, or cause suffer or permit to be kept more than two (2) cats on any premises.
- 7.2 Subclause 7.1 does not apply to premises comprising an approved cattery.
- 7.3 Council may require that premises which are the subject of an application for permission to keep additional cats, must be inspected by an authorised person for the purpose of assessing the suitability of the premises for housing cats.
- 7.4 Permission under subclause 7.3 may be given if the Council is satisfied that:
- 7.4.1 no insanitary condition exists or is likely to arise on the premises as a result of the keeping of cats; and

- 7.4.2 a nuisance is not or is not likely to be caused to any neighbour as a result of the keeping of cats on the premises.

### **PART 3 –CAT CONTROLS**

#### **8. Cats not to be a nuisance**

- 8.1 An owner or occupier of premises is guilty of an offence if a cat (or cats) kept or allowed to remain on the premises causes a nuisance.
- 8.2 Without limiting liability under clause 8.1, the owner of or person responsible for the control of a cat is guilty of an offence under this By-law if the cat causes a nuisance.
- 8.3 For the purposes of this subclause 8, **cat** means an animal of the species *felis catus* (of any age).

#### **9. Registration of cats**

- 9.1 Where the Council has resolved to adopt a registration scheme for cats, a person must not keep a cat in the Council's area for more than 14 days unless the cat is registered in accordance with this By-law.
- 9.2 An application for registration of a cat must:
- 9.2.1 be made to the Council in the manner and form (if any) and accompanied by the fee (if any) as prescribed by the Council; and
  - 9.2.2 nominate a person of or over sixteen (16) years of age who consents to the cat being registered in his or her name; and
  - 9.2.3 identify with reference to an address the premises at which the cat is kept; and
  - 9.2.4 otherwise comply with any other requirements determined by the Council.
- 9.3 Registration under this By-law remains in force until 30 June next following the grant of registration and may be renewed from time to time for further periods of up to twelve (12) months.
- 9.4 Subclause 9.1 does not apply to premises comprising an approved cattery.
- 9.5 The Council may, by resolution, revoke a resolution to adopt a registrations scheme under subclause 9.1 should it see fit to do so.

### **PART 3 – EXEMPTIONS**

#### **10. Council may grant exemptions**

- 10.1 The Council may, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.

- 10.2 An exemption—
  - 10.2.1 may be granted or refused at the discretion of the Council; and
  - 10.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and
  - 10.2.3 is subject to any conditions specified in the instrument of exemption.
- 10.3 The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 10.4 The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

**PART 4 – ENFORCEMENT**

**11. Orders**

- 11.1 If a person engages in conduct that is a contravention of this By-law, an authorised person may order that person:
  - 11.1.1 if the conduct is still continuing – to stop the conduct; and
  - 11.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.
- 11.2 A person must comply with an order under this clause.
- 11.3 If a person does not comply with an order, the authorised person may take action reasonably required to have the order carried out, and the Council may seek to recover its costs of any action so taken from the person to whom the order was directed.
- 11.4 However, an authorised person may not use force against a person under this section.

**Note:**

For example, an authorised person may order a person to:

- cease keeping more than the permitted number of cats on that person’s premises; or
- take the necessary steps to mitigate a nuisance caused by howling cats

This By-law was duly made and passed at a meeting of the City of Holdfast Bay held on **INSERT DATE 2019** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....  
ROBERTO BRIA  
Acting Chief Executive Officer

# Attachment 2



## Jillian Conner

---

**From:** Adrian Hill  
**Sent:** Saturday, 22 June 2019 2:41 PM  
**To:** Adrian Hill  
**Subject:** FW: Nil comments from DPTI (KJ 180518)  
**Attachments:** hold0001\_180518\_032\_By-law No 3- Local Government Land.docx

Hi Adrian,

Please see below the email from DPTI showing nil comments regarding the Local Government Land By-law.

Kind regards,  
Ronan

**Ronan O'Brien**  
Lawyer



T. 8113 7116 | M. 0422 851 218 | E. [robrien@kelliedyjones.com.au](mailto:robrien@kelliedyjones.com.au) | W. [kelliedyjones.com.au](http://kelliedyjones.com.au)  
Level 6/19 Gilles Street Adelaide SA 5000 | GPO Box 2024 SA 5001

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**From:** Corns, Tony (DPTI) <[Tony.Corns@sa.gov.au](mailto:Tony.Corns@sa.gov.au)>  
**Sent:** Wednesday, 10 April 2019 1:56 PM  
**To:** Ronan O'Brien <[robrien@kelliedyjones.com.au](mailto:robrien@kelliedyjones.com.au)>  
**Cc:** Murray, Jasen (DPTI) <[Jasen.Murray@sa.gov.au](mailto:Jasen.Murray@sa.gov.au)>  
**Subject:** Proposed By-law - Holdfast Bay (KJ 180518)

Hi Ronan,

Thank you for sending the proposed By-law to DPTI for comment.

The proposed By-law looks fine to me.

Kind regards

**Tony Corns**  
Senior Project Officer, Legislation Unit  
Policy, Strategy and Program Development Division  
Department of Planning, Transport and Infrastructure  
T (08) 7109 7307 • E [tony.corns@sa.gov.au](mailto:tony.corns@sa.gov.au)  
Level 12 Roma Mitchell House  
136 North Terrace Adelaide SA 5000 • [www.dpti.sa.gov.au](http://www.dpti.sa.gov.au)



collaboration . honesty . excellence . enjoyment . respect

*We acknowledge and respect Aboriginal peoples as South Australia's first peoples and nations, we recognise Aboriginal peoples as traditional owners and occupants of land and waters in South Australia and that their spiritual, social, cultural and economic practices come from their traditional lands and waters; and they maintain their cultural and heritage beliefs, languages and laws which are of ongoing importance; We pay our respects to their ancestors and to their Elders.*

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**From:** Ronan O'Brien [<mailto:robrien@kellydjones.com.au>]

**Sent:** Wednesday, 10 April 2019 12:23 PM

**To:** Corns, Tony (DPTI) <[Tony.Corns@sa.gov.au](mailto:Tony.Corns@sa.gov.au)>

**Subject:** Proposed By-law - Holdfast Bay (KJ 180518)

Dear Tony

Thank you for speaking with me earlier.

As discussed, please find **attached** the following By-Law that the City of Holdfast Bay proposes to adopt at a future meeting:

- By-Law No. 3 – Local Government Land

The provisions of the Local Government Land By-law applies to all adjacent and subjacent land within the Council's area and includes clauses relating to the foreshore.

I would be grateful if you could provide any feedback you have regarding the By-law so that it can be taken into account in preparing the proposed By-laws for adoption.

We look forward to hearing from you.

Kind regards,

Ronan

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**LOCAL GOVERNMENT LAND BY-LAW 2019**

**By-law No. 3 of 2019**

*A By-law to manage and regulate the access to and use of Local Government land (other than roads), and certain public places.*

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**PART 1 – PRELIMINARY****1. Title**

This By-law may be cited as the *Local Government Land By-law 2019* and is By-law No. 3 of the City of Holdfast Bay.

**2. Authorising law**

This By-law is made under sections 238 and 246 of the Act and section 18A of the *Harbors and Navigation Act 1993*.

**3. Purpose**

The objectives of this By-law are to regulate the access to and use of Local Government land (other than roads), and certain public places:

- 3.1 to prevent and mitigate nuisances;
- 3.2 to prevent damage to Local Government land and promote conservation of the foreshore;
- 3.3 to protect the convenience, comfort and safety of members of the public;
- 3.4 to enhance the amenity of the Council area; and
- 3.5 for the good rule and government of the Council's area.

**4. Commencement, revocation and expiry**

4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation<sup>1</sup>:

By-law No.3 – Local Government Land 2012.<sup>2</sup>

4.2 This By-law will expire on 1 January 2027.<sup>3</sup>

**Note-**

1. Generally, a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

**5. Application**

- 5.1 This By-law operates subject to the Council's Permits and Penalties By-law 2019.
- 5.2 Subject to subclauses 5.3 and 5.4, this By-law applies throughout the Council area.
- 5.3 Subclauses 9.2, 9.4.2, 9.9.2, 9.9.5, 9.25.1, 9.25.3, 9.25.4, 9.29.2, 9.31, 9.42, 10.2 and 10.7 of this By-law only apply in such part or parts of the Council area as the Council may, by resolution direct in accordance with section 246(3)(e) of the Act.



- 5.4 Subclauses 9.4.4, 9.9.1, 9.9.3, 9.9.4 and 9.13.2 of this By-law apply throughout the Council area except in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

## 6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **animal or animals** includes birds and insects but does not include a dog;
- 6.3 **aquatic life** means any animal or plant living or growing in water including, but not limited to, yabbies, molluscs, fish, insects, insect pupa or larvae and water plants
- 6.4 **authorised person** is a person appointed by the Council as an authorised person under section 260 of the Act;
- 6.5 **boat** includes a raft, pontoon, houseboat, personal watercraft or other similar device;
- 6.6 **boat ramp** means a facility constructed, maintained and operated for the launching and retrieval of a boat;
- 6.7 **camp** includes setting up a camp, or causing a tent, swag and/or similar bedding, a caravan or motor home to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land or foreshore;
- 6.8 **Council** means the City of Holdfast Bay;
- 6.9 **electoral matter** has the same meaning as in the *Electoral Act 1985* provided that such electoral matter is not capable of causing physical damage or injury to any person within its immediate vicinity;
- 6.10 **effective control** means a person exercising effective control of an animal either:
- 6.10.1 by means of a physical restraint; or
- 6.10.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.11 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules-Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.12 **foreshore** means land owned by or under the Council's care, control and management (including a road) that:
- 6.12.1 extends from the low water mark on the seashore to the nearest road or section boundary, or to a distance of 50 metres from high water mark (whichever is the lesser distance) or;
- 6.12.2 extends from the edge of any other navigable waterway or body of water in the Council's area to the nearest road or section boundary or for a distance of 50 metres (whichever is the lesser).

- 6.13 **funeral ceremony** means a ceremony only (i.e. a memorial service) and does not include a burial;
- 6.14 **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;
- 6.15 **Local Government land** means all land owned by the Council or under the Council's care, control and management (except roads);
- 6.16 **low water mark** means the lowest meteorological tide;
- 6.17 **offensive** includes threatening, abusive, insulting or annoying behaviour and offend has a complementary meaning;
- 6.18 **open container** means a container that after the contents of the container have been sealed at the time of manufacture:
- 6.18.1 being a bottle, it has had its cap, cork or top removed (whether or not it has since been replaced);
  - 6.18.2 being a can, it has been opened or punctured;
  - 6.18.3 being a cask, it has had its tap placed in a position to allow it to be used;
  - 6.18.4 being any other form of container, it has been opened, broken, punctured or manipulated in such a way as to allow access to its contents; or
  - 6.18.5 is a flask, glass, mug or other container able to contain liquid.
- 6.19 **personal watercraft** means a device that –
- 6.19.1 is propelled by a motor; and
  - 6.19.2 has a fully enclosed hull; and
  - 6.19.3 is designed not to retain water if capsized; and
  - 6.19.4 is designed to be operated by a person who sits astride, stands, or kneels on the device,
- and includes the device commonly referred to as a jet ski;
- 6.20 **tobacco product** has the same meaning as in the *Tobacco Products Regulation Act 1997*;
- 6.21 **'road'** has the same meaning as in the *Local Government Act 1999*;
- 6.22 **'vehicle'** has the same meaning as in the *Road Traffic Act 1961*;
- 6.23 **waters** includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council; and
- 6.24 **wheeled recreational device** has the same meaning as in the *Road Traffic Act 1961*.

**Note-**

Section 14 of the Acts *Interpretation Act 1915* provides that an expression used in a By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

**PART 2 – ACCESS TO LOCAL GOVERNMENT LAND****7. Access****Note-**

Pursuant to section 238(3) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council should erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the By-law applies.

The Council may:

- 7.1 close, or regulate or restrict access to, any part of Local Government land to the public for specified times and days; and
- 7.2 fix charges or fees payable for entry onto any part of Local Government land.

**8. Closed lands**

A person must not without permission, enter or remain on any Local Government land:

- 8.1 which has been closed, or in respect of which access by the public is regulated or restricted in accordance with subclause 7.1;
- 8.2 where entry fees or charges are payable, without paying those fees or charges; or
- 8.3 where the land has been enclosed by fences and/or walls and gates that have been closed and locked.

**PART 3 – USE OF LOCAL GOVERNMENT LAND****9. Activities requiring permission****Note-**

Pursuant to section 238(3) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council should erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the By-law applies.

A person must not without the permission of the Council, do any of the following on Local Government land or, where stated, the foreshore.

**9.1 Advertising**

Display, paint or erect or cause to be displayed, painted or erected, on Local Government Land or a structure, building or fixture on Local Government Land any sign, advertising or hoarding for the purpose of commercial advertising or any other purpose.

**9.2 Alcohol**

Consume, carry or be in possession or in charge of any liquor on Local Government land comprising parks or reserves to which the Council has determined this paragraph applies.

### 9.3 Amplification

Use an amplifier or other mechanical or electrical device for the purpose of amplifying sound or broadcasting announcements or advertisements.

### 9.4 Animals

9.4.1 Cause or allow an animal to stray onto, move over, graze or be left unattended on Local Government land.

9.4.2 Cause or allow an animal to enter, swim, bathe or remain in any waters located on Local Government land to which the Council has resolved this subparagraph shall apply;

9.4.3 Cause or allow any animal to swim or bathe in any waters adjacent to the foreshore to the inconvenience, annoyance or danger of any other person bathing or swimming;

9.4.4 Take, drive or ride any horse, or allow it to remain, on the foreshore or to bathe in any waters adjacent the foreshore except between the hours of midnight and 9.00am and then only in such areas of the foreshore as the Council may be resolution direct and if the horse remains under effective control;

9.4.5 Lead, herd or exercise an animal, except where the Council has set aside a track or other area for use by or in connection with an animal of that kind, and provided that the animal or animals are under effective control.

### 9.5 Annoyance

Do anything likely to offend or unreasonably interfere with any other person:

9.5.1 using that land; or

9.5.2 occupying nearby premises,

by making noise or creating a disturbance.

### 9.6 Aquatic Life

Introduce any aquatic life to any waters located on Local Government Land.

### 9.7 Attachments

Subject to subclause 9.1, attach or cause to be attached, hang or fix anything to a tree, plant, equipment, fence, post, structure or fixture on Local Government land.

### 9.8 Bathing

In any waters adjacent the foreshore:

9.8.1 swim or bathe within five metres of any jetty; or

- 9.8.2 swim or bathe at a time when swimming or bathing in that place has been prohibited by resolution of the Council (for reasons of public safety) as indicated by a sign or signs displayed on or near the foreshore.

## 9.9 Boats & Mooring

Subject to the provisions of the *Harbors and Navigation Act 1993* and the *Marine Safety (Domestic Commercial Vessel) National Law*:

- 9.9.1 launch or retrieve a boat to or from any waters adjacent to or on any Local Government land or foreshore except in an area to which the Council has resolved this subclause applies;
- 9.9.2 launch or retrieve a boat from or to any Local Government land to which the Council has determined this subclause applies without using a boat ramp constructed and set aside by the Council for that purpose;
- 9.9.3 propel, float or otherwise use a boat on or in any waters except:
- (a) in an area to which the Council has determined this subclause applies; and
  - (b) in accordance with any conditions that the Council may have determined by resolution apply to that use.
- 9.9.4 hire out a boat or otherwise use a boat for commercial purposes except in an area to which the Council has resolved this subclause applies and other than in accordance with any conditions determined by resolution of the Council; or
- 9.9.5 moor any boat on or to Local Government land to which the Council has determined this subclause applies.

## 9.10 Bridge Jumping

Jump or dive from a bridge on Local Government land.

## 9.11 Buildings

Use a building, or structure on Local Government land for a purpose other than its intended purpose.

## 9.12 Burials and Memorials

- 9.12.1 Bury, inter or spread the ashes of any human or animal remains.
- 9.12.2 Erect any memorial.

## 9.13 Camping and Tents

- 9.13.1 Subject to this subclause 9.1, erect a tent or other structure of calico, canvas, plastic or similar material as a place of habitation for a period of 24 hours.

9.13.2 Camp or sleep overnight on Local Government land other than on an area which has been designated by resolution of the Council for that purpose and only then, in accordance with such time limits and other conditions determined by resolution of the Council and contained in any signage erected thereon.

9.14 **Canvassing**

Subject to subclause 14.2, convey any advertising, religious or other message to any bystander, passer-by or other.

9.15 **Charge Admission**

Charge admission or seek payment for entering any part of the foreshore.

9.16 **Defacing Property**

Deface, remove, paint, spray, write upon, cut names, letters or make marks on any tree, rock, gate, fence, object, monument, building, sign, bridge or property of the Council.

9.17 **Distribution**

Subject to subclause 14.2 and the *Local Nuisance and Litter Control Act 2016*, place on a vehicle (without the consent of the owner of the vehicle), or give out or distribute any book, leaflet or other printed matter to any bystander, passer-by or other person.

9.18 **Donations**

Ask for or receive or indicate that he or she desires a donation of money or any other thing.

