

ITEM NUMBER: 18.3

CONFIDENTIAL REPORT

INTERNAL REVIEW OF COUNCIL DECISION (s.270) – E-SCOOTER TRIAL

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:

- i. **Information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council**

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

1. That pursuant to Section 90(2) of the Local Government Act 1999 Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 465/19 Internal Review of Council Decision (s.270)- Pamela Ryan – E-Scooter Trial in confidence.
 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 465/19 Internal Review of Council Decision (s.270)- Pamela Ryan – E-Scooter Trial in confidence on the following grounds:
 - i. Information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.
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Item No: **18.3**

Subject: **INTERNAL REVIEW OF COUNCIL DECISION- E-SCOOTER TRIAL**

Date: 10 December 2019

Written By: Team Leader Governance

General Manager: Strategy and Business Services, Ms P Jackson

SUMMARY

A request for an internal review under Section 270 of the *Local Government Act 1999*, has been received for a decision that Council made in relation to the E-Scooter Trial on 24 September 2019 - Item Number 14.5 - Electric Scooter Trial Along the Coast Park (Report No: 349/19 - Resolution Number C240919/1619).

A review has been undertaken by Kelledy Jones Lawyers on behalf of Council and the final report provided to the applicant's, Dr Pamela Ryans' lawyers, Sykes Bidstrup on 29 November 2019. The s270 review report is provided to Council to receive and consider.

Refer Attachment 1

RECOMMENDATION

That Council:

- 1. receive and notes the report;**
- 2. affirms that Council Resolution C240919/1619 be upheld with no further action required in relation to the Council's decision; and**

RETAIN IN CONFIDENCE - Section 91(7) Order

- 3. That having considered Agenda Item 18.3 Report No: 465/19 Internal Review of Council Decision (s.270– E-Scooter Trial in confidence under Section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the report, attachment and minutes be retained in confidence for a period of 24 months and that this order be reviewed every 12 months.**
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COMMUNITY PLAN

Culture: Providing customer-centred services.

COUNCIL POLICY

Internal Review of Council Decisions Policy

STATUTORY PROVISIONS

Section 270 *Local Government Act 1999*

BACKGROUND

Council's administration received a letter dated 31 October 2019 from Sykes Bidstrup Lawyers (Appendix 1 of Attachment 1), acting on behalf of Dr Pamela Ryan, (the Applicant), requesting a review of an express decision made by the Council at its meeting on 24 September 2019 to progress a tender process for an Electric Scooter Trial Along the Coast Park (Item Number 14.5 - Electric Scooter Trial Along the Coast Park - Report No: 349/19) and an alleged implied decision not to consult in relation to the matter.

The Council Resolution on 24 September 2019 for Item 14.5 was:

Motion

C240919/1619

That Council:

- 1. *endorse administration to continue to work with the Western Alliance of Councils to progress the tender documents and processes development for the 6-month trial, commencing November 2019; and***
- 2. *endorse the Request for Tender document for 'E-Scooter mobility services' for release to the market and the tender process to be managed by the Local Government Association (LGA).***

REPORT

The Section 270 review requested that the Council:

- 'rescind' its decision to endorse and release the tender documents in the present form;
- states 'unequivocally and publicly' that no permit will be issued to any e- scooter provider, until public consultation in accordance with the Policy has been undertaken in relation to the proposed trial within the Council area and, in particular, utilising the Esplanade, Glenelg;

- consults with the community, including the Applicant, about any proposed trial and any proposed permit to be issued to an e-scooter supplier as part of any such trial, prior to either event occurring; and
- conducts a review in accordance with section 270 of the Act of its decision 'to not notify' the Applicant of the 'decision to issue a Permit, or to bind the Council to issue a Permit in the future'.

The review outcome (pages 13 and 14 of Attachment 1) was that Council did not act unlawfully or unreasonably in its investigation and management of the proposed 6-month e- scooter trial, including the Request For Tender (RFT) process.