9.19 **Entertainment and Busking**

9.19.1 Sing, busk or play a recording or use a musical instrument for the apparent purpose of either entertaining others whether or not receiving money.

9.19.2 Conduct or hold a concert, festival, show, public gathering, circus, meeting, performance or any other similar activity.

9.20 **Equipment**

Use an item of equipment, facilities or property belonging to the Council other than in accordance with any conditions of use contained on a sign or notice in the vicinity of the equipment, facility or property.

9.21 **Fires**

Subject to the *Fire and Emergency Services Act 2005* light a fire except:

9.21.1 in a place provided by the Council for that purpose; or

9.21.2 in a portable barbeque, as long as the barbeque is used in an area that is clear of flammable material for a distance of at least four (4) metres.

**9.22 Fireworks**

Ignite, explode or use any fireworks.

**9.23 Fishing**

9.23.1 Cast a fishing line or keep a fishing line in the water from any beach while there are other persons in the waters in the vicinity of the fishing line;

9.23.2 Cast a fishing line, net or trap to catch water creatures in areas to which this subparagraph applies.

**9.24 Flora and Fauna**

Subject to the *Native Vegetation Act 1991* and the *National Parks and Wildlife Act 1972*:

9.24.1 plant, damage, pick, cut, disturb, interfere with or remove any plant, tree or flower thereon;

9.24.2 cause or allow an animal to stand or walk on any flower bed or garden plot;

9.24.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;

9.24.4 take, interfere with, tease, harm or disturb any animal, bird or aquatic life or the eggs or young of any animal, bird or aquatic life;

9.24.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;

9.24.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;

9.24.7 use, possess or have control of any device for the purpose of killing or capturing any animal, bird or aquatic life; or

9.24.8 burn any timber or dead wood –

with the exception that subclauses 9.21.4 and 9.21.7 do not apply to lawful fishing activities.

**9.25 Games & Sport**

9.25.1 Participate in, promote or organise any organised competition or sport, as distinct from organised social play on Local Government land to which the Council has resolved this subclause applies.

9.25.2 Play or practise any game which involves the use of a ball, missile or other object which by the use thereof may cause or be likely to cause injury or discomfort to any person being on or in the vicinity of that land or detract from or be likely to detract from another person's lawful use and enjoyment of that land.

- 9.25.3 Engage or participate in or conduct any organised group fitness activity or training on Local Government land to which the Council has resolved this subclause applies.
- 9.25.4 Play or practise any game or sport on Local Government land to which the Council has resolved this subclause applies except at the times determined by the Council and indicated on a sign on or in the vicinity of the land (if any)
- 9.25.5 Participate in any game, recreational activity or event where the Council has caused a notice to be erected indicating the game, recreational activity or event is prohibited.

## 9.26 Interference with Land

Interfere with, alter or damage the land (including a building, structure or fixture located on the land) including:

- 9.26.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 9.26.2 erecting or installing a structure in, on, across, under or over the land;
- 9.26.3 changing or interfering with the construction, arrangement or materials of the land;
- 9.26.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or
- 9.26.5 otherwise use the land in a manner contrary to the purpose for which the land was designed to be used.

## 9.27 Jetties

- 9.27.1 Jump or dive from a jetty into water or onto a beach;
- 9.27.2 Tie or affix any water craft to a jetty;
- 9.27.3 After being requested to leave a jetty by an authorised officer for any contravention (alleged or actual) of this subclause 9.27, come back onto the jetty within 24 hours of the request being made.

## 9.28 Model Aircraft, Boats and Cars

Subject to the *Civil Aviation Safety Regulations 1998*:

- 9.28.1 fly or operate a model or drone aircraft, boat or model or remote control vehicle in a manner which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of the land or detract from or be likely to detract from another person's lawful use of and enjoyment of the land; or
- 9.28.2 fly or operate a model or drone aircraft, boat or model or remote control vehicle on any Local Government Land to which the Council has resolved this subclause applies.



**9.29 Moorings**

- 9.29.1 Enter or be on any mooring or mooring area between the hours of 12 midnight and 7.00am following other than with the consent of the person who has the right to use the mooring or mooring area to moor a vessel;
- 9.29.2 Enter a mooring area which is generally closed to the public and requires permission for entry.

**9.30 Kites**

Fly a kite with more than one control string on Local Government land to which the Council has resolved this subparagraph shall apply.

**9.31 Overhanging Articles or Displaying Personal Items**

Suspend or hang an article or object from a building, verandah, pergola, post or other structure on Local Government land where it might present a nuisance or danger to a person using the land or be of an unsightly nature.

**9.32 Playing Area**

Use or occupy a playing area:

- 9.32.1 in such a manner as to damage or be likely to damage the surface of the playing area or infrastructure (above and under ground level);
- 9.32.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or
- 9.32.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area.

**9.33 Preaching**

Preach, harangue or solicit for religious purposes.

**9.34 Removing Soil**

Carry away or remove any soil, sand, clay, timber, stones, pebbles, gravel, seaweed, rocks, minerals, vegetation, shells, or other organic or inorganic materials or any part of the land;

**9.35 Rubbish Dumps and Rubbish Bins**

- 9.35.1 Interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on Local Government Land.
- 9.35.2 Remove, disperse or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging) that has been discarded in a bin on any Local Government Land, or placed on Local Government Land for collection by the Council (or its agent).

**9.36 Structures**

Erect or allow to remain erected any shed, tent, hut or other structure;

### 9.37 **Swimming and Aquatic Activity**

Subject to the provisions of the *Harbors and Navigation Act 1993* enter, swim or engage in any aquatic activity in or on any waters except:

9.37.1 in waters that the Council has set aside for that purpose; or

9.37.2 in an area where a nearby sign states that such activity is allowed and in accordance with any conditions stated in the sign; or

9.37.3 in the sea.

### 9.38 **Trading**

9.38.1 Sell buy, offer or display anything for sale or hire or lease any goods, merchandise, commodity, article or thing.

9.38.2 Carry on any business or promote or advertise the same.

9.38.3 Set up a van or other vehicle, stall, stand, table or other structure, tray, carpet or device for the apparent purpose of buying, selling, offering, displaying or exposing for sale or the hiring or leasing of any goods, merchandise, commodity, article, service or thing.

### 9.39 **Vehicles**

9.39.1 Drive or propel a vehicle except on an area or road constructed and set aside by the Council for that purpose.

9.39.2 Promote, organise or take part in a race, test or trial of any kind in which vehicles take part, except on an area properly constructed for that purpose.

9.39.3 Repair, wash, paint, panel beat or carry out any other work to a vehicle, except for running repairs in the case of a breakdown.

### 9.40 **Weddings, Functions and Special events**

9.40.1 Hold, conduct or participate in a marriage ceremony, game, picnic, other event or entertainment on any local government land except where the number of persons attending the event or entertainment does not exceed forty (40).

9.40.2 Hold or conduct any filming where the filming is for a commercial purpose.

### 9.41 **Wheeled Recreational Devices**

Subject to the *Road Traffic Act 1961*, ride a wheeled recreational device on Local Government land to which the Council has determined this subclause applies.

## 10. **Prohibited activities**

A person must not do any of the following on Local Government land.

**10.1 Equipment**

Use any item of equipment, facilities or property belonging to the Council other than in the manner and for the purpose for which it was designed, constructed or intended to be used or in such manner as is likely to damage or destroy it.

**10.2 Fishing**

Fish in any waters to which the Council has determined this subclause applies.

**10.3 Glass**

Willfully break any glass, china or other brittle material.

**10.4 Helium Balloons**

Release an unsecured balloon containing helium unless the balloon is:

10.4.1 released unintentionally and without negligence; or

10.4.2 released inside a building or structure and does not make its way into the open air;

10.4.3 released for scientific, including meteorological, purposes; or

10.4.4 a balloon aircraft that is recovered after landing.

**10.5 Interference with Permitted Use**

Interrupt or unreasonably interfere with any other person's use of Local Government land where the person is using the land in a manner permitted by the Council or in accordance with any permission that has been granted by the Council.

**10.6 Nuisance**

Behave in such an unreasonable manner as to cause discomfort, inconvenience, annoyance or offence to any other person including by using profane, indecent or obscene language.

**10.7 Playing games**

Play or participate in a game:

10.7.1 which is likely to cause damage to the land or anything on it; or

10.7.2 in any area where a sign indicates that the game is prohibited.

**10.8 Smoking**

Subject to the *Tobacco Products Regulation Act 1997*, smoke, hold or otherwise have control over an ignited tobacco product on any land to which the Council has determined this subclause applies.

**10.9 Missiles**

Throw, roll or discharge any stone, substance or missile to the danger of any person or animal.

**10.10 Obstruction**

Obstruct:

10.10.1 any footpath or bicycle track;

10.10.2 any door, entrance, stairway or aisle in any building; or

10.10.3 any gate or entrance to local government land;

**10.11 Sand Dunes, Pebble Dunes, Coastal Slopes and Cliffs**

10.11.1 carry out any activity that may damage or threaten the integrity of sand dunes, pebble dunes, coastal slopes or cliffs; or

10.11.2 introduce non-indigenous flora or fauna or dump any material in a sand dune or pebble dune; or

10.11.3 destroy, remove or cause interference to any vegetation, whether living or dead, on or within a sand dune, coastal slope or coastal cliff.

**10.12 Solicitation**

Tout or solicit customers for the parking of vehicles or for any other purpose whatsoever.

**10.13 Toilets**

In any public convenience on Local Government land:

10.13.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;

10.13.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage;

10.13.3 use it for a purpose for which it was not designed or constructed;

10.13.4 enter a toilet that is set aside for use of the opposite gender except:

10.13.4.1 where a child under the age of eight years is accompanied by a parent or adult guardian of that gender; or

10.13.4.2 to provide assistance to a person with a disability; or

10.13.4.3 in the case of a genuine emergency.

#### 10.14 Waste

10.14.1 Deposit or leave thereon:

10.14.1.1 anything obnoxious or offensive;

10.14.1.2 any mineral, mineral waste, industrial waste or by-products;

10.14.2 Deposit any rubbish other than in receptacles provided by the Council for that purpose;

10.14.3 Deposit in any receptacle any rubbish emanating from domestic or trade purposes, unless designated by a sign or signs.

### PART 4 – ENFORCEMENT

#### 11. Directions

11.1 A person on Local Government land, including the foreshore, must comply with a reasonable direction from an authorised person relating to:

11.1.1 that person's use of the land;

11.1.2 that person's conduct and behaviour on the land;

11.1.3 that person's safety on the land; or

11.1.4 the safety and enjoyment of other persons on the land.

11.2 A person who, in the opinion of an authorised person, is likely to commit or has committed, a breach of this By-law must immediately comply with a direction of an authorised person to leave that part of Local Government land.

#### 12. Orders

If a person fails to comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

##### Note –

Section 262(1) of the Act states:

- (1) *If a person (the offender) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-*
- (a) *if the conduct is still continuing - to stop the conduct; and*
  - (b) *whether or not the conduct is still continuing - to take specified action to remedy the contravention.*

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease smoking on Local Government land;
- remove an object or structure encroaching on Local Government land;
- dismantle and remove a structure erected on Local Government land without permission.

**13. Removal of animals and objects**

An authorised person may remove an animal or object that is on Local Government land in breach of a By-law if no person is in charge of, or apparently in charge of, the animal or object.

**PART 5 – MISCELLANEOUS****14. Exemptions**

- 14.1 The restrictions in this by-law do not apply to any Police Officer, emergency worker, Council Officer or Council employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision or in accordance with a direction of a Council Officer.
- 14.2 The restrictions in subclauses 9.14 and 9.17 of this By-law do not apply to electoral matter authorised by a candidate and which is:
- 14.2.1 related to a Commonwealth or State election and occurs during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or
- 14.2.2 related to an election under the Act or the *Local Government (Elections) Act 1999* and occurs during the period commencing four weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or
- 14.2.3 related to, and occurs during the course of and for the purpose of a referendum.

**15. Liability of vehicle owners**

- 15.1 For the purposes of this clause 15, *owner* in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 15.2 the owner and the driver of a vehicle driven, parked or standing in contravention of this By-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the City of Holdfast Bay held on the **INSERT DATE 2019** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....  
 ROBERTO BRIA  
 Acting Chief Executive Officer

# Attachment 3a



**DELEGATED DECISION – DOG BY- LAW NO 5 AND CAT BY- LAW NO 6 of 2019**  
**CITY OF HOLDFAST BAY**

- Confirmation has been received that the draft by-laws have been provided to the Board 21 days prior to public consultation and at least 42 days before the council resolves to make the by-laws as required by S90(5)(a) of the Act.
- Form 29 has been provided to the Board regarding the proposed by-laws which:
  - Outlines the objectives of the proposed by-laws
  - Proposes implementation and enforcement
  - Outlines differences from other by-laws about similar subject matter
- The draft by-laws are consistent with the Act and Regulations.
- Draft By-laws include provisions in line with the Board approved template

**Additional Comment (if any)**

- **Recommendation**

That the draft Dog By-law No 5 and draft Cat By-law No 6 of 2019 for Holdfast Bay City Council are noted and no recommendations are made.

Gwyn Rimmington  
Project Officer, Compliance  
*Name of Officer preparing the report*

*Date 14 May 2019*

- Approved/Not Approved

*Andrew Lamb Board Secretary*

*Date...17...May 2019*

**Documents in delegated decision 2019 folder:**

..\Holdfast Bay



# Attachment 3b



## Jillian Conner

---

**From:** Ronan O'Brien <[robrien@kelledyjones.com.au](mailto:robrien@kelledyjones.com.au)>  
**Sent:** Wednesday, 15 May 2019 5:11 PM  
**To:** Adrian Hill  
**Subject:** Dog By-law (KJ 180518)  
**Attachments:** hold0001\_180518\_037\_By-law No 5 -Dogs.docx

Hi Adrian,

I received an email today from the Dog and Cat Management Board. Their only suggestion for the Dog By-law was to match the definition of "assistance dog" with the definition within the Dog and Cat Management Act.

Please have a look at this small amendment and let me know if you happy for me to send a new clean version (with this amendment) to the DCM Board.

Thanks

Kind regards,  
Ronan

**Ronan O'Brien**  
Lawyer



**T.** 8113 7116 | **M.** 0422 851 218 | **E.** [robrien@kelledyjones.com.au](mailto:robrien@kelledyjones.com.au) | **W.** [kelledyjones.com.au](http://kelledyjones.com.au)  
Level 6/19 Gilles Street Adelaide SA 5000 | GPO Box 2024 SA 5001

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**CITY OF HOLDFAST BAY**

**DOGS BY-LAW 2019**

**By-law No. 5 of 2019**

*A By-law to limit the number of dogs kept on premises and for the management and control of dogs in the Council's area.*

**CONTENTS**

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**PART 1 – PRELIMINARY****1. Title**

This By-law may be cited as the *Dogs By-law 2019* and is By-law No. 5 of the City of Holdfast Bay.

**2. Authorising law**

This By-law is made under section 90(5) of the *Dog and Cat Management Act 1995*, sections 238 and 246 of the Act, and section 18A of the *Harbors and Navigation Act 1993*.

**3. Purpose**

The objectives of this By-law are to control and manage dogs in the Council area:

- 3.1 to reduce the incidence of environmental nuisance caused by dogs; and
- 3.2 to promote responsible dog ownership; and
- 3.3 to protect the convenience, comfort and safety of members of the public; and
- 3.4 for the good rule and government of the Council's area.

**4. Commencement, revocation and expiry**

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation<sup>1</sup>.

By-Law No. 5 – Dogs 2012.<sup>2</sup>

- 4.2 This By-law will expire on 1 January 2027.<sup>3</sup>

**Note-**

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

**5. Application**

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2019*.
- 5.2 Subject to subclause 5.3, this By-law applies throughout the Council's area.
- 5.3 Subclauses 9 and 10.1, of this By-law only apply in such part or parts of the Council area as the Council may, by resolution direct in accordance with section 246(3)(e) of the Act.

## 6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **approved kennel establishment** means a building, structure or area approved by a relevant authority, pursuant to the *Development Act 1993* for the keeping of dogs on a temporary or permanent basis;
- 6.3 **assistance dog** means a dog trained and used for the purpose of assisting a person who is wholly or partially disabled and includes a dog undergoing training of a kind approved by the Dog and Cat Management Board;
- 6.4 **Council** means the City of Holdfast Bay;
- 6.5 **dog** (except for in clause 7.1) has the same meaning as in the *Dog and Cat Management Act 1995*;
- 6.6 **effective control** means a person exercising effective control of a dog either:
- 6.6.1 by means of a physical restraint (as defined under the *Dog and Cat Management Act 1995*); or
- 6.6.2 by command, the dog being in close proximity to the person and the person being able to see the dog at all times;
- 6.7 **Hooded Plover breeding site** means any land within 100 metres of a sign on Local Government land that indicates a Hooded Plover breeding nest is or may be present on the land or in the vicinity.
- 6.8 **keep** includes the provision of food or shelter;
- 6.9 **park** has the same meaning as in the *Dog and Cat Management Act 1995*;
- 6.10 **premises** includes land and part of any premises or land whether used or occupied for domestic or non-domestic purposes;
- 6.11 **small dwelling** means a self-contained dwelling commonly known as a flat, service flat, home unit or the like.
- 6.12 For the purposes of clause 10 of the By-law, a dog is (under **effective control by means of a leash**) if the dog is secured to a leash, chain or cord that does not exceed 2 metres in length and:
- 6.12.1 the leash, chain or cord is either tethered securely to a fixed object; or
- 6.12.2 held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

### Note-

Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-laws was made.

## PART 2 – LIMITS ON DOG NUMBERS

### 7. Limits on dog numbers in private premises

- 7.1 Subject to subclauses 7.3 and 7.5, a person must not, without the Council's permission keep or cause, suffer or permit to be kept:
- 7.1.1 more than one dog in a small dwelling; or
  - 7.1.2 more than two dogs in any premises other than a small dwelling.
- 7.2 For the purposes of subclause 7.1, 'dog' means a dog that is three (3) months of age or older or, a dog that has lost its juvenile teeth.
- 7.3 Subclause 7.1 does not apply to:
- 7.3.1 approved kennel establishments operating in accordance with all required approvals and consents; or
  - 7.3.2 any other business involving the keeping of dogs provided that the business is registered in accordance with the *Dog and Cat Management Act 1995* and operating in accordance with all required approvals and consents.
- 7.4 The Council may require that premises which are the subject of an application for permission to keep additional dogs, must be inspected by an authorised person for the purpose of assessing the suitability of the premises for housing dogs.
- 7.5 No dog is to be kept on any premises where, in the opinion of an authorised person, there is no secure or appropriate area where a dog may be effectively confined.

## PART 3 – DOG CONTROLS

### 8. Dog exercise areas

Subject to clauses 9 and 10 of this By-law, a person may enter a park in the Council's area for the purpose of exercising a dog under his or her effective control.

#### Note –

If a person is exercising a dog in a park as permitted under this clause and the dog is not under effective control as that term is defined by the *Dog and Cat Management Act 1995*, this gives rise to a dog wandering at large offence under section 43(1) of the *Dog and Cat Management Act 1995*, for which the owner of or person responsible for the dog may be liable.

### 9. Dog Prohibited Areas

A person must not allow a dog under that person's control, charge or authority (except an assistance dog) to enter or remain on any other Local Government land or public place to which the Council has determined that this subclause applies.



## 10. Dog on Leash Areas

- 10.1 A person must not, without the Council's permission, allow a dog under that person's control, charge or authority (except an assistance dog that is required to remain off-lead in order to fulfil its functions) to be or remain on Local Government land or in a public place to which the Council has resolved that this subclause applies unless the dog is under effective control by means of a leash.
- 10.2 A person must not allow a dog under that person's control, charge or authority to be or remain in a Hooded Plover breeding site unless the dog is under effective control by means of a leash.

## 11. Dog faeces

No person is to allow a dog under that person's control, charge or authority to be in a public place or on Local Government land unless that person has in their possession a bag or other suitable container for the collection and lawful disposal of any faeces that the dog may deposit (for the purpose of complying with their obligation under section 45A(6) of the *Dog and Cat Management Act 1995*).

## PART 4 – EXEMPTIONS

### 12. Council may grant exemptions

- 12.1 The Council may, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 12.2 An exemption—
- 12.2.1 may be granted or refused at the discretion of the Council; and
  - 12.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and
  - 12.2.3 is subject to any conditions specified in the instrument of exemption.
- 12.3 The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 12.4 The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

## PART 5 – ENFORCEMENT

### 13. Orders

- 13.1 If a person engages in conduct that is in contravention of this By-law, an authorised person may order that person:
- 13.1.1 if the conduct is still continuing – to stop the conduct; and

13.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.

13.2 A person must comply with an order under this clause.

13.3 If a person does not comply with an order, the authorised person may take action reasonably required to have the order carried out, and the Council may seek to recover its costs of any action so taken from the person to whom the order was directed.

13.4 However, an authorised person may not use force against a person under this section.

**Note-**

For example, an authorised person may order a person to:

- cease keeping more than the permitted number of dogs on that person's premises; or
- remove a dog from a dog prohibited area.

This By-law was duly made and passed at a meeting of the City of Holdfast Bay held on **INSERT DATE 2019** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....  
ROBERTO BRIA  
Acting Chief Executive Officer



# Attachment 4a





# COMMUNITY

ENGAGEMENT SUMMARY REPORT

## DRAFT BY-LAWS REVIEW

23 APRIL – 14 APRIL 2019

Report Completed for the Manager Regulatory Services  
Written by the Digital Engagement Partner.  
May 2019

## INTRODUCTION

On 23 April, We sought the views of the community to find their views on City of Holdfast Bay's Draft By-laws 2019. The draft By-laws have been developed by the Regulatory Services Department and approved by Council.

This report provides the engagement methodology and engagement outcomes.

All submissions have been collated and are available in the appendix.

---

## BRIEF DESCRIPTION OF ENGAGEMENT METHODOLOGY

This community engagement ran from 23 April to 14 May 2019, a total of 22 days.

The views of the community were collected via:

- Council's website - The Council website provided the opportunity to complete an online survey.
- Email submissions phone calls and letters.

And promoted through:

- A registered user update - via email to a 6,637 database.
- CoHB Twitter account every week for the duration of the engagement.
- Brighton Civic Centre, Brighton and Glenelg Libraries.
- Newsfeed on the City of Holdfast Bay corporate and engagement sites.

## ENGAGEMENT FORMAT

Formal feedback forms on line, emails and hardcopies.

## DATA ANALYSIS

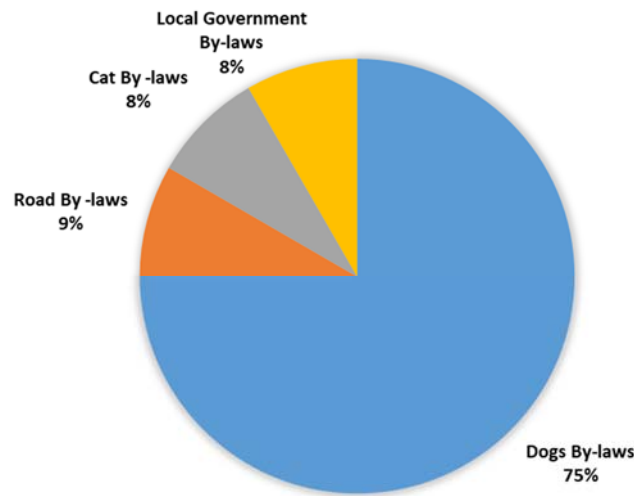
All data has been independently reviewed by the Digital Engagement Partner.

## OUTCOMES

Twelve (12) submissions were received during the engagement period.

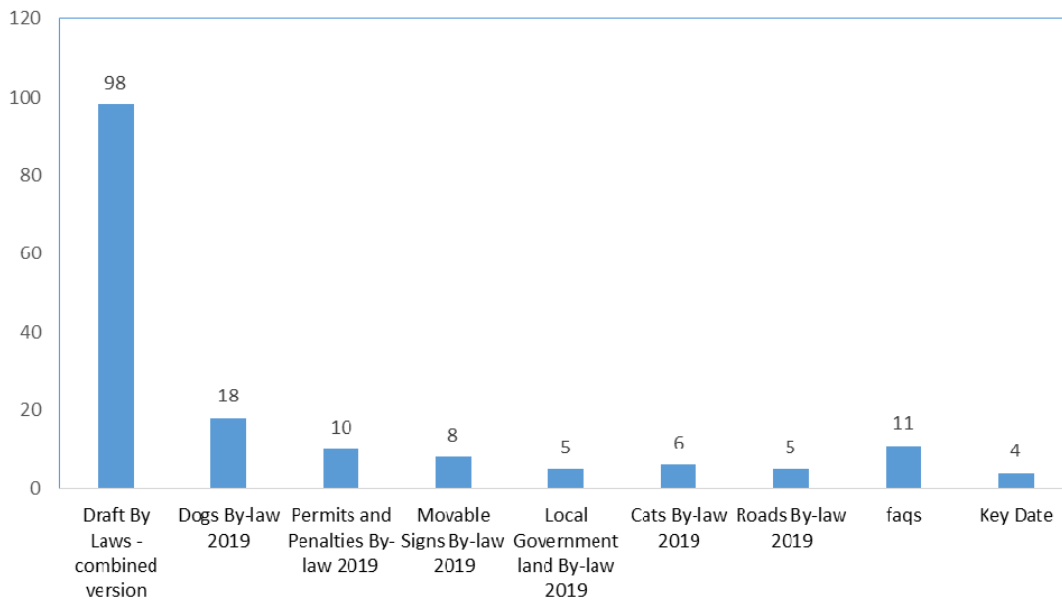
- Nine (9) submissions were in regards to the Dogs By-laws and the topic of Hooded Plovers. Three (3) submissions raised issues requesting that the terminology in 6.7 be amended to include dogs remain on leashes near Hooded Plovers for the entire breeding period, to allow for breeding times not just when eggs are present. Further to this the term "effective control" requires specific definition to include;
  - on a leash;
  - maintain safe distance from the breeding site
  - The term effective control should extend to include other wildlife and animals. All eight (8) submissions commended the revised version of Dogs By-laws with the new inclusion of Hooded Plovers.
- One (1) submission was regarding the Cat By-laws in reference to cat control, specifically in regards to owners to have their cats under control 24/7.
- One (1) submission was regarding the Roads By-laws; to ensure 3.1 is being met additional context be added; and skateboards be added to point 7.7.1.

- One (1) submission was regarding the Local Government By-laws in regards to 9.27 Jetties notably Jetty Jumping and 9.8.1 Bathing, the submission requested both these points be removed.



There were 12 submissions via email. The project page was visited 178 times and documents were downloaded a total of 150 times.

Below is a summary of the documents downloaded during the engagement:



### SUMMARY OF COMMENTS

The engagement site was viewed 446 times by 178 visitors. The passive participation for this engagement was high, despite the prediction that expectation community engagement involves feedback on a (lengthy) council documentation engagement levels will be low.

The submissions expressed were strongly in favour of by-laws regarding dog management around the Hooded Plovers. The general consensus from the feedback was that the by-laws were to be commended.

# Attachment 5



## **CITY OF HOLDFAST BAY**

### **REPORT TO COUNCIL – NATIONAL COMPETITION POLICY**

#### **BACKGROUND**

There are a number of statutory requirements apply to the making of by-laws, including the obligation under section 247(c) of the *Local Government Act 1999* (the Act), which provides:

*A by-law made by a council must –*

- c. avoid restricting competition to any significant degree unless the council is satisfied that there is evidence that the benefits of the restriction to the community outweigh the costs of the restriction, and that the objectives of the by-law can only be reasonably achieved by the restriction.*

Accordingly, any restriction on competition contained in a proposed by-law must be identified before the Council is in a position to make that by-law. A restriction on competition arises where any provision of the by-law has the potential to impact upon competitive conduct in any market. In general terms, restrictions on competition fall within the following categories:

- regulation of the entry or exit of business entities or individuals in to or out of markets;
- controls on prices or production levels;
- restrictions on the quality, level or location of goods and services;
- restrictions on advertising and promotional activities;
- restrictions on price entitled input used in the production process;
- legislation which is likely to confer significant costs on business; and
- legislation which provides advantages to some business entities or individuals over others.

The purpose of this report is to address the impact of the proposed by-laws on national competition policy.

#### **REPORT**

##### **1. PERMITS AND PENALTIES BY-LAW 2019**

###### **Status**

This by-law has been reviewed in light of national competition policy and has been identified as one that will not restrict competition.

###### **Objectives of the By-Law**

The objectives of the by-law are to:

- a) create a permit system for Council by-laws;
- b) provide for the enforcement of breaches of Council by-laws and fixing penalties; and
- c) clarify the construction of such by-laws.

## 2. MOVEABLE SIGNS BY-LAW 2019

### **Status**

The proposed by-law has been reviewed against the requirements of section 247(c) of the Act. The review has concluded that:

- a) there are restrictions on competition contained in the by-law;
- b) some of these restrictions restrict competition to a significant degree;
- c) the objectives of the by-laws containing the restrictions can only be achieved by restricting competition; and
- d) the public benefits of the restrictions outweigh the costs of those restrictions.

### **Objectives of the By-Law**

The objectives of the by-law are to set standards for moveable signs on roads and to provide conditions for the placement of such signs. These objectives include:

- a) the prevention of nuisances;
- b) protecting the convenience, comfort and safety of road users and members of the public;
- c) protecting or enhancing the amenity of the Council's area; and
- d) ensuring that moveable signs do not unreasonably restrict the use of a road.

### **Potential Restrictions on Competition**

Section 226(1) of the Act enables a person to place a moveable sign on a road without an authorisation or permit under Chapter 11, Part 2 of the Act if:

- a) the design and structure of the sign complies with the requirements of the Council's by-laws;
- b) the sign is placed in a position that complies with the requirements of the Council's by-laws;
- c) any other relevant requirements of the Council's by-laws are complied with; and
- d) the sign does not unreasonably:
  - i. restrict the use of the road; or
  - ii. endanger the safety of members of the public.

### ***Clauses 7 and 8: Construction, design and appearance***

Clauses 7 and 8 place restrictions on the construction, design and appearance of moveable signs. This potentially restricts product innovation.



### **Clauses 9 and 10: Placement and restrictions**

Clauses 9 and 10 restrict the placement of a moveable sign. This may inadvertently restrict competitive behaviour and may preclude some businesses from being able to use moveable signs for advertising.

A restriction on competition will restrict competition to a significant degree where the impact on competition is more than nominal or trivial.

The restrictions contained in the proposed by-law are highly prescriptive and are likely to have a significant effect on competition in the market for moveable signs. There may also be significant impacts for other businesses required to comply with the by-law. However, the by-law does not prevent the advertising of businesses. It merely regulates the manner in which this occurs.

In the absence of the proposed by-law, a person would need to seek an authorisation or permit under section 221 or section 222 of the Act. An authorisation or permit under these provisions would also achieve the objective. However, rather than requirements being stated in a by-law any requirements would be conditions on the authorisation or permit. This could mean that there would be a less standardised approach to moveable signs than is achieved by the proposed by-law.

Parliament has expressly indicated that the regulation of moveable signs on a road can, within the terms of section 226 of the Act be regulated by Councils. The public policy preference, therefore, is for by-laws to govern the design, structure and placement of moveable signs on roads. In the context of section 226 of the Act, the optimal means of achieving the objective is through the proposed by-law.

In any event, the by-law contains an administrative discretion such that the Council may grant permission (with conditions) for the display of a moveable sign on a road which is otherwise contrary to the controls under the by-law relating to the construction and placement of moveable signs. The Council can ensure that reasonable and objective criteria are used in the exercise of the administrative discretion by way of appropriate policy implementation.

### **Alternative Means of Achieving the Same Result**

There are no identified alternative means of regulating the placement of moveable signs within the Council's area.

### **Do the Benefits of the By-Law Outweigh the Costs to the Community?**

The costs to the community may include:

- a) the costs of compliance with conditions specified in the by-law; and
- b) administrative costs in obtaining a permit, if necessary.

The costs to the Council will include:

- a) the administrative costs of making the by-law; and
- b) staffing costs in connection with the administration and enforcement of the by-law.

The benefits to the community will include:

- a) the proper management of moveable signs on roads on behalf of the community to ensure and maintain road safety;
- b) the protection of Council property and other property within the Council's area;

- c) the protection and enhancement of the amenity of the Council's area;
- d) a reduction in the level of inconvenience that could be caused to members of the public if the placement of moveable signs was not regulated.

The benefits to the community are significant. Accordingly, based on a review of the by-law, the Administration considers that the benefits of the effective management of moveable signs on roads within the Council area outweigh the potential restrictions on competition posed by this by-law.

### 3. LOCAL GOVERNMENT LAND BY-LAW 2019

#### Status

Certain provisions of this by-law have been identified as having the potential to restrict competition.

#### Objectives of the By-law

The objectives of the by-law are to regulate the access to and use of Local Government land (other than roads), and certain public places:

- a) to prevent and mitigate nuisances;
- b) to prevent damage to Local Government land and promote conservation of the foreshore;
- c) to protect the convenience, comfort and safety of members of the public;
- d) to enhance the amenity of the Council area; and
- e) for the good rule and government of the area.

#### Potential Restrictions on Competition

The following provisions of the by-law have the potential to restrict competition:

- Subclauses 5.3 and 5.4 provide that certain provisions of clauses 9 and 10 will only apply in respect of certain areas of the Council as determined by the Council;
- Clause 7 gives the Council a general power to close, regulate or restrict access to Local Government land for specified times and days and to fix fees or charges payable for entry onto Local Government land;
- Clause 9 provides that certain activities require the permission of the Council; “*permission*” means the permission of the Council given in a permit, the form of which is to be determined by the Council in accordance with the *Permits and Penalties By-law 2019*. The Council may attach conditions to a grant of permission as it thinks fit, and may vary or revoke such conditions or impose new conditions by notice in writing to the permit holder; permit holders are to comply with every such condition. The Council may revoke a permit at any time by notice in writing to the permit holder;
- Clause 10 provides that certain activities are prohibited on Local Government land in the Council's area; and
- Clause 11 requires a person's compliance with reasonable directions from an authorised person relating to that person's use of Local Government land, the person's conduct and behaviour on the land, that person's safety on the land and the safety and enjoyment of the land by other persons.