In relation to the requirement for public consultation, the outcome determined Council is not required to advise on any proposed or existing proposal, application or decision for the use of e-scooters within the Council area. This is beyond the obligation under the *Local Government Act 1999* and Council's responsibilities under its Council's Community Consultation and Engagement Policy.

In relation to the points raised in the review request the outcome was:

- there is no requirement for the Council to rescind or otherwise amend its decision in relation to resolution C240919/1619, to endorse that Administration work with the Alliance Councils to progress the tender documents and development of a 6- month e-scooter trial, and endorse the Request For Tender documents for release to the market;
- there is no requirement for the Council to state unequivocally and publicly that no permit will be issue to an e-scooter provider, until public consultation occurs; and
- there is no statutory or discretionary requirement on the facts of this matter for the Council to undertake public consultation in relation to the proposed e-scooter trial.

Therefore, it is recommended that Council note and receive the Section Review report and affirms the Council decision on 24 September 2019 - Item number 14.5 - Electric Scooter Trial Along the Coast Park (Report No: 349/19 - Resolution Number C240919/1619).

BUDGET

Not applicable.

LIFE CYCLE COSTS

Not applicable.

CITY OF HOLDFAST BAY

E-SCOOTER TRIAL

SECTION 270 REVIEW

CITY OF HOLDFAST BAY

E-SCOOTER TRIAL

Review pursuant to section 270 of the *Local Government Act 1999*

1. INTRODUCTION

- 1.1 By letter dated Thursday 31 October 2019, Dr Pamela Ryan, ('the Applicant'), through her solicitor, Mr Gene Bidstrup of Sykes Bidstrup, made application to the City of Holdfast Bay ('the Council') for a review of an express decision made by the Council at its meeting on 24 September 2019 to progress a tender process and an alleged implied decision not to consult in relation to the matter (**Appendix 1**).
- 1.2 The application has been made pursuant to section 270 of the *Local Government Act 1999* ('the Act').
- 1.3 The Applicant has submitted that, following the Council's receipt and consideration of an Agenda report for item 14.5 *Electric Scooter Trial Along the Coast Park* at its meeting of 24 September 2019, in resolving to endorse that Administration continue to work with the Western Alliance of Councils (comprising the Cities of Holdfast Bay, West Torrens, Charles Sturt and Port Adelaide Enfield, referred to as the 'Alliance Councils') to progress a tender process for a 6-month trial of an e-scooter mobility service in the area, the Council:
 - 1.3.1 has 'bound itself to issuing a section 222 permit to an e-scooter supplier'; and
 - 1.3.2 has failed to give effect to, or failed to adequately give effect to, the provisions set out under its *Community Consultation and Engagement Policy* ('the Policy') (**Appendix 2**), contrary to the judgement of His Honour Justice Blue in *Coastal Ecology Protection Group Inv & Ors v City of Charles Sturt* [2017] SASC 136.
- 1.4 The Applicant has requested that the Council now:
 - 1.4.1 'rescind' its decision to endorse and release the tender documents in the present form;
 - 1.4.2 states '*unequivocally and publicly*' that no permit will be issued to any e-scooter provider, until public consultation in accordance with the Policy has been undertaken in relation to the proposed trial within the Council area and, in particular, utilising the Esplanade, Glenelg;
 - 1.4.3 consults with the community, including the Applicant, about any proposed trial and any proposed permit to be issued to an e-scooter supplier as part of any such trial, prior to either event occurring; and

- 1.3.4 conducts a review in accordance with section 270 of the Act of its decision *'to not notify'* the Applicant of the *'decision to issue a Permit, or to bind the Council to issue a Permit in the future'*.
- 1.5 Taken together, it may reasonably be construed that the Applicant contends that in determining to progress the tender process, the Council has not considered all relevant matters. Accordingly, it was not acting as an informed and responsible decision maker in the interests of its community and, hence, the decisions are contrary to sections 6 and 8 of the Act.
- 1.6 As the decision, the subject of the review, was a decision of the Council, as the governing body, the Council has engaged KelliedyJones Lawyers ('KJL') to undertake this review.
- 1.7 The review has been undertaken in accordance with the Council's *Internal Review of Council Decisions Policy* (**Appendix 3**), as well as the principles of procedural fairness.
- 1.8 By letter dated 19 November 2019, KJL wrote to the Applicant, through her solicitor Mr Bidstrup, inviting her to make any further submission to be taken into account on the review and that any further material was to be provided by 5pm on Monday 25 November 2019.
- 1.9 By telephone on Tuesday 19 November 2019, Mr Bidstrup confirmed that the Applicant's submissions were contained in her letters to the Council of 10 October 2019 (**Appendix 4**) and 31 October 2019 (**Appendix 1**). The Applicant relies on these submissions as part of this review.

2. THE SECTION 270 REVIEW PROCESS

- 2.1 The scope of the engagement of KJL is to:
 - 2.1.1 undertake an independent review of all relevant information available to the Council at the time of the actual and implied decisions, the subject of the review; and
 - 2.1.2 having regard to the concerns raised by the Applicant, to review the decision-making processes and prepare a report for the consideration of the Council.
- 2.2 For the avoidance of doubt, reference to 'the Council' in this report is a comprehensive term and is to be read, as necessary, as encompassing the governing body, employees of the Council and the corporate entity.
- 2.3 The relevant 'test' that has been applied under the review is whether, based on all of the available information, the decisions made by the Council were:
 - 2.3.1 reasonable decisions to make in the circumstances;
 - 2.3.2 decisions open to be made on the facts before it;
 - 2.3.3 decisions made in the public interest; and
 - 2.3.4 the decision-making process was not flawed in any manner.

- 2.4 The standard of proof that has been applied in this review is on the balance of probabilities. In determining whether that standard has been met, in accordance with the High Court decision in Briginshaw v Briginshaw (1938) 60 CLR 336, KJL has considered the nature of the allegations made and the consequence if they were to be upheld.
- 2.5 The objective of this Report is to assist the Council in its review process and it sets out:
 - 2.5.1 the background facts which have given rise to the application;
 - 2.5.2 a summary of relevant information obtained during the course of the review;
 - 2.5.3 the findings of KJL in relation to the issues raised by the Applicant; and
 - 2.5.4 the options now available to the Council.

3. BACKGROUND

- 3.1 An Agenda report prepared by the Council's Tourism Development Coordinator for item 14.6 *Electric Scooters* was considered at the Council meeting of 11 June 2019. The report provided information in relation to the City of Adelaide's original four (4) week trial of e-scooters during the 2019 Fringe and Adelaide Festival season.
- 3.2 The report summarised the experiences of the City of Adelaide and the legislative requirements to be met as part of any trial. It noted that the Council had been approached by the other Alliance Councils seeking 'in principal' support for a trial of e-scooters along the Coast Park from Semaphore, though to Seacliff.
- 3.3 Council officers proposed an investigation into supporting a trial of legally compliant e-scooters in a confined area along the Coast Park in the Council area, which proposal would contribute to a number of the objectives in its Strategic Plan.
- 3.4 The report noted that any e-scooter supplier would be required, as part of a trial, to obtain a permit under section 222 of the *Local Government Act 1999* ('the Act') to operate the e-scooters on a Council road. The permit would also provide the Council with an opportunity to place conditions on the use of e-scooters.
- 3.5 The report recommended that the Council endorse working with the other Alliance Councils to investigate a trial.
- 3.6 Following consideration of the report in a meeting open to the public, the Council resolved to:
 1. *endorse the City of Holdfast Bay to work in partnership with other councils and organisations to manage and respond to e-scooter service providers;*
 2. *authorise Council Officers to liaise with counterparts at neighbouring councils to develop a consistent response to the arrival of e-scooters, including addressing the legalities and potential risks; and*