The provisions restricting access to Local Government land, prohibiting certain activities and requiring persons to obtain a permit for other activities, have the potential to restrict competition by limiting the number of providers of goods or service using Local Government land and/or by restricting the area a permit holder may occupy, or the manner in which they may conduct business.

The by-law contains an administrative discretion that can be exercised selectively to grant permission (with conditions) for certain activities to be carried out in certain circumstances.

However, the Council can ensure that reasonable and objective criteria are used in the exercise of administrative discretion by way of appropriate policy implementation.

### **Alternative Means of Achieving the Same Result**

There are no identified alternative means of regulating the use of and access to Local Government land as provided for in this by-law.

### **Do the Benefits Outweigh the Costs to the Community?**

The costs to the community may include:

- a) administrative costs in applying for a permit, if necessary;
- b) any permit fees; and
- c) the cost of compliance with the by-law, for example, relocating the activity to a suitable location.

The costs to the Council will include:

- a) administrative costs in making the by-law;
- b) administrative costs in considering permit applications; and
- c) staffing costs in connection with the administration and enforcement of the by-law.

Benefits to the community will include:

- a) the proper management of Local Government land on behalf of the community;
- b) the protection of Council property, which is critical for its long-term sustainability; and
- c) a reduction in the level of inconvenience that could be caused to members of the public by unregulated conduct on Local Government land.

Based on a review of the by-law, the Administration considers that the benefits of the proper management and regulation of the use of and access to Local Government land outweigh the potential restrictions on competition posed by this by-law.

#### 4. ROADS BY-LAW 2019

##### **Status**

This by-law has been reviewed against the requirements of section 247(c) of the Act. Certain provisions of this by-law have been identified as having the potential to restrict competition.

##### **Objectives of the By-law**

The objectives of the by-law are to manage and regulate certain uses of roads in the Council's area:

- a) to protect the convenience, comfort and safety of road users and members of the public;
- b) to prevent damage to buildings and structures on roads;
- c) to prevent certain nuisances occurring on roads; and
- d) for the good rule and government of the Council's area.

##### **Potential Restrictions on Competition**

Clause 7 provides that certain activities on a road require the permission of the Council. The Council may attach conditions to any grant of permission. Further, the Council may vary the conditions attaching to a permit or revoke a permit at any time by notice in writing to the permit holder.

Where an activity that is subject to the requirement to obtain permission is an activity undertaken as an incidence of competition within a market, then the requirements to obtain the Council's permission is a restriction on competition. Restrictions on competition will arise where a person is seeking to utilise a road for a business activity.

The use of public roads for business purposes is prohibited by section 222 of the Act except where the Council permits the activity. Section 222 of the Act was considered during the legislation review of the *Local Government Bill 1999*, during which Parliament concluded that the benefits of the provision outweigh the costs.

The proposed by-law does not restrict competition to any greater degree than section 222 of the Act. On this basis, there is no need to further analyse the proposed by-law for the purposes of section 247(c) of the Act.

## 5. DOGS BY-LAW 2019

### Status

The by-law has been reviewed in light of national competition policy and has been identified as one that will not restrict competition or otherwise unreasonably restrict or unduly burden business activities.

This is on the basis that the limitations on the number of dogs that may be kept in any premises as prescribed by the by-law (i.e. which has the potential to operate to restrict competition) do not apply to:

- approved kennel establishments operating in accordance with all required approvals and consents; and
- premises of a business that involves the keeping of dogs provided that the business is registered in accordance with the *Dog and Cat Management Act 1995*.

### Objectives of the By-law

The objectives of this By-law are to control and manage dogs in the Council's area:

- a) to reduce the incidence of environmental nuisance caused by dogs; and
- b) to promote responsible dog ownership; and
- c) to protect the convenience, comfort and safety of members of the public; and
- d) for the good rule and government of the Council's area.

## 6. CATS BY-LAW 2019

### **Status**

The by-law has been reviewed in light of national competition policy and has been identified as one that will not restrict competition or otherwise unreasonably restrict or unduly burden business activities.

This is on the basis that the limitations on the number of cats that may be kept in any premises as prescribed by the by-law (i.e. which has the potential to operate to restrict competition) does not apply to approved catteries operating in accordance with all required approvals and consents.

### **Objectives of the By-law**

The objectives of this By-law are to control and manage cats in the Council's area:

- a) to reduce the incidence of environmental nuisance caused by cats; and
- b) to promote responsible cat ownership; and
- c) to protect the convenience, comfort and safety of members of the public; and
- d) for the good rule and government of the Council's area.

# Attachment 4b





[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Wednesday, 24 April 2019 5:10 PM  
**To:** [REDACTED]  
**Subject:** RE: Your view :Draft By-laws

Thank [REDACTED] for taking an interest and providing feedback. I will investigate if these sections need to be included.  
[REDACTED]

[REDACTED]

**Sent:** Wednesday, 24 April 2019 4:05 PM  
**To:** [REDACTED]  
**Subject:** Your view :Draft By-laws

Dear [REDACTED]

I received this and would like to provide feedback.

There are some odd things in the by laws which should be dumped.

Jetty Jumping - unenforceable and totally ignored.

**9.27 Jetties**

9.27.1 Jump or dive from a jetty into water or onto a beach;

**Swim or bathe near a jetty - ignored and silly**

A person must not without the permission of the Council, do any of the following on Local Government land or, where stated, the foreshore.

**9.8 Bathing**

In any waters adjacent the foreshore:

9.8.1 swim or bathe within five metres of any jetty; or

[REDACTED]

---

**From:** Your View - Holdfast [<mailto:notifications@engagementhq.com>]

**Sent:** Tuesday, 23 April 2019 10:44 AM

**Subject:** Your view :Draft By-laws



We invite you to share their feedback on the City of Holdfast Bay's Draft By-laws 2019. The draft By-laws have been developed by the Regulatory Services Department and approved by Council.

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Thursday, 2 May 2019 4:25 PM  
**To:** Holdfast Mail  
**Subject:** Dog in hooded plover bylaw

I have read the proposed by-law with regard to the protection of hooded plovers in the holdfast council area and the changes to dog off leash restrictions in the area.

I wholeheartedly support this bylaw PART 3 – DOG CONTROLS

**10. Dog on Leash Areas**

10.2 A person must not allow a dog under that person's control, charge or authority to be or remain in a Hooded Plover breeding site unless the dog is under effective control by means of a leash.

Whilst the majority of visitors to the beach are responsible dog owners there are unfortunately too many out of control and unleashed dogs which have been detrimental to the well being of these vulnerable birds.

I hope that the by-law will enable council to have more power to control, and in the worst case scenario, prosecute irresponsible owners in the hooded plover area. The council is already very generous in allowance of dogs on beaches and the breeding site area is a small area, for a few months of the year.

Please use my feedback in whatever way you wish to support the by-law.

How will the proposed by-law be policed? If not policed, it will not be an effective by-law.

Regards

[REDACTED]

Sent from my iPad

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Thursday, 2 May 2019 5:18 PM  
**To:** Holdfast Mail  
**Subject:** Re Hooded Plover regulation

Hello

I am very pleased to see that local government is making a new regulation in regard to the threatened Hooded Plover and the control of dogs near their nests. It is clear now that "effective control" means a dog on a lead not longer than 2m. This will help dog owners and volunteer bird carers to understand clearly their responsibility.

Can you also indicate how this will be policed from a council perspective and if the general public has a responsibility to report flagrant disregard of dog owners?

Thank you

[REDACTED]

Sent from my iPad

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, 3 May 2019 1:43 PM  
**To:** Holdfast Mail  
**Subject:** DOGS BY-LAW 2019 (By-law No. 5 of 2019)

Dear Sir

We support of the proposed by-laws pertaining to Hooded Plover breeding sites as set out below. Preserving the amenity of our beaches where possible for all users is very important, and it's difficult balancing the wishes of all users. Much excellent work is being done to protect Hooded Plovers and future generations will be gifted if our efforts succeed. We think the proposed by-laws are a sensible and reasonable approach to balancing Plover protection with the amenity for dog owners.

Regards

[REDACTED]

**PART 1 – PRELIMINARY**

**6.7 Hooded Plover breeding site** means any land within 100 metres of a sign on Local Government land that indicates a Hooded Plover breeding nest is or may be present on the land or in the vicinity.

**6.12** For the purposes of clause 10 of the By-law, a dog is (under **effective control by means of a leash**) if the dog is secured to a leash, chain or cord that does not exceed 2 metres in length and:

6.12.1 the leash, chain or cord is either tethered securely to a fixed object; or

6.12.2 held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

**PART 3 – DOG CONTROLS**

**10. Dog on Leash Areas**

**10.2** A person must not allow a dog under that person's control, charge or authority to be or remain in a Hooded Plover breeding site unless the dog is under effective control by means of a leash.

Sent from [Mail](#) for Windows 10

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, 3 May 2019 6:10 PM  
**To:** Holdfast Mail  
**Subject:** Dogs By-law 2019

I am writing to express my support for the revised By-law which provides protection from out of control dogs for the Hooded Plovers nesting on Seacliff Beach. The beaches belong to all of us and I believe this proposed By-law strikes a good balance between dog walkers and the needs of the vulnerable birds on the beach.

Yours sincerely

[REDACTED]

Sent from my Samsung Galaxy smartphone.

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Sunday, 5 May 2019 8:28 AM  
**To:** Holdfast Mail  
**Subject:** Dog Bylaws

Attention: Manager, Regulatory Services

I support the proposed changes to be made to the current dog By-laws by the Holdfast Bay Council. I congratulate the Council for the support and concern it is showing to the endangered Hooded Plovers with the proposed by-laws. The Hooded Plovers are so vulnerable to unleashed dogs on the beach, but more so during the nesting/breeding season. The proposed changes to ensure dogs are leashed at all times within 100 metres of designated areas will certainly give the birds a greater chance of the eggs and chicks surviving.

I look forward to other Councils adopting the same by-laws.

[REDACTED]

Sent from my iPad

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Monday, 6 May 2019 4:10 PM  
**To:** Holdfast Mail  
**Cc:** [REDACTED]  
**Subject:** Feedback on By-Laws- By Law 4-Roads

Please make note of the following feedback:

CITY OF HOLDFAST BAY ROADS BY-LAW 2019 By-law No. 4 of 2019 For the management, control and regulation of activities on roads in the Council's area.

***Purpose***

***The objectives of this By-law are to manage, control and regulate the prescribed uses of roads in the Council's area: 3.1 to protect the convenience, comfort and safety of road users and members of the public;***

To ensure point 3.1 of the purpose is being met, please add the following points to the By-law:

- To implement and review traffic management principles for all council roads including the Esplanade
- To add Skateboards to point 7.7.1 ***Sing, busk, play a recording or use a music instrument, or perform similar activities***

Regards

[REDACTED]

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Monday, 6 May 2019 4:28 PM  
**Subject:** Action Made Current DOC/19/31585 [REDACTED] - feedback on By-Law 4 - management , control and regulation of activities on roads  
**Attachments:** [REDACTED] - feedback on By-Law 4 - management , control and regulation of activities on roads.tr5

This action has been made current in HP Records Manager (TRIM).

Please check your Records Due Tray or click on the attached TR5 HPRM reference file.

Record: DOC/19/31585 - [REDACTED] - feedback on By-Law 4 - management , control and regulation of activities on roads

Current Action: Incoming Mail - Action

Responsible Location: Hill, Adrian

Due: 16/05/2019 at 5:26 PM

Notes:

--  
This E-mail Message has been automatically generated by HP Records Manager (Holdfast TRIM).



[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Monday, 6 May 2019 4:10 PM  
**To:** Holdfast Mail  
**Cc:** [REDACTED]  
**Subject:** Feedback on By-Laws- By Law 4-Roads

Please make note of the following feedback:

CITY OF HOLDFAST BAY ROADS BY-LAW 2019 By-law No. 4 of 2019 For the management, control and regulation of activities on roads in the Council's area.

***Purpose***

***The objectives of this By-law are to manage, control and regulate the prescribed uses of roads in the Council's area: 3.1 to protect the convenience, comfort and safety of road users and members of the public;***

To ensure point 3.1 of the purpose is being met, please add the following points to the By-law:

- To implement and review traffic management principles for all council roads including the Esplanade
- To add Skateboards to point 7.7.1 ***Sing, busk, play a recording or use a music instrument, or perform similar activities***

Regards  
[REDACTED]

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Thursday, 9 May 2019 11:27 AM  
**To:** Holdfast Mail  
**Subject:** By Laws Cats

Good morning,

I am wishing to reply to the By Law consultation with reference to cat control.

I am pleased to see the policy includes the registration and limitation of number of cats in a dwelling to two. I have had a long held concern regarding the damage uncontrolled cats cause to other species especially birds. I also believe people in the neighbourhood should not have to put up with the soiling and noise created by cats fighting. Cat owners should be required to have their animal under their control 24/7.

I would hope on having these by laws accepted by Council there will be a rapid movement by Council to enforce the registration, microchipping and control provisions incorporated in the by law.

Yours faithfully,

[REDACTED]

Sent from [Mail](#) for Windows 10

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Thursday, 9 May 2019 10:03 PM  
**To:** Holdfast Mail  
**Subject:** Comment on Draft By-Laws Review

Hello Holdfast Bay Council / Manager Regulatory Services,

**I have comment on the Dogs By-law 2019.**

In particular:

**PART 1 – PRELIMINARY**

6.7 Hooded Plover breeding site means any land within 100 metres of a sign on Local Government land that indicates a Hooded Plover breeding nest is or may be present on the land or in the vicinity.

6.12 For the purposes of clause 10 of the By-law, a dog is (under effective control by means of a leash) if the dog is secured to a leash, chain or cord that does not exceed 2 metres in length and:

6.12.1 the leash, chain or cord is either tethered securely to a fixed object; or

6.12.2 held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

**PART 3 – DOG CONTROLS**

**10. Dog on Leash Areas**

10.2 A person must not allow a dog under that person's control, charge or authority to be or remain in a Hooded Plover breeding site unless the dog is under effective control by means of a leash.

**It is great to see the council pay attention to the needs of these threatened birds. :-)**

I hope these By-Laws are the start of increased protections for all birds in the Council Area.

I see a possible problem in the interpretation, though?

If a dog is "in a Hooded Plover breeding site" and "the dog is under effective control by means of a leash" the owner could say they have met the letter of the law?

But if the person and the dog involved approach a Hooded Plover nest and scare the parents off or frighten any chicks, etc that would seem to be defeating the intent to ensure protection for this endangered species?

I was expecting the wording to include a statement to the effect that the person and their dog should maintain a safe distance from the nesting birds, their nest and chicks, and that they should act to avoid frightening or stressing the birds.

Thanks for considering my feedback,

Regards,

[REDACTED]  
Royal Park, SA 5014

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Monday, 13 May 2019 10:36 AM  
**To:** Holdfast Mail  
**Subject:** Comment on draft By-laws

[REDACTED]

Regulatory Services Manager

Thank you for the opportunity to comment on the draft By-laws, specifically, DOGS BY-LAW 2019 By-law No. 5 of 2019.

As a Hooded Plover monitoring volunteer with Birdlife Australia, I would like to acknowledge the continuing support and work that the City of Holdfast Bay has done in the protection of the Hooded Plover species which is listed as vulnerable nationally, with approximately only 27 breeding pairs on the Fleurieu Peninsula. The success of the breeding pair at Seacliff with three successful fledgings over the last three breeding seasons is in response to the continued efforts of the City of Holdfast Bay and the beach going community.

I support the implementation of draft clause 10.2, requiring dogs to be leashed at all times within the vicinity of a Hooded Plover breeding site. Unleashed dogs are recognised as a major threat to the breeding success of Hooded Plovers and the implementation of the By-Law will increase the chances of improvement in the breeding success rate.

I suggest that the definition of Hooded Plover breeding site in clause 6.7 be slightly amended. The proposed definition refers to a "Hooded Plover breeding nest". I suggest that the wording be changed to "Hooded Plover breeding area" which will provide for the Hooded Plovers to be protected from unleashed dogs during all stages of the breeding process when they are very vulnerable. This will include the scrape building stage, egg-laying, incubation of eggs, hatching and development of chicks to fledging stage.

I would like to congratulate the City of Holdfast Bay for the implementation of the By-Law clause 10.2 which provides for the improved breeding success of the Hooded Plover species.

Regards

[REDACTED]

Sent from my Samsung Galaxy smartphone.

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Tuesday, 14 May 2019 3:46 PM  
**To:** Holdfast Mail  
**Subject:** Draft By-Laws Review Dogs By-law 2019  
**Attachments:** Dog Bylaw [REDACTED].docx

[REDACTED]  
Manager, Regulatory Services  
City of Holdfast Bay

RE: Draft By-Laws Review Dogs By-law 2019

Dear [REDACTED]

As a user of metropolitan beaches, including those in the City of Holdfast Bay, I would like to express my support for the council's proposed Draft By-Laws Review Dogs By-law 2019.

I believe these laws are necessary to improve the experience of all beach visitors, as many people and children do not wish to be disturbed or approached by dogs off leash, and many dog owners fail to exercise effective control of their dogs.