3. *authorise Council Officers to investigate the option of supporting a 6-month trial of legally compliant e-scooters in a confined area along the coast park (C120619/1508)*
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- 3.7 A copy of the publicly available Agenda report for item 14.6 and relevant page of the Minutes from the Council meeting of 11 June 2019 is **Appendix 5**.
 - 3.8 In giving effect to the Council resolution, a project team was formed to work with officers of the other Alliance Councils, to investigate a trial and in ensuring that any e-scooter service would operate consistently across all Council boundaries.
 - 3.9 As part of this process, on 26 June 2019, the Alliance Councils commenced liaison with the Department of Planning, Transport and Infrastructure ('DPTI'), to determine what would be required '*with regards to legislation and gazettal requirements*' to progress an e-scooter trial on the Coast Park.
 - 3.10 By email dated 2 July 2019, the Acting Manager Policy and Stagey at DPTI, advised that the City of Adelaide trial had been extended, with an end date of 13 October 2019 and was '*restricted to the CBD of Adelaide*' (**Appendix 6**).
 - 3.11 It was further stated in this correspondence that:

*the Government is currently considering the next steps in relation to the operation of innovative transport options, such as e-scooters. This includes assessing the Adelaide CBD trial **before making any further regulatory amendments**, such as broadening the area of operation beyond the CBD.*
(our emphasis)
 - 3.12 Subsequently, a letter dated 15 August 2019 signed by the CEO's of the Alliance Councils, was sent to the Hon. Stephan Knoll MP, as Minister for Transport, Infrastructure and Local Government ('the Minister') (**Appendix 7**).
 - 3.13 The letter sought support '*subject to formal Council consideration*' of a 6-month trial of legally compliant e-scooters in a confined area from Outer Harbor to Seacliff, including the granting of any necessary '*legislative approvals to legally enable such a trial to occur.*'
 - 3.14 The letter confirmed that the Alliance Councils were working with Local Government Association Procurement ('the LGA') and the City of Adelaide to coordinate a request for tender process to ensure successful operators for any trial would be approved through a formal engagement process and agreement.
 - 3.15 A letter of support from the South Australian Tourism Commission was enclosed with this letter to the Minister.
 - 3.16 Following which, with input from the Council's Public Safety Officer of Regulatory Services and the Traffic and Transport Coordinator, the Council's project team determined a set of specific conditions, to form the basis of any trial of e-scooters in the Council area, including:
 - e-scooters would only be permitted to operate from 6:00am to 9:00pm seven (7) days per week;
 - e-scooters would be removed each night by the supplier;

- any trial was to be limited to the Coast Park area, from Glenelg to Seacliff;
- the designated area would consist of 'go slow' zones, where e-scooters would be restricted to 8km/hr at areas of high activity such as;
 - the Patawalonga Gates to Wigley Reserve Playground (200m);
 - Glenelg Surf Club via Foreshore Playground and Glenelg Jetty to the Stamford Grand Hotel (350m);
 - The Glenelg Jetty to the Moseley Square tram stop (125m);
 - The Broadway Kiosk (distance 100m);
 - Somerton Surf Club via Minda to Gladstone Road (500m);
 - the Brighton Jetty and Esplanade Hotel to Bindarra Road (125m);
 - Seacliff (100m north of Wheatland Street to 50m south of Wheatland Street in total 150m); and
 - The Seacliff Boat Ramp to Seacliff Surf Club (200m).
- all other areas would have a speed restriction of 15 km/hr;
- to ensure appropriate use of the e-scooters and to keep footpaths and shared spaces tidy, designated '*preferred parking zones*' and a '*virtual geo-fence*' would be established to guide customers to preferred parking zones; and
- the e-scooters would lose power if they travelled outside of the geo-fence.

3.17 Based on the investigations, the Tourism Development Coordinator prepared a publicly available report for Agenda item 14.5 *Electric Scooter Trial Along the Coast Park*, for the Council meeting of 24 September 2019.

3.18 The report summarised the outcomes of the project teams' discussions with DPTI, LGA Procurement and the Alliance Councils and provided details in relation to the proposed trial, including the above conditions.

3.19 The report identified that to progress a trial, it would be necessary for the Minister to designate the trial area, by way of Gazette notice, so that e-scooters, being a '*light vehicle*' for the purposes of the *Road Traffic Act 1961*, could be lawfully operated on or over a road. The report noted that the Alliance Councils had written to the Minister and a response was awaited.

3.20 Included with the report, as Attachment 1, was the proposed Request For Tender ('RFT') document, which identified the proposed conditions of operation and noting under 'Introduction' at Section D that:

Under Section 222 of the Local Government Act 1999 (SA) e-scooter operators are required to obtain an On-Street Activity permit (Permit) from Council prior to undertaking [sic] a business on a public road.'

3.21 Under 'Number of permits to be Issued' at Section D it was stated:

The Alliance will issue up to two permits (per Council) to prospective e-scooter suppliers as part of the RFP [sic].

- 3.22 Attachment 2 indicated the proposed trial area along the Coast Park in the Council area and Attachment 3 was a copy of the letter sent to the Minister on 15 August 2019.
- 3.23 Following consideration of the report and attachments in a meeting open to the public, the Council resolved to:
1. *endorse administration to continue to work with the Western Alliance of Councils to progress the tender documents and processes development for the 6-month trial, commencing November 2019; and*
 2. *endorse the Request for Tender document for 'E-Scooter mobility services' for release to the market and the tender process to be managed by the Local Government Association (LGA) (C240919/1619)*
- 3.24 A copy of the publicly available Agenda report and attachments for item 14.5, and the relevant page of the Minutes from the Council meeting of 24 September 2019, are **Appendix 8**.
- 3.25 Following this resolution of the Council, together with similarly worded resolutions from the other Alliance Councils during September 2019, on 27 September 2019 the Alliance Councils engaged LGA Procurement to manage the Request For Tender ('RFT') process. This was for a 6-month trial of e-scooters in a designated area along the Coast Park, in accordance with the documents contained at Attachment 1 to the Agenda report for item 14.5.
- 3.26 The RFT was released as an open invitation for submissions to be received by midday on 22 October 2019.
- 3.27 Four (4) applications were received which are currently the subject of assessment by an Evaluation Team, in conjunction with LGA Procurement.
- 3.28 We are advised that, subject to the support from the Minister for the trial, two (2) tenderer(s) have been selected for any proposed trial.
- 3.29 On 15 October 2019, the Council received a letter from the Minister, dated 9 October 2019 (**Appendix 9**), advising that DPTI was waiting for information from key stakeholders, including SAPOL, the City of Adelaide and e-scooter operators, in relation to the Adelaide CBD trial, noting that:
- [o]nce this information is assessed, the department will be in a position to brief me further on future options with respect to these devices.*
- 3.30 The Minister concluded by advising that he noted the interest of the Alliance Councils in an e-scooter trial and that DPTI would keep them informed of the outcomes of the review.
- 3.31 By letter of response, dated 21 October and signed by the Mayors of the Alliance Councils (**Appendix 10**), further correspondence to the Minister, again sought support for the proposed 6-month trial to commence from November 2019, including any '*necessary legislative approvals to legally enable such a trial to*

occur.’ It was submitted that the Alliance Councils’ proposal should be assessed ‘differently from trials in the wider metropolitan area’, as the Coast Park trial ‘will be linear in nature and confined to the Coast Park only’.

3.32 Concurrent to this correspondence, the Applicant, through her solicitor, sent a letter to the Council, dated 10 October 2019 (**Appendix 4**).

3.33 As part of this review, it is important to note that this letter was dated some 16 days after the Council resolved at its meeting of 24 September 2019 to endorse continued work with the Alliance Councils to progress the tender documents for a 6-month trial and to endorse the RFT tender documents for release.