I am strongly supportive of proposed by-laws which would require people to have dogs on leash near Hooded Plover breeding sites. I believe that the definition of a Hooded Plover breeding site should be expanded to "where Hooded Plover breeding nest, eggs or chick(s) are or may be present on the land or in the vicinity".

Other councils on the Fleurieu have directly linked dog by-laws to signage placed on the beach designating hooded plover nests/chicks during breeding/nesting season, and this perhaps could be considered in addition to the proposed Dog on Leash Areas 10.2 by-law.


"Effective control" should refer to more than a nuisance or a danger to other persons and the definition should be extended to other animals and wildlife. Authorised officers should also have the power to remove and impound a non-complying dog from a dog prohibited area or a Dog on Leash Area.

Regards

[REDACTED]



14/05/2019



Manager, Regulatory Services  
City of Holdfast Bay

RE: Draft By-Laws Review Dogs By-law 2019

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As a user of metropolitan beaches, including those in the City of Holdfast Bay, I would like to express my support for the council's proposed Draft By-Laws Review Dogs By-law 2019.


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Regards



[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Tuesday, 14 May 2019 3:46 PM  
**To:** Holdfast Mail  
**Subject:** Draft By-Laws Review Dogs By-law 2019  
**Attachments:** Dog Bylaws Flaherty.docx

[REDACTED]  
Manager, Regulatory Services  
City of Holdfast Bay

RE: Draft By-Laws Review Dogs By-law 2019

Dear [REDACTED]

As a user of metropolitan beaches, including those in the City of Holdfast Bay, I would like to express my support for the council's proposed Draft By-Laws Review Dogs By-law 2019.

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Regards

[REDACTED]  
[REDACTED]  
[REDACTED]

14/05/2019

[REDACTED]  
Manager, Regulatory Services  
City of Holdfast Bay

RE: Draft By-Laws Review Dogs By-law 2019

Dear Mr [REDACTED]

As a user of metropolitan beaches, including those in the City of Holdfast Bay, I would like to express my support for the council's proposed Draft By-Laws Review Dogs By-law 2019.

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"Effective control" should refer to more than a nuisance or a danger to other persons and the definition should be extended to other animals and wildlife. Authorised officers should also have the power to remove and impound a non-complying dog from a dog prohibited area or a Dog on Leash Area.

Regards

[REDACTED]



**From:** DEW:Minister Speirs <Minister.Speirs@sa.gov.au>  
**Sent:** Wednesday, 15 May 2019 10:36 AM  
**To:** Holdfast Mail  
**Subject:** 19EW0004585 : Letter from the Minister for Environment and Water [DLM=For-Official-Use-Only]  
**Attachments:** 19EW0004585\_BRIA.pdf

**For Official Use Only**

Dear [REDACTED]

Please find attached a letter from the Minister for Environment and Water, David Speirs MP.

Kind Regards

**Office of the Minister for Environment and Water**

P (08) 8463 5680  
Level 10, 81-95 Waymouth Street, Adelaide SA 5000  
GPO Box 1047, Adelaide SA 5001

[environment.sa.gov.au](http://environment.sa.gov.au)

The information in this e-mail may be confidential and/or legally privileged. Use or disclosure of the information to anyone other than the intended recipient is prohibited and may be unlawful. If you have received this email in error please advise by return email.

19EW0004585



**Government  
of South Australia**

Office of the Minister for  
Environment and Water

81-95 Waymouth Street  
Adelaide SA 5000  
GPO Box 1047  
Adelaide SA 5001

Tel 08 8463 5680  
minister.speirs@sa.gov.au

Mr Roberto Bria  
City of Holdfast Bay  
PO Box 19  
Brighton SA 5048

Email: [mail@holdfast.sa.gov.au](mailto:mail@holdfast.sa.gov.au)

Dear Mr Bria

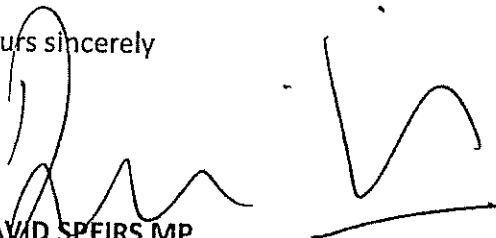
I am writing to thank you for your considerable effort with the City of Holdfast Bay in working to protect the Hooded Plovers this breeding season. I would also like to take this opportunity to commemorate this year as 10 years of protection of hooded plovers!

It has been a pleasure to follow the successful fledging of eight chicks this year. This figure is especially impressive given the threats these small birds need to endure, including storms and storm surges, relentless heat, heavily populated beaches and other animals.

Regardless of the outcome, your ongoing support is critical to ensuring these birds are given the best opportunity to breed, and their chicks the greatest chance at fledging.

Once again, thank you for helping to protect and conserve our natural environment and this vulnerable species.

Yours sincerely



**DAVID SPEIRS MP**  
Minister for Environment and Water

Date: 14/05/2019

Item No: **14.7**

Subject: **MURRAY DARLING ASSOCIATION MEMBERSHIP**

Date: 9 July 2019

Written By: Team Leader Governance

A/General Manager: Business Services, Ms P Jackson

---

### **SUMMARY**

The Murray Darling Association (MDA) is an association of over 90 Local Government Municipalities, along with community groups, businesses and individuals with an interest in ensuring that the Murray-Darling Basin (the Basin) continues as a viable and valuable asset for all.

The City of Holdfast Bay has been a member of the MDA since 1997 as a 'local government entity' member (whole of Council). For the City of Holdfast Bay there is limited tangible benefit to the City's residents of being a member of the MDA however, the membership provides a financial contribution, which allows the MDA to continue its work for the benefit of South Australia as a whole. Council has received letters from Campbelltown City Council and Adelaide Hills Council seeking the support of the City of Holdfast in raising this matter with local State and Federal representatives and encourage joining of the MDA.

Renewal of the 'local government entity' membership for 2019/20 is an estimated cost of \$3,600 (inc GST). Alternatively, Council could take individual membership for an Elected Member/s at a cost of \$90 per delegate.

---

### **RECOMMENDATION**

**That Council continues as a 'local government entity' member of the Murray Darling Association (MDA) and nominates Councillor \_\_\_\_\_ to vote as a delegate on the Murray Darling Association matters on behalf of Council.**

**OR**

**That Council does not continue with the 'local government entity' renewal membership for the Murray Darling Association (MDA) but arranges an individual membership for Councillor/s \_\_\_\_\_ for the remainder term of Council.**

---

### **COMMUNITY PLAN**

Culture: Being financially accountable

Environment: Fostering an environmentally connected community

**COUNCIL POLICY**

Not Applicable.

**STATUTORY PROVISIONS**

Not Applicable.

**BACKGROUND**

The Murray Darling Association (MDA) was formed in 1944 as the Murray Valley Development League.

The Association represents Local Government along the Murray, Darling and other rivers in New South Wales, Victoria, Queensland and South Australia as well as communities that rely on water from the Basin.

The purpose of the MDA is to provide effective representation of local government and communities at state and federal level in the management of Basin resources by providing information, facilitating debate and seeking to influence government policy.

The objectives of the MDA are to:

- advocate on behalf of Basin communities
- use local knowledge and expertise to fully understand regional issues
- act as a two-way conduit for information and discussion between our communities and governments
- encourage and facilitate debate about the things that matter for the Basin's future
- explore options to achieve sound solutions to regional issues
- test information to ensure a sound base for those options
- be an educational resource for the Basin.

Councillor Yates was previously nominated as Council's representative for MDA meetings and was appointed for the term of council for 2014- 2018.

**REPORT**

Membership of the MDA is voluntary and there is no requirement for the City of Holdfast Bay to be a member. The Council is a member of Region 7 which is the Adelaide Metro region, other members in the region are:

Adelaide Hills Council	City of Onkaparinga
Campbelltown City Council	City of Playford
City of Adelaide	City of Port Adelaide Enfield
City of Burnside	City of Tea Tree Gully
City of Mitcham	City of West Torrens
City of Norwood, Payneham & St Peters	Town of Walkerville

The City of Holdfast Bay has paid an annual subscription fee as a 'local government entity', which is calculated by the MDA based on the City's population size. The annual fee has increased over the past 6 years, as shown in the table below:

<b>Financial Year</b>	<b>Membership Fee (ex GST)</b>
2012/13	\$1,546.18
2013/14	\$1,664.00
2014/15	\$1,630.90
2015/16	\$1,796.15
2016/17	\$3,000.00
2017/18	\$3,090.00
2018/19	\$3,167.25

Council has received a letter from Campbelltown City Council dated 16 April 2019 and Adelaide Hills Council dated 25 June 2019 seeking the support of the City of Holdfast in raising this matter with local State and Federal representatives and encourage joining of the MDA.

*Refer Attachment 1*

The benefits of membership are stated by the MDA to be:

- strong united voice at regional, state and federal level on important basin related issues
- networking opportunities with other LGAs
- opportunity to discuss water related issues with other delegates who have Water/ Environment as part of their portfolio
- cross boundary communication between South Australia, Victoria, New South Wales and Queensland
- benefit of long history and knowledge accumulated over 71 years and
- good regional structure bringing ideas and issues from a very broad area to a central space.

Regional meetings are held quarterly in various locations in the region. These meetings are an opportunity for councils and other members to access and contribute important information on the management of the Murray-Darling Basin resources and issues affecting local communities.

Council's current local government entity membership versus the individual membership in relation to voting rights are:

<b>Membership Category</b>	<b>Vote at the AGM/ NatCon</b>	<b>Vote at Region Meetings</b>
Local Government entity	1 vote, plus 1 vote per 20,000 head of population; capped at 3 votes	1 vote per region delegate in attendance. Up to 5 votes per member council
Individual	1 vote per person. Up to 3 delegates per region.	1 vote (region of residence)

*NB- Estimated population based on ABS data used by MDA for 2018/19 was approximately 10,880 population*

If Council supports membership to the MDA, then Council should consider whether it wishes to renew:

- as a 'local government entity' member at an estimated renewal cost for 2019/2020 of \$3,600 inclusive of GST (based on website current membership fee of 30.5 cents per head of population); or
- with only individual membership for a Council member/s at a cost of \$90 per individual.

#### **BUDGET**

The local government entity membership fee is included in the Governance budget for 2019/2020.

Membership usually includes attendance at the Annual Conference which in previous years, depending on the location, has cost approximately \$450 plus arrangements for accommodation and travel.

#### **LIFE CYCLE COSTS**

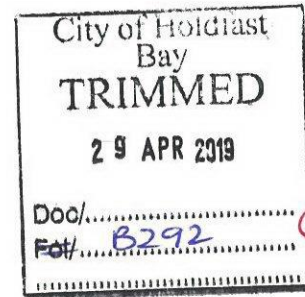
Not applicable.

# Attachment 1





Office of the Mayor



16 April 2019

Mayor Amanda Wilson  
City of Holdfast Bay  
PO Box 19  
BRIGHTON SA 5048

Dear Mayor Wilson *Amanda*

**Murray Darling Basin Plan**

I wish to advise that at its meeting held on Tuesday 2 April 2019 Council supported the MDA (Murray Darling Association) in its objective to ensure Local Government has a role in informing the decisions that impact our local communities under the Murray Darling Basin Plan. Furthermore, Council supports their bid to secure recurrent funding for the provision of effective consultation and engagement with Councils within the Murray-Darling Basin communities through their local representatives.

Therefore, to assist the MDA receive recurrent funding, Campbelltown Council seeks the support of your Council in raising this matter with your local State and Federal representatives.

Furthermore, I would encourage you to join the MDA (if not already a member) and help them support the activation and development of advocacy opportunities for our Region.

If you have any queries, please contact me.

Yours sincerely

Jill Whittaker  
Mayor





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File Ref: OC19/7977

25 June 2019

Mayor Amanda Wilson  
City of Holdfast Bay  
PO Box 19  
BRIGHTON SA 5048

[awilson@holdfast.sa.gov.au](mailto:awilson@holdfast.sa.gov.au)

Dear Mayor Wilson

I wish to advise that, at the recent Adelaide Hills Council Special Council Meeting held on Tuesday 7 May 2019 (minute attached), Council supported the Murray Darling Association (MDA) in its objective to ensure Local Government has a role in informing the decisions that impact our local communities under the Murray Darling Basin Plan. The Adelaide Hills Council supports their bid to secure recurrent funding for the provision of effective consultation and engagement with Councils within the Murray Darling Basin communities through their local representatives.

Therefore to assist the MDA receive recurrent funding, if you have not already done so, Adelaide Hills Council seeks the support of your Council in raising this matter with your local State and Federal representatives.

I would encourage you to join the MDA (if not already a member) and help them support the activation and development of advocacy opportunities for our Region.

Please contact me if you have any queries.

Yours sincerely

A handwritten signature in blue ink that reads 'JC Wisdom' with a long, sweeping horizontal line extending to the right.

**Jan-Claire Wisdom**  
**Mayor**

Enc.

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ADELAIDE HILLS COUNCIL  
MINUTES OF SPECIAL COUNCIL MEETING  
TUESDAY 7 MAY 2019  
63 MT BARKER ROAD STIRLING

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**7.8 Murray Darling Association Support**

Moved Cr Andrew Stratford  
S/- Cr John Kemp

101/19

Council resolves:

1. That the report be received and noted.
2. That Council supports the Murray Darling Association (MDA) in its objective to ensure local government has a role in informing the decisions that impact our local communities under the Murray Darling Basin Plan, and in their bid to secure recurrent funding for the provision of effective consultation and engagement with councils within the Murray-Darling Basin communities through their local representatives.
3. That Council authorises the Chief Executive Officer (or his delegate) to:
  - a) Write a letter of support to the Murray Darling Association for the State and Federal Governments to contribute to the ongoing funding of the MDA.
  - b) Write to our local state and federal MPs encouraging them to support State and Federal Governments contributing to the ongoing funding of the MDA.
  - c) Write to the LGA and all councils in our MDA region, encouraging them to join the MDA and support the activation and development of advocacy priorities of this region.

Carried Unanimously
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Item No: **14.8**

Subject: **PUBLIC INTEREST DISCLOSURE ACT – MODEL POLICY AND PROCEDURE**

Date: 9 July 2019

Written By: Team Leader, Governance

A/General Manager: Business Services, Ms P Jackson

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### **SUMMARY**

The *Public Interest Disclosure Act 2018 (the PID Act)* will commence on 1 July 2019 which replaces the *Whistleblowers Protection Act 1992 (the Whistleblowers Act)*. The Whistleblowers Act outlines the framework for the protection of appropriate disclosures about public interest information.

Under the PID Act, Council must within 3 months appoint responsible officers and ensure compliance with the PID Act and Guidelines in relation to:

- the information that needs to be provided to the Office of Public Integrity (OPI); and
- the required action in the event of disclosure.

It is not currently mandatory for Councils to adopt a Public Interest Disclosure Policy or Procedure but it is anticipated it will become mandatory for Council, with a draft Bill being prepared to include Councils. Consequently the Local Government Association (LGA) has recommended that Councils adopt a PDI policy and procedure as a matter of best practice and to reduce the risk on non-compliance with the Act in relation to compliance with timeframes for responding to appropriate disclosures.

The LGA has provided a model policy and procedure. These model documents have been amended in red to include the relevant details specific to the City of Holdfast Bay and are presented to Council for adoption.

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### **RECOMMENDATION**

**That Council adopt the Public Interest Disclosure Policy and the Public Interest Disclosure Procedure.**

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### **COMMUNITY PLAN**

Culture: Providing customer - centred services  
Culture: Enabling high performance  
Culture: Supporting excellent, efficient operations

## **COUNCIL POLICY**

Whistleblower Policy

## **STATUTORY PROVISIONS**

*Local Government Act 1999*

*Public Interest Disclosure Act 2018*

*Whistleblowers Protection Act 1992*

## **BACKGROUND**

On 17 August 2017 Council adopted the City of Holdfast Bay Whistleblower Policy, Item 14.2 Council Policy Review (Report No: 270/17), in accordance with the Whistleblower Act.

The PID Act will commence on 1 July 2019 and replaces the Whistleblowers Act. These changes were recommended by the Independent Commissioner against Corruption (Commissioner) after his review of the existing legislative framework in 2014 and passed by the South Australian Government in 2018.

## **REPORT**

The *Public Interest Disclosure Act 2018* intends to:

- protect disclosures about wrongdoing in the private or public sector, in circumstances where the information is disclosed to an appropriate recipient and the information disclosed relates to a substantial risk to public health or safety or the environment;
  - facilitate appropriate disclosures about public administration information by public officers or former public officers;
  - ensure that those disclosures are properly assessed and, where necessary, investigated and acted upon; and
  - ensure that those who make appropriate disclosures are protected against reprisals.
- A public officer (which includes Council officers and employees) can make an appropriate disclosure to either environmental and health information, or public administration information.

Disclosures can only be made to 'relevant authorities' as defined by the Act, or to journalist or members of Parliament when a relevant authority fails to properly deal with the disclosure.

Impact of the PID Act:

- Where an appropriate disclosure is made to a relevant authority, the informant will be protected from all liability, despite any duties of secrecy and confidentiality or any other restriction on disclosure (statutory or otherwise) which would otherwise apply.
- Relevant authorities (which in some cases can include Councils) have a duty to act promptly upon receipt of an appropriate disclosure to assess the information, decide what action to take, and notify the informant and the Office of Public Integrity (OPI) of the outcome of that assessment.

- If relevant authorities fail to act in the required timeframes, informants will be similarly protected from liability in relation to subsequent disclosure of that information to a journalist or a Member of Parliament.
- Penalties of up to \$20,000 or 2 years imprisonment can apply if an informant's identity is disclosed without consent, victimisation occurs to the informant, if an informant is prevented from making an appropriate disclosure, or for making false or misleading disclosures.

Many of the concepts remain the same or very similar in the PID Act as under the previous Whistleblower Act, but the most significant differences are:

### ***Scope of disclosure***

The PID Act narrows the scope of public interest disclosure that can be made and protected. Disclosure of 'public interest information' will only be protected where it is made to a 'relevant authority'. The Whistleblowers Act was broader as it protected disclosures of public interest information made by informants to any 'person to whom it is, in the circumstances of the case, reasonable and appropriate to make the disclosure.'

The PID Act introduces specific duties to act, which are placed on the authority to which the disclosure is made and imposes specific requirements for appropriate action within certain timeframes. If no response to the disclosure is provided or the appropriate steps are not taken within those timeframes, an informant's subsequent disclosure to a journalist or a Member of Parliament will also be protected.

However, if the relevant authority determines no action is required in relation to an appropriate disclosure (i.e. the information does not justify further action, the matter has already been investigated, another good reason why no action should be taken), then any subsequent disclosure will no longer be protected.

### ***Public Officers***

Employees of Council including Alwyndor Aged Care are identified as '*public officers*' for the purposes of the PID Act.

Under section 41, *Local Government Act 1999*, Council established the Alwyndor Management Committee (AMC) and Jetty Road Mainstreet Committee (JRMC) for purposes which include '*to assist the Council in the performance of its functions*' and to provide advice. As members are acting within the roles and responsibilities assigned under the Terms of Reference, then all members of the Council's Section 41 Committees are properly considered to be '*public officers*' for the purposes of *Independent Commissioner Against Corruption Act 2012* (ICAC).

### ***Principal and Responsible Officers***

Within 3 months of commencement of the *Public Interest Disclosure Act 2018*, the principal officer (Chief Executive Officer) of Council must identify one or more officers to be designated 'Responsible Officers'. The proposed responsible officers are designated in the Policy for adoption. The Chief Executive has identified employees in the following positions as most appropriate:

- Chief Executive Officer
- General Manager, Business Services
- General Manager, Community Services
- Team Leader, Governance

The Public Interest Disclosure Regulations require responsible officers to complete training courses approved by the Commissioner. No such courses have been identified at this stage and are anticipated for release shortly.

The Local Government Association will host appropriate training sessions on the impact of the PID Act and the Governance officers will attend.

#### ***Other key differences***

- Provisions in the Whistleblowers Act to keep the identity of informants confidential have not changed nor provision re victimization except that victimization can also be considered a criminal offence and the definition of 'detriment' have changed slightly.
- A false or misleading disclosure must be knowingly made as recklessness is no longer adequate.
- New offence of preventing or hindering disclosure.
- No longer a requirement for an informant to assist with any official investigations arising from their disclosure (to encourage individuals to report disclosures).

#### ***Model Policy and Procedure***

The LGA has prepared a model Public Interest Disclosure Policy and Procedure. Councils can use these documents to ensure compliance with the requirements of the PID Act and the Guidelines. The procedure addresses the matters prescribed in the PID Act and Guidelines that are required to be included in the "disclosure document" and other steps when an appropriate disclosure is received.

*Refer Attachments 1 and 2*

Administration recommends that Council adopt the attached policy and procedure.

#### **BUDGET**

Not applicable.

#### **LIFE CYCLE COSTS**

Not applicable.

# Attachment 1



Trim Container	TBA
First Issued / Approved:	TBA
Last Reviewed:	TBA
	TBA
Next Review:	TBA

## Contents

1. Introduction
2. Scope
3. Definitions
4. Confidentiality
5. Disclosure Process
6. The Role of the Responsible Officer
7. Information to Elected Body
8. Protection for the Informant
9. Availability of the Policy

The *Model Public Interest Disclosure Policy* has been prepared by HWL Ebsworth Lawyers for the Local Government Association of SA (LGA) for the guidance of and use by member Councils.

Further additions have been made to this policy to accommodate situations specific to City of Holdfast Bay.  
**These additions are marked in red.**



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## 1. Introduction

- 1.1. City of Holdfast Bay is committed to upholding the principles of transparency and accountability in its administrative and management practices and, therefore, encourages the making of disclosures that reveal public interest information.
- 1.2. The purpose of this Policy is to ensure that City of Holdfast Bay:
  - properly fulfils its responsibilities under the *Public Interest Disclosure Act 2018*;
  - encourages and facilitates Disclosures of Public Interest Information in accordance with the objects and requirements of the PID Act ;
  - ensures there is appropriate oversight of public interest disclosures about corruption, misconduct and maladministration in public administration;
  - provides appropriate protection for those who make Disclosures in accordance with the Act; and
  - acknowledges the need to appropriately support Informants, the Responsible Officer and, as appropriate, those Public Officers affected by any appropriate Disclosure.
- 1.3. The Council will review and update this Policy each year as part of its annual policy review.

## 2. Scope

- 2.1. This Policy applies to appropriate Disclosures of Public Interest Information that are made in accordance with the PID Act by public officers including Council Members, Officers and Employees of the Council, and by members of the public, and is intended to complement the reporting framework under the ICAC Act.

Pursuant to section 4 of the the PID Act and Schedule 1 of the ICAC Act, employees of Alwyndor Aged Care are “public officers” for the purposes of the PID Act.

Council established the Alwyndor Management Committee (AMC) and Jetty Road Mainstreet Committee (JRM), under section 41 of the *Local Government Act 1999*, for purposes which include ‘to assist the Council in the performance of its functions’ and to provide advice. As committee members are acting within the roles and responsibilities assigned under the Terms of Reference for each committee, then all members of the Council’s section 41 committees are considered to be ‘public officers’ for the purposes of ICAC Act.

- 2.2. This Policy is also designed to complement the existing communication channels within Council, and operate in conjunction with other existing policies, including:
  - Fraud & Corruption Prevention Policy;

- 
- Code of Conduct for Council Employees;
  - Code of Conduct for Council Members; and
  - Internal Review of Council Decisions Policy under section 270 of the *Local Government Act 1999*.

2.3. The Council is committed to:

- referring, as necessary, appropriate Disclosures to another Relevant Authority;
- where the Disclosure relates to Corruption, or serious or systemic Misconduct or Maladministration in public administration, reporting the Disclosure directly to the OPI in accordance with the Guidelines and the requirements of the ICAC Act;
- otherwise facilitating the investigation of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved; and
- rectifying any substantiated wrongdoing to the extent practicable in all the circumstances.

### 3. Definitions

- For the purposes of this Policy the following definitions apply.

3.1. **Commissioner** means the person holding or acting in the office of the Independent Commissioner Against Corruption.

3.2. **Corruption in public administration** is defined in section 5(1) of the ICAC Act and means:

3.2.1. an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:

- (i) bribery or corruption of public officers;
- (ii) threats or reprisals against public officers;
- (iii) abuse of public office;
- (iv) demanding or requiring benefit on basis of public office;
- (v) offences relating to appointment to public office; or

- 
- (vi) an offence against the *Public Sector (Honesty and Accountability) Act 1995* or the *Public Corporations Act 1993*, or an attempt to commit such an offence; or
- 3.2.2. an offence against the *Lobbyists Act 2015*, or an attempt to commit such an offence; or
- 3.2.3. any other offence (including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence; or
- 3.2.4. any of the following in relation to an offence referred to in a preceding paragraph:
- (i) aiding, abetting, counselling or procuring the commission of the offence;
  - (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
  - (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
  - (iv) conspiring with others to effect the commission of the offence
- 3.3. **Council** means City of Holdfast Bay including Alwyndor Aged Care and Council section 41 *Local Government Act 1999* committees i.e. Alwyndor Management Committee and Jetty Road Mainstreet Committee.
- 3.4. **Detriment** includes:
- injury, harm (including psychological harm), damage (including damage to reputation) or loss;
  - intimidation or harassment;
  - discrimination, disadvantage or adverse treatment in relation to a person's employment; and/or
  - threats of reprisal (which may be express or implied, and/or conditional or unconditional).
- 3.5. **Directions and Guidelines** is a reference to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act and/or section 14 of the PID Act, which are available on the Commissioner's website ([www.icac.sa.gov.au](http://www.icac.sa.gov.au)).

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- 3.6. **Disclosure** means an appropriate disclosure of public interest information made by an Informant to a Relevant Authority.

A person makes an **appropriate disclosure of environmental and health information** if:

- (a) the person:
  - i. believes on reasonable grounds that the information is true; or
  - ii. is not in a position to form a belief on reasonable grounds about the truth of the information, but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated; and
- (b) the disclosure is made to a Relevant Authority.

A person makes an **appropriate disclosure of public administration information** if:

- (a) the person:
  - i. is a public officer;
  - ii. reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration; and
- (b) the disclosure is made to a Relevant Authority.

- 3.7. **Employee** refers to all Council employees including Alwyndor Aged Care employees, whether they are working in a full-time, part-time or casual capacity.

- 3.8. **Environmental and health information** means information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public.

- 3.9. **Fraud** includes an intentional dishonest act or omission done with the purpose of deceiving.

- 3.10. **ICAC Act** is the *Independent Commissioner Against Corruption Act 2012*.

- 3.11. **Independent Assessor** means the person designated by the Responsible Officer as being responsible for investigating a disclosure made to City of Holdfast Bay in accordance with the Public Interest Disclosure Procedure.

- 3.12. **Informant** means a person who makes an appropriate disclosure of public interest information to a Relevant Authority.

- 3.13. **Maladministration in public administration** is defined in section 5(4) of the ICAC Act and

- 3.13.1. means:

- 
- (i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
  - (ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and
- 3.13.2. includes conduct resulting from impropriety, incompetence or negligence; and
- 3.13.3. is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.
- 3.14. **Misconduct in public administration** is defined in section 5(3) of the *ICAC Act* and means:
- 3.14.1. contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or
  - 3.14.2. other misconduct of a public officer while acting in his or her capacity as a public officer.
- 3.15. **Office for Public Integrity (OPI)** is the office established under the *ICAC Act* that has the function to:
- 3.15.1. receive and assess complaints about public administration from members of the public;
  - 3.15.2. receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;
  - 3.15.3. refer complaints and reports to inquiry agencies, public authorities and public officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated;
  - 3.15.4. give directions or guidance to public authorities in circumstances approved by the Commissioner;

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3.15.5. perform other functions assigned to the Office by the Commissioner.

3.16. **Public administration** defined at section 4 of the ICAC Act and, without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.

3.17. **Public administration information** means information that raises a potential issue of corruption, misconduct or maladministration in public administration.

3.18. **Public interest information** means environmental or health information, or public administration information.

3.19. **PID Act** means the *Public Interest Disclosure Act 2018*.

3.20. **Principal Officer** for the purposes of the PID Act means the Chief Executive Officer of the Council.

3.21. **Public Officer** has the meaning given by section 4 and Schedule 1 of the ICAC Act, and includes:

- a Council member;
- all employees or officers of Council including Alwyndor Aged Care employees; and
- Section 41 Local Government Act 1999 Committee Members including Alwyndor Management Committee and Jetty Road Mainstreet Committee.

3.22. **Relevant Authority** means the person or entity that receives an appropriate disclosure of public interest information in accordance with the PID Act, as set out in Appendix A to this Policy.

3.23. **Responsible Officer** is a person who has completed any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* and has been designated by the Council as responsible officer under section 12 of the PID Act.

3.24. **Victimisation** occurs when a person causes detriment to another on the ground, or substantially on the ground, that the other person (or a third person) has made or intends to make an appropriate disclosure of public interest information.

#### 4. Confidentiality

4.1. The identity of an Informant will be maintained as confidential in accordance with the PID Act.



- 
- Address

Confidential

Responsible Officer, Public Interest Disclosure

PO Box 19

BRIGHTON SA 5048

## **6. The Role of the Responsible Officer**

6.1. A person designated as a Responsible Officer for the Council:

6.1.1. must:

6.1.1.1. receive appropriate Disclosures relating to the Council and ensure compliance with the PID Act, and the Public Interest Disclosure Procedure, in relation to any such Disclosures;

6.1.1.2. make appropriate recommendations to the principal officer of the Council in relation to dealing with Disclosures, including any suggested changes to this Policy or the Public Interest Disclosure Procedure; and

6.1.1.3. provide advice to officer and employees of the Council in relation to the administration of the PID Act; and

6.1.1.4. complete any training courses approved by the Commissioner for the purposes of the Public Interest Disclosure Regulations; and

6.1.2. may carry out any other functions relating to the PID Act.

6.2. Upon the receipt of a Disclosure, the Responsible Officer will deal with the disclosure in accordance with the Public Interest Disclosure Procedure.

6.3. In making any determination or taking any action under this Policy or pursuant to the Public Interest Disclosure Procedure:

6.3.1. the Responsible Officer may seek legal advice from Council's lawyers and/or guidance from SAPOL or the Ombudsman in relation to the most appropriate course of action to pursue; and

6.3.2. is authorised to incur costs in accordance with the Council's Budget for that purpose.

6.4. The Responsible Officer will liaise as required with the Informant and any Independent Assessor in relation to any investigation process undertaken in accordance with the Public Interest Disclosure Procedure, and will ensure that the Informant is provided with



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support and protection as necessary and appropriate in the circumstances of the Disclosure.

**7. Information to Elected Body**

- 7.1. As a matter of discretion, the Chief Executive Officer may inform the elected body, on a confidential basis, of the fact that an investigation of a Disclosure took place and the outcome of the investigation.
- 7.2. Factors the Chief Executive Officer will take into account in determining whether to inform the elected body under paragraph 7.1 above and the level of detail provided in doing so are to include:
  - 7.2.1. if known, the identity of the Informant, and whether the Informant has consented to his/her identity being divulged;
  - 7.2.2. if applicable, the identity of any person the subject of the Disclosure;
  - 7.2.3. the impact (if any) of the investigation upon the Council's achievement of its objectives under its Strategic Plan and/or policies; and
  - 7.2.4. the impact of any action taken to finalise the matter upon the Council's operations and/or budget.
- 7.3. In the event the Disclosure and/or any subsequent investigation process is confined to issues that impact only upon Council staff and human resource processes, the Chief Executive Officer will not inform the elected body of the fact of the Disclosure and/or investigation (since these matters fall outside the roles and responsibilities of elected members under the *Local Government Act 1999*).

**8. Protection for the Informant**

- 8.1. An Informant who makes an appropriate Disclosure is protected by:
  - 8.1.1. immunity from criminal or civil liability as provided for in section 5(1) of the PID Act;
  - 8.1.2. a prohibition on disclosure of his/her identity as provided for in section 8 of the PID Act;
  - 8.1.3. a prohibition against Victimisation as provided for in section 9 of the PID Act; and
  - 8.1.4. a prohibition against hindering, obstructing or preventing an Informant from making an appropriate Disclosure as provided for in section 11 of the PID Act.
- 8.2. The PID Act does not provide any protection to people who knowingly make disclosures that are false or misleading in a material particular (whether by reason of the inclusion or omission of a particular).

- 8.3. A person who knowingly makes a Disclosure that is false or misleading in a material particular is guilty of an offence and may be prosecuted.
- 8.4. A person who personally commits an act of Victimisation against an Informant is guilty of an offence and may be prosecuted.
- 8.5. The Council will take action as appropriate in the circumstances of the relevant Disclosure/s to protect Informants from Victimisation. Such action may include acting in accordance with the risk minimisation steps set out in the Public Interest Disclosure Procedure and/or referring the matter to the SA Police.
- 8.6. Any Council Member or employee or officer of the Council who:
  - 8.6.1. knowingly makes a disclosure that is false or misleading in a material particular;  
or
  - 8.6.2. commits an act of Victimisation in relation to an Informant; or
  - 8.6.3. acts otherwise than in accordance with this Policy or the Public Interest Disclosure Procedure (including with respect to divulging the identity of an Informant) in relation to a Disclosuremay also face disciplinary action by the Council or the Chief Executive Officer (as appropriate).

### **9. Availability of the Policy**

- 9.1. This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website [www.holdfast.sa.gov.au](http://www.holdfast.sa.gov.au) . Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

**Appendix A**  
**Relevant Authorities**

Where the information relates to...	the relevant authority is...
a public officer*  *as defined and set out in Schedule 1 of the <i>Independent Commissioner Against Corruption Act 2012</i> - relevantly, this includes members, officers and employees of local government bodies	either: the person who is designated by the Guidelines as being taken to be responsible for management or supervision of the public officer; or the person who is in fact responsible for the management or supervision of the public officer; or the relevant responsible officer (as designated by the Council in accordance with section 12 of the PID Act)
a public sector agency or public sector employee	either: the Commissioner for Public Sector Employment; or the responsible officer for the relevant public sector agency
an agency to which the <i>Ombudsman Act 1972</i> applies	the Ombudsman
a location within the area of a particular council established under the <i>Local Government Act 1999</i>	a member, officer or employee of that Council
a risk to the environment	the Environment Protection Authority
an irregular and unauthorised use of public money or substantial	the Auditor-General
the commission, or suspected commission, of any offence	a member of the police force
a judicial officer	the Judicial Conduct Commissioner
a member of Parliament	the Presiding Officer of the House of Parliament to which the member belongs
a person or a matter of a prescribed class <sup>1</sup>	an authority declared by the regulations to be a relevant authority in relation to such information

<sup>1</sup> at this stage, no prescribed persons or classes have been identified

Where the information relates to...	the relevant authority is...
public interest information - being: environmental and health information (information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public); or public administration information (information that raises a potential issue of corruption, misconduct or maladministration in public administration)	the OPI; a Minister of the Crown; or any other prescribed person or person of a prescribed class

SIGNED: .....  
 Chief Executive Officer

NAME: .....

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

# Attachment 2



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## Principal Officer - Statement of Intent

This Procedure has been prepared in accordance with the requirements of sections 12(4) and (5) of the *Public Interest Disclosure Act 2018* (PID Act).

As Chief Executive Officer of City of Holdfast Bay and designated Principal Officer for the purposes of the PID Act, I expect that the implementation and operation of the PID Act will encourage and facilitate:

- further transparency and accountability in the Council's administrative and management practices; and
- the Disclosure, in the public interest, of information about substantial risks to public health or safety, or to the environment, and about corruption, misconduct and maladministration in public administration.

This Procedure, and the Council's Public Interest Disclosure Policy, are designed to enable that to occur, by ensuring that proper procedures are in place for the making of such Disclosures and for dealing with such Disclosures, and by providing appropriate protections for those who make such Disclosures.

I, and the other staff, officers and Council Members at City of Holdfast Bay remain deeply committed to the protection of informants who make public interest Disclosures in accordance with the objectives of the PID Act, and to the genuine and efficient consideration and action in relation to information provided to the Council via a public interest Disclosure, as contemplated and demonstrated by this Procedure.

Any questions about this Procedure or the Council's Public Interest Disclosure Policy should be directed in the first instance to a Responsible Officer, whose details are at Part 4 of this Procedure.

**Principal Officer**  
**Chief Executive Officer, City of Holdfast Bay**

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1. Introduction
2. Scope
3. Definitions
4. Responsibilities
5. Confidentiality
6. Disclosure Process
7. Receipt of a Disclosure
8. Preliminary Assessment of Disclosure
9. Notification of Preliminary Assessment
10. Investigation Procedure
11. Notification of Further Action
12. Final Report & Recommendation
13. Secure Handling and Storage of Information
14. Protection for the Informant
15. Availability of the Policy
16. Appendix A
17. Appendix B

The *Model Public Interest Disclosure Procedure* has been prepared by HWL Ebsworth Lawyers for the Local Government Association of SA (LGA) for the guidance of and use by member Councils.

Further additions have been made to this procedure to accommodate situations specific to City of Holdfast Bay. **These additions are marked in red.**

## 1. Introduction

1.1. City of Holdfast Bay is committed to:

- upholding the principles of transparency and accountability in its administrative and management practices;
- the protection of informants who make public interest Disclosures; and
- the genuine and efficient consideration and action in relation to information provided in a public interest Disclosure
- and, therefore, encourages the making of appropriate Disclosures that reveal public interest information in accordance with this Procedure.

1.2. The Council is also committed to:

- referring, as necessary, appropriate Disclosures to another Relevant Authority;
- where the Disclosure relates to Corruption, or serious or systemic Misconduct or Maladministration in public administration, reporting the Disclosure directly to the OPI in accordance with the Guidelines and the requirements of the ICAC Act;
- otherwise facilitating the investigation of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved; and
- rectifying any substantiated wrongdoing to the extent practicable in all the circumstances.

1.3. This document explains the applicable procedures and processes that City of Holdfast Bay has in place for making and dealing with appropriate Disclosures of public interest information, to ensure that City of Holdfast Bay:

- properly fulfils its responsibilities under the PID Act and the ICAC Act;
- appropriately encourages and facilitates Disclosures of Public Interest Information, including environmental and health information regarding a location within the area of City of Holdfast Bay.
- provides a process by which Disclosures may be made so that they are properly investigated;
- provides appropriate protection for those who make Disclosures in accordance with the Act; and
- recognises the need to appropriately support Informants, the Responsible Officer and, as appropriate, those Public Officers affected by any appropriate Disclosure.



- 1.4. The Council will review and update this Procedure each year as part of its annual policy review.

## 2. Scope

- 2.1. This Procedure applies to appropriate Disclosures of Public Interest Information that are made in accordance with the PID Act, by public officers including Council Members, Officers and Employees of the Council, and by members of the public.

Pursuant to section 4 of the the PID Act and Schedule 1 of the ICAC Act, employees of Alwyndor Aged Care are “public officers” for the purposes of the PID Act.

Council established the Alwyndor Management Committee (AMC) and Jetty Road Mainstreet Committee (JPMC), under section 41 of the *Local Government Act 1999*, for purposes which include ‘to assist the Council in the performance of its functions’ and to provide advice. As committee members are acting within the roles and responsibilities assigned under the Terms of Reference for each committee, then all members of the Council’s section 41 committees are considered to be ‘public officers’ for the purposes of ICAC Act.

- 2.2. This Procedure is intended to complement the reporting framework under the ICAC Act, and designed to complement the existing communication channels within Council and to operate in conjunction with other existing policies, including the:

- Public Interest Disclosure Policy;
- Fraud & Corruption Prevention Policy;
- Code of Conduct for Council Employees;
- Code of Conduct for Council Members; and
- Internal Review of Council Decisions Policy under section 270 of the *Local Government Act 1999*.

## 3. Definitions

For the purposes of this Procedure the following definitions apply:

- 3.1. **Commissioner** means the person holding or acting in the office of the Independent Commissioner Against Corruption.
- 3.2. **Corruption in public administration** is defined in section 5(1) of the ICAC Act and means:
  - 3.2.1. an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:

- (i) bribery or corruption of public officers;
  - (ii) threats or reprisals against public officers;
  - (iii) abuse of public office;
  - (iv) demanding or requiring benefit on basis of public office;
  - (v) offences relating to appointment to public office; or
- 3.3.2 an offence against the *Public Sector (Honesty and Accountability) Act 1995* or the *Public Corporations Act 1993*, or an attempt to commit such an offence; or
- 3.3.3 an offence against the *Lobbyists Act 2015*, or an attempt to commit such an offence; or
- 3.3.4 any other offence (including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence; or
- 3.3.5 any of the following in relation to an offence referred to in a preceding paragraph:
- (i) aiding, abetting, counselling or procuring the commission of the offence;
  - (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
  - (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
  - (iv) conspiring with others to effect the commission of the offence
- 3.3. **Council** means City of Holdfast Bay including Alwyndor Aged Care and Council section 41 *Local Government Act 1999* committees i.e. Alwyndor Management Committee and Jetty Road Mainstreet Committee.

3.4. **Detriment** includes:

- injury, harm (including psychological harm), damage (including damage to reputation) or loss;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to a person's employment; and/or
- threats of reprisal (which may be express or implied, and/or conditional or unconditional).

3.5. **Directions and Guidelines** is a reference to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act and/or section 14 of the PID Act, which are available on the Commissioner's website ([www.icac.sa.gov.au](http://www.icac.sa.gov.au)).

3.6. **Disclosure** means an appropriate Disclosure of public interest information made by an Informant to a Relevant Authority.

A person makes an **appropriate Disclosure of environmental and health information** if:

- (a) the person:
  - i. believes on reasonable grounds that the information is true; or
  - ii. is not in a position to form a belief on reasonable grounds about the truth of the information, but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its Disclosure so that its truth may be investigated; and
- (b) the Disclosure is made to a Relevant Authority.

A person makes an **appropriate Disclosure of public administration information** if:

- (a) the person:
  - i. is a public officer; and
  - ii. reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration; and
- (b) the Disclosure is made to a Relevant Authority.

3.7. **Employee** refers to all Council employees **including Alwyndor Aged Care employees**, whether they are working in a full-time, part-time or casual capacity.

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- 3.8. **Environmental and health information** means information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public.
- 3.9. **Fraud** includes an intentional dishonest act or omission done with the purpose of deceiving.
- 3.10. **ICAC Act** is the *Independent Commissioner Against Corruption Act 2012*.
- 3.11. **Independent Assessor** means the person designated by the Responsible Officer as being responsible for investigating a Disclosure made to City of Holdfast Bay in accordance with clause 10 of this Procedure.
- 3.12. **Informant** means a person who makes an appropriate Disclosure of public interest information to a Relevant Authority.
- 3.13. **Maladministration in public administration** is defined in section 5(4) of the ICAC Act and
- 3.13.1. means:
    - (i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
    - (ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and
  - 3.13.2. includes conduct resulting from impropriety, incompetence or negligence; and
  - 3.13.3. is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.
- 3.14. **Misconduct in public administration** is defined in section 5(3) of the ICAC Act and means:
- 3.14.1. contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or
  - 3.14.2. other misconduct of a public officer while acting in his or her capacity as a public officer.
- 3.15. **Office for Public Integrity (OPI)** is the office established under the *ICAC Act* that has the function to:

- 3.15.1. receive and assess complaints about public administration from members of the public;
- 3.15.2. receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;
- 3.15.3. refer complaints and reports to inquiry agencies, public authorities and public officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated;
- 3.15.4. give directions or guidance to public authorities in circumstances approved by the Commissioner;
- 3.15.5. perform other functions assigned to the Office by the Commissioner.
- 3.16. **Public administration** is defined in section 4 of the ICAC Act and, without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.
- 3.17. **Public administration information** means information that raises a potential issue of corruption, misconduct or maladministration in public administration.
- 3.18. **Public interest information** means environmental and health information, or public administration information.
- 3.19. **PID Act** means the *Public Interest Disclosure Act 2018*.
- 3.20. **Principal Officer** for the purposes of the PID Act means the Chief Executive Officer of the Council.
- 3.21. **Public Officer** has the meaning given by section 4 and Schedule 1 of the ICAC Act, and includes
- a Council member; and
  - all employees or officers of Council including Alwyndor Aged Care; and
  - Section 41 Local Government Act 1999 Committee Members including Alwyndor Management Committee and Jetty Road Mainstreet Committee.

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- 3.22. **Relevant Authority** means the person or entity that receives an appropriate Disclosure of public interest information in accordance with the PID Act, as set out in Appendix A to this Procedure.
- 3.23. **Responsible Officer** is a person who has completed any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* and has been designated by the Council as responsible officer under section 12 of the PID Act.
- 3.24. **Victimisation** occurs when a person causes detriment to another on the ground, or substantially on the ground, that the other person (or a third person) has made or intends to make an appropriate Disclosure of public interest information.

#### 4. Responsibilities

- 4.1. The Principal Officer is responsible for:
- 4.1.1. ensuring that one or more appropriately qualified officers or employees of the Council are designated as responsible officers of the Council for the purposes of the PID Act and undertake any training required by the Public Interest Disclosure Regulations; and
  - 4.1.2. ensuring that the name and contact details of each responsible officer of the Council are made available to officers and employees of the council; and
  - 4.1.3. the preparation and maintenance of this Procedure in accordance with the requirements of the PID Act and the Directions and Guidelines, in particular the Public Interest Disclosure Guidelines.
- 4.2. A person designated as a Responsible Officer for the Council:
- 4.2.1. must:
    - 4.2.1.1. receive appropriate Disclosures relating to the Council and ensure compliance with the PID Act, and this Procedure, in relation to any such Disclosures;
    - 4.2.1.2. make appropriate recommendations to the principal officer of the Council in relation to dealing with Disclosures, including any suggested changes to this Procedure or the Public Interest Disclosure Policy; and
    - 4.2.1.3. provide advice to officers and employees of the Council in relation to the administration of the PID Act; and



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- 5.2. A recipient of an appropriate Disclosure may only divulge the identity of an Informant where:
- 5.2.1. the recipient believes on reasonable grounds that it is necessary to divulge the identity of the Informant in order to prevent or minimise an imminent risk of serious physical injury or death to any person, **and** the identity of the Informant is then divulged to a person or authority that the recipient believes on reasonable grounds is the most appropriate authority or person to be able to take action to prevent or minimise the imminent risk of serious physical injury or death to any person;
  - 5.2.2. the recipient has been issued with a notice from the OPI advising that the identity of the Informant is required by the OPI, in which case the recipient must disclose the identity of the Informant to the OPI;
  - 5.2.3. doing so is necessary for the matter to be properly investigated (but only to the extent necessary to ensure proper investigation); or
  - 5.2.4. the Informant consents to his/her identity being disclosed
- 5.3. The PID Act does not expressly require any other information relating to a Disclosure (including, for example, the nature of the allegations) to be maintained as confidential, but in considering whether to further disclose other information provided as part of an appropriate Disclosure the Council should be mindful of the prohibition against Victimisation in the PID Act.
- 5.4. An Informant may wish to remain anonymous, but in that event must ensure that the allegation is sufficiently supported by the provision of necessary details and evidence to enable the matter to be properly investigated.

## 6. Disclosure Process

- 6.1. Relevantly for the purposes of this Procedure, the PID Act provides for protection for Informants where public interest Disclosures are made:
- 6.1.1. by a member of the public or a public officer about environmental and health information which the Informant reasonably believes to be true or which the Informant believes may be true and is of sufficient significance to warrant Disclosure, regarding a location within the Council area of a particular council; and/or



- 6.1.2. by a public officer with a reasonable suspicion about public administration information regarding either a location within a Council area or a public officer who is a member, officer or employee of the Council.
- 6.2. Disclosures should generally, and wherever possible, be directed in the first instance to the Responsible Officer, who has the responsibility for receiving appropriate Disclosures relating to the Council.
- 6.3. However, nothing in this Procedure prevents a person from making a Disclosure to another Relevant Authority, including a Relevant Authority external to the Council. This is a choice to be made by the Informant at his/her discretion.
- 6.4. The following are relevant considerations for an Informant in determining where to direct a Disclosure:
  - 6.4.1. when choosing to make a Disclosure internally, Disclosures relating to an elected member or a member of council staff, including the Chief Executive Officer (or person acting in that position), should usually be made to a Responsible Officer;
  - 6.4.2. any Disclosure relating to a person appointed as a Responsible Officer should be made to the other person appointed as a Responsible Officer or failing this, to a Relevant Authority external to the Council (such as the OPI);
  - 6.4.3. any Disclosure relating to public administration information about a public officer who is a member, officer or employee of the Council may be made to a Responsible Officer, or to the person responsible (either in fact, or as may be designated by the PID Act) for the management or supervision of the public officer the subject of the Disclosure;
  - 6.4.4. any Disclosure relating to Maladministration or Misconduct in public administration may be reported to OPI in accordance with the ICAC Act;
  - 6.4.5. if there is a reasonable suspicion of Corruption, or of Maladministration or Misconduct that is serious or systemic, it must be reported to the OPI in accordance with the Directions and Guidelines;
  - 6.4.6. if a Disclosure contains allegations of Fraud or Corruption, the Informant should report the matter in accordance with the Council's Fraud and Corruption Policy, which provides that:
    - 6.4.6.1. if the Disclosure relates to Corruption in public administration it will be reported to the OPI; and

- 6.4.6.2. if the Disclosure relates to Fraud, it may be reported to the Responsible Officer or direct to SAPOL.
  
- 6.5. A Disclosure may be made in person, by telephone or in writing (either by post or email). Where a Disclosure is made by telephone, the recipient must take notes of the conversation and, where possible, should ask the Informant to verify and sign the notes.
  
- 6.6. The following steps will be taken to ensure that a Disclosure is received securely:
  - 6.6.1.1. Once a Disclosure is received by Council it will only be provided to most appropriate Responsible officer and considered by the appropriate Responsible Officers accordingly.
  - 6.6.1.2. A Confidential/locked folder will be created in Council's document management system (TRIM or such other replacement system), to include all investigation information, reports and any other relevant documents in relation to the matter.
  - 6.6.1.3. Any information stored on a hard drive will be locked so as to only be accessible by the responsible officers.

## 7. Receipt of a Disclosure

- 7.1. A flowchart outlining the Disclosure Process is at **Appendix B** to this Procedure.
  
- 7.2. If a Council member, employee or officer receives a Disclosure of public interest information regarding a location within the Council area, the recipient of that Disclosure will:
  - 7.2.1. ask the Informant whether they consent to the details of their identity being provided to the Responsible Officer, and in doing so advise the Informant that a failure to provide that consent may mean that the Disclosure cannot be properly investigated; and
  
  - 7.2.2. refer the Disclosure to the Responsible Officer and, in doing so, comply with the wishes of the Informant with respect to whether details of their identity may be divulged.
  
- 7.3. Upon the receipt of a Disclosure (whether directly, or by referral from a Council Member, employee or officer), the Responsible Officer will:
  - 7.3.1. immediately undertake a Preliminary Assessment in accordance with Part 8 of this Procedure; and
  
  - 7.3.2. as soon as practicable thereafter, in accordance with Part 9 of this Procedure:

- 7.3.2.1. notify the OPI of the Disclosure; and
- 7.3.2.2.1 confirm receipt of the Disclosure with the Informant; and
- 7.3.3. subject to the outcome of the Preliminary Assessment, then take appropriate action, including, where required:
  - 7.3.3.1. appointing an Independent Assessor to further investigate the Disclosure in accordance with Part 10 of this Procedure; and
  - 7.3.3.2. notifying the Informant of the outcome of any action, including any investigation in accordance with Part 11 of this Procedure; and
  - 7.3.3.3. notifying the OPI of the outcome of any action taken in accordance with Part 11 of this Procedure; and/or
  - 7.3.3.4. reporting the outcome of any action taken to the Minister in accordance with Part 11 of this Procedure; and
  - 7.3.3.5. preparing and issuing a final report to the Principal Officer in accordance with Part 12 of this Procedure.

### **8. Preliminary Assessment of Disclosure**

- 8.1. Where the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will acknowledge receipt of the Disclosure within 3 business days and in doing so, will provide a copy of this Policy to the Informant.
- 8.2. Upon receipt of a Disclosure, the Responsible Officer will undertake a preliminary assessment to determine:
  - 8.2.1. if the content of the Disclosure suggests there is an imminent risk of serious physical injury or death to any person or the public generally;
  - 8.2.2. if the matter/s the subject of the Disclosure involve corruption in public administration, or serious or systemic misconduct or maladministration in public administration; or
  - 8.2.3. if the information disclosed justifies further action, including a decision as to whether the Disclosure:

- 8.2.3.1. is frivolous, vexatious or trivial (in which case, no further action will be taken in relation to the Disclosure);
  - 8.2.3.2. involves a matter which has already been investigated or acted upon by a Relevant Authority and there is no reason to re-examine the matter or there is other good reason why no action should be taken in respect of the matter (in which case, no further action will be taken in relation to the Disclosure);
  - 8.2.3.3. requires referral to another Relevant Authority external to the Council; or
  - 8.2.3.4. warrants referral to an Independent Assessor for a formal investigation and report to Council.
- 8.3. Where the Disclosure relates to public administration information about a public officer who is a member, officer or employee of the Council and it is made to the person responsible for the management or supervision of the public officer the subject of the Disclosure (**the Supervisor**), the Supervisor will conduct the Preliminary Assessment instead of the Responsible Officer, and will then report the outcome of his/her determination following the Preliminary Assessment to the Responsible Officer to action.
- 8.4. The Responsible Officer must report the outcome of his/her determination following the Preliminary Assessment to the Chief Executive Officer (unless the Disclosure relates to the Chief Executive Officer). Any report prepared in accordance with this Part will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 5.2 of this Procedure apply.
- 8.5. Where the Responsible Officer (or Supervisor) determines that the content of the Disclosure suggests there is an imminent risk of serious physical injury or death to any person or to the public generally, the Responsible Officer (or Supervisor) must immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency (for example, South Australia Police, SafeWork SA, SA Ambulance, Environment Protection Authority). In doing so, the Responsible Officer or Supervisor must also have regard to clause 5.2.1 of this Procedure.
- 8.6. Where the Responsible Officer (or Supervisor) forms a reasonable suspicion that the matter/s the subject of the Disclosure involve corruption in public administration, or serious or systemic misconduct or maladministration in public administration, the Responsible Officer (or Supervisor) must comply with his/her reporting obligations under the ICAC Act in accordance with the Directions and Guidelines.
- 8.7. Where the Responsible Officer determines the Disclosure warrants referral to an external body or another Relevant Authority, the Responsible Officer will undertake the referral,

including ensuring that such information as is necessary to enable action to be taken is communicated to the most appropriate person or relevant authority to take that action. Where the Preliminary Assessment is being undertaken by the Supervisor, the Supervisor will include this recommendation in his/her report to the Responsible Officer for the Responsible Officer to action.

- 8.8. Where the Responsible Officer determines the Disclosure warrants further investigation, the Responsible Officer will, having regard to available resources, appoint the Independent Assessor and refer the Disclosure to the Independent Assessor for investigation. Where the Preliminary Assessment is being undertaken by the Supervisor, the Supervisor will include this recommendation in his/her report to the Responsible Officer for the Responsible Officer to action.
- 8.9. Where the Responsible Officer determines the Disclosure requires any other action to ensure the matter the subject of the Disclosure is properly addressed, the Responsible Officer will include in his/her determination details of that other recommended action. Where the Preliminary Assessment is being undertaken by the Supervisor, the Supervisor will include this recommendation in his/her report to the Responsible Officer for the Responsible Officer to action.

### 9. Notification of Preliminary Assessment

- 9.1. So long as the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will notify the Informant of the outcome of his/her determination in writing as soon as is reasonably practicable after the Preliminary Assessment has been made, and in any event **within 30 days of receipt** of the Disclosure. In doing so, the Responsible Officer must advise the Informant of:
  - 9.1.1. any action that has been, or will be, taken in relation to the Disclosure; or
  - 9.1.2. if no action is being taken in relation to the Disclosure, the reason/s why.
- 9.2. If the Responsible Officer fails to notify the Informant in accordance with clause 9.1 above, the Informant may be entitled to protection in relation to any subsequent Disclosure of that information to a journalist or member of Parliament in accordance with the PID Act.
- 9.3. If the Informant is dissatisfied with the Responsible Officer's determination, it is open to him/her to report the Disclosure to another Relevant Authority external to the Council.
- 9.4. As soon as reasonably practicable following the Preliminary Assessment and notification to the Informant, the Responsible Officer must use the dedicated online notification form at [icac.sa.gov.au](http://icac.sa.gov.au) to notify OPI of the Disclosure (**Initial Notification**), and in doing so must ensure that the details required by Guideline 1.4 of the Public Interest Disclosure Guidelines are included in the Initial Notification.

- 9.5. The Responsible Officer will retain the unique reference number issued by the OPI upon making the Initial Notification, and will ensure that reference number is provided to any other person or authority to whom the Disclosure is referred.

### **10. Investigation Procedure**

- 10.1. Where the Responsible Officer determines, following a Preliminary Assessment, that a Disclosure warrants referral to an Independent Assessor for a formal investigation and report to Council, the Responsible Officer will appoint an Independent Assessor in accordance with this Part to investigate the Disclosure.
- 10.2. The Independent Assessor will be appointed on a case-by-case basis depending on the nature of the Disclosure. The Council may prepare a list of pre-approved persons who may be appointed as an Independent Assessor in any given circumstances, in which case the Responsible Officer must have regard to this list in appointing the Independent Assessor.
- 10.3. The objectives of the investigation process are:
  - 10.3.1. in appropriate circumstances, to investigate the substance of the Disclosure and to determine whether there is evidence in support of the matters raised or, alternatively, to refute the report made;
  - 10.3.2. to collate information relating to the allegation as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment;
  - 10.3.3. to consider the information collected and to draw conclusions objectively and impartially;
  - 10.3.4. to observe procedural fairness in the treatment of any person who is subject of the Disclosure; and
  - 10.3.5. to make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.
- 10.4. The Independent Assessor will observe the principles of natural justice throughout the investigation process. The investigation will be conducted in an efficient manner and will involve a thorough and balanced assessment of the available evidence and any other factors deemed relevant to making a fair and reasonable judgement about the matter.
- 10.5. Upon receipt of a Disclosure referral under this Part, the Independent Assessor will bring the fact of the Disclosure to the attention of the person who is the subject of it in writing within 5 days, and provide them with an opportunity to respond to the Disclosure within a reasonable timeframe (either in writing or in person). The full details of any allegations contained in the Disclosure need not be brought to the person's attention if the Independent Assessor considers that doing so will compromise the investigation.

- 10.6. During any interview with the Independent Assessor, the person who is the subject of a Disclosure may be accompanied by any person providing support to him/her (including a lawyer) as he/she considers fit. Any costs incurred in relation to obtaining the assistance of a support person are the personal expenses of the person subject of the Disclosure. The support person is bound by a duty of confidentiality in relation to any matter discussed during such interview.
- 10.7. The investigation will be undertaken in confidence. So long as the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Independent Assessor will keep the identity of the Informant confidential unless the circumstances in clause 5.2 of this Procedure apply.
- 10.8. The Independent Assessor will keep the Responsible Officer informed of the expected timeframes for completion of the investigation and the provision of his/her investigation report to the Responsible Officer.
- 10.9. Upon finalising an investigation the Independent Assessor must prepare an investigation report to the Responsible Officer that will contain the following details:
  - 10.9.1. the allegation(s);
  - 10.9.2. an account of all relevant information received including any rejected evidence, and the reasons why the rejection occurred;
  - 10.9.3. the conclusions reached and the basis for them; and
  - 10.9.4. any recommendations arising from the conclusions, including any remedial action which should be taken by the Council.

The report is to be accompanied by:

  - 10.9.5. the transcript or other record of any verbal evidence taken, including tape recordings; and
  - 10.9.6. all documents, statements or other exhibits received by the Independent Assessor and accepted as evidence during the course of the investigation.
- 10.10. Any report prepared in accordance with this Part will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 5.2 of this Procedure apply.
- 10.11. The Responsible Officer must take whatever action is, in his/her discretion, considered appropriate in the circumstances having regard to the matters identified in the Independent Assessor's report.

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### 11. Notification of Further Action

- 11.1. So long as the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will notify the Informant of the outcome of his/her determination in writing as soon as is reasonably practicable after the Further Action has been taken and, in any event, **within either:**
- 11.1.1. **90 days of receipt** of the Disclosure; or
  - 11.1.2. such longer period as may be specified by written notice given by the Responsible Officer within that 90 day period.
- 11.2. In doing so the Responsible Officer must advise the Informant of:
- 11.2.1. any action that has been, or will be, taken in relation to the Disclosure; or
  - 11.2.2. if no action is being taken in relation to the Disclosure, the reason/s why.
- 11.3. If the Responsible Officer fails to notify the Informant in accordance with clauses 11.1 and 11.2 above, the Informant may be entitled to protection in relation to any subsequent Disclosure of that information to a journalist or Member of Parliament in accordance with the PID Act.
- 11.4. If the Informant is dissatisfied with the Responsible Officer's determination or the action taken it is open to him/her to report the Disclosure to another Relevant Authority external to the Council.
- 11.5. As soon as reasonably practicable following the Preliminary Assessment and notification to the Informant, the Responsible Officer must use the dedicated online notification form at [icac.sa.gov.au](http://icac.sa.gov.au) to notify OPI of the action taken in relation to the Disclosure (Further Notification) and, in doing so, must ensure that the details required by Guideline 2 of the Public Interest Disclosure Guidelines are included in the Further Notification.
- 11.6. If the Disclosure came to the Council by way of a referral from a Minister, the Responsible Officer must ensure that the Minister is also notified of the action taken in relation to the Disclosure, and the outcome of any such action. The Minister should be notified in accordance with this clause following the Preliminary Assessment if the Responsible Officer determines that no action is to be taken.

### 12. Final Report and Recommendation

- 12.1. Upon finalising any action required in relation to a Disclosure, the Responsible Officer must prepare a report that will contain the following details:
- 12.1.1. the subject of the Disclosure;



- 12.1.2. an account of the steps taken by the Responsible Officer in accordance with this Procedure, including, where appropriate, enclosing a copy of any Independent Assessor's report;
- 12.2. conclusions reached as a result of the steps taken in response to the Disclosure and the basis for them; and
- 12.3. any recommendations arising from the conclusions, including any remedial action which should be taken by the Council.
- 12.4. Any report prepared in accordance with this Part will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 5.2 of this Procedure apply.
- 12.5. The Responsible Officer's Report must be provided to the Chief Executive Officer to action as he/she considers appropriate.
- 12.6. The Chief Executive Officer may, in his/her discretion, inform the elected body, on a confidential basis, about a Disclosure in accordance with Part 7 of the Public Interest Disclosure Policy.

### **13. Secure Handling and Storage of Information**

- 13.1. The Responsible Officer must ensure accurate records of an appropriate Disclosure are securely and confidentially maintained including notes of all discussions, phone calls, and interviews.
- 13.2. The Responsible Officer will ensure all information relating to an appropriate Disclosure is maintained as confidential and as such, will be solely responsible for the secure storage of this information, which will be stored separately from the Council's records.
- 13.3. In performing his/her duties, the Responsible Officer will maintain a confidential file of information (including written documents, disks, tapes, film or other objects that contain information) that relates to a Disclosure and/or is a product of the associated investigation/reporting process. All such information will be recorded in a register which is to remain confidential and be securely stored in a confidential/locked document management folder (TRIM or such other replacement system), to include all investigation information, reports and any other relevant documents in relation to the matter, with a folder created for individual disclosures. Any information stored on a hard drive will be locked so as to only be accessible by the Responsible officers.
- 13.4. In the event that a person's appointment as a Responsible Officer is terminated, the person must provide this information to the newly-appointed Responsible Officer and having done so will continue to be bound by a duty of confidentiality in respect of an Informant's identity and the information received as a result of the Disclosure.

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- 13.5. Although the Responsible Officer is ultimately responsible to ensure public interest information will be securely received and stored, the security and confidentiality obligations outlined in this Part also apply to any Independent Assessor appointed pursuant to this Procedure in relation to any Investigation.

### **14. Protection for the Informant**

- 14.1. Although the PID Act does not provide any protection to people who knowingly make Disclosures that are false or misleading in a material particular, an Informant who makes an appropriate Disclosure will ordinarily be protected by:
- 14.1.1. immunity from criminal or civil liability;
  - 14.1.2. a prohibition on Disclosure of his/her identity, other than in limited specific circumstances;
  - 14.1.3. a prohibition against Victimisation; and
  - 14.1.4. a prohibition against hindering, obstructing or preventing an Informant from making an appropriate Disclosure.
- 14.2. A person who personally commits an act of Victimisation against an Informant is guilty of an offence and may be prosecuted.
- 14.3. The Council will take action as appropriate in the circumstances of the relevant Disclosure/s to protect Informants from Victimisation, and/or from being hindered or obstructed in making a Disclosure. Such action may include acting in accordance with the following risk minimisation steps:
- 14.3.1. Disclosure to go direct to most appropriate Responsible officer as soon as possible, all information and documentation to be saved in a confidential/locked document management folder (TRIM or such other replacement system). All such information will be recorded in a register which is to remain confidential and be securely stored in a confidential/locked document management folder. Any information stored on a hard drive will be locked so as to only be accessible by the Responsible officers.
  - 14.3.2. set out in the Public Interest Disclosure Procedure and/or referring the matter to the SA Police
  - 14.3.3. disciplinary action by the Council or the Chief Executive Officer (as appropriate) for any failure to act otherwise than in accordance with this Procedure or the Public Interest Disclosure Policy (including with respect to divulging the identity of an Informant) in relation to a Disclosure.

### **15. Availability of the Procedure**

- 15.1. This Procedure will be available free of charge for inspection at the Council's Offices during ordinary business hours and via the Council's website [www.holdfast.sa.gov.au](http://www.holdfast.sa.gov.au). Copies will also be provided to the public upon request and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

**Appendix A**  
**Relevant Authorities**

Where the information relates to...	the relevant authority is...
<p>a public officer*</p> <p><small>*as defined and set out in Schedule 1 of the <i>Independent Commissioner Against Corruption Act 2012</i> - relevantly, this includes members, officers and employees of local government bodies</small></p>	<p>either:</p> <p>the person who is designated by the Guidelines as being taken to be responsible for management or supervision of the public officer; or</p> <p>the person who is in fact responsible for the management or supervision of the public officer; or</p> <p>the relevant responsible officer (as designated by the Council in accordance with section 12 of the PID Act)</p>
<p>a public sector agency or public sector employee</p>	<p>either:</p> <p>the Commissioner for Public Sector Employment; or</p> <p>the responsible officer for the relevant public sector agency</p>
<p>an agency to which the <i>Ombudsman Act 1972</i> applies</p>	<p>the Ombudsman</p>
<p>a location within the area of a particular council established under the <i>Local Government Act 1999</i></p>	<p>a member, officer or employee of that Council</p>
<p>a risk to the environment</p>	<p>the Environment Protection Authority</p>
<p>an irregular and unauthorised use of public money or substantial</p>	<p>the Auditor-General</p>
<p>the commission, or suspected commission, of any offence</p>	<p>a member of the police force</p>
<p>a judicial officer</p>	<p>the Judicial Conduct Commissioner</p>
<p>a member of Parliament</p>	<p>the Presiding Officer of the House of Parliament to which the member belongs</p>
<p>a person or a matter of a prescribed class<sup>1</sup></p>	<p>an authority declared by the regulations to be a relevant authority in relation to such information</p>

<sup>1</sup> presently, no prescribed persons or classes have been identified

<b>Where the information relates to...</b>	<b>the relevant authority is...</b>
<p>public interest information - being:</p> <p>environmental and health information (information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public); or</p> <p>public administration information (information that raises a potential issue of corruption, misconduct or maladministration in public administration)</p>	<p>the OPI;</p> <p>a Minister of the Crown; or</p> <p>any other prescribed person or person of a prescribed class</p>

Appendix B

Notification Process Flowchart