3.34 In this letter, the Applicant outlines her concerns regarding a trial of e-scooters in the Council area and requests that her legal representative be notified if there was any *‘proposal, application or decision for the use of e-Scooters within the Council area.’*

3.35 The letter further specified that the Applicant, through her legal representative, be provided with:

- *notice of any such proposal, care of this firm, prior to any decision being made;*
- *an opportunity to respond to the proposal, prior to any decision being made;*
- *when or if any decision is made, notice of the decision is given to our client, care of this firm, within 5 days of the decision being made; and*
- *where any decision is made by, or recorded in, any document (for instance, a notice published in a Government Gazette) a copy of that document is provided to this firm with notice of the decision as soon as possible thereafter.*

3.36 The request was stated to also apply to any *‘existing proposals, application or decisions in relation to the use of e-Scooters within the Council area.’*

3.37 It is noted in this letter that a copy had also been sent to the Minister.

3.38 By letter dated 16 October 2019, the Council responded to the Applicant’s request, through her solicitor, (**Appendix 11**), confirming that the Act provides a regulatory framework for the publication of certain material, as well as for the requirement to undertake public consultation in certain circumstances.

3.39 The Council advised that it was unable to accede to the Applicant’s request to be specifically notified in relation to these matters because such notification was beyond the scope of the Council’s statutory obligations. That is, the Council would be, effectively, binding itself to a commitment for consultation or notification outside of the statutory framework and would, therefore, be affording the Applicant a level of engagement beyond that afforded to other residents and ratepayers.

3.40 Importantly, as noted above, it is also to be recalled that the Council’s consideration of this matter, including the publicly available Agenda reports and

attachments it received to inform its decision making, occurred in a meeting open to the public.

- 3.41 That is, it was open for the Applicant to inform herself in relation to any proposed or existing '*proposal, application or decision for the use of e-Scooters within the Council area*' by way of a search of the publicly available Agenda reports and Minutes on the Council's webpage and/or attending at the Council meetings of 11 June 2019 and 24 September 2019.

4. LEGISLATIVE FRAMEWORK

Section 222 of the Act

- 4.1 In addressing the Applicants' contention that the Council has '*bound itself to issuing a section 222 permit to an e-scooter supplier*', in the absence of public consultation, it is necessary to understand the relevant provisions of the Act.
- 4.2 Section 222 of the Act provides that:
- A person must not use a **public road** for business purposes unless authorised to do so by a permit. (our emphasis)*
- 4.3 A permit under section 222 may be granted for any term that does not exceed five (5) years and may be granted subject to certain conditions.
- 4.4 Examples as to what may be considered a '*business purpose*' are set out in section 222(1) of the Act. However, this is not an exhaustive list and the examples merely indicate the type of matters that might fall within the definition of '*business purpose*'.
- 4.5 While it is outside the scope of this review, on our preliminary consideration of Attachment 2 to **Appendix 8**, the designated area of the proposed trial in the Council area is roads vested in the Council that are within the meaning of '*public road*' under the Act.
- 4.6 Pursuant to section 222 of the Act, the Council may issue a permit to authorise a person to use a public road for a business purpose.
- 4.7 In the view of KJL, the use to be made of the public roads by an e-scooter supplier who will obtain a hire fee per use from the user, is a commercial activity. Therefore, the use of the public roads, that form the designated area for the Council's trial is a '*business purpose*' under section 222 of the Act and requires approval from the Council, in the form of a permit.
- 4.8 The Council is required to receive any application made by an e-scooter supplier under section 222 of the Act, and review and process the application in accordance with its policies and procedures in place.
- 4.9 Attachment 1 to **Appendix 8** confirms this legislative obligation.
- 4.10 As an aside, noting reference in the reports to there not being a requirement for docking infrastructure, section 221 of the Act is not of application. However, if that were to change and the Council was to consider creating physical docking

station(s), consideration would need to be given to the application of section 221 of the Act.

Public Consultation

4.11 In certain circumstances, the Act requires a council to follow its public consultation policy. In other cases, public consultation is discretionary.

4.12 Section 223(1) of the Act requires the Council to undertake public consultation where it proposes to grant an authorisation or permit (under sections 221 or 222 of the Act):

a) that would result in any part of a road being fenced, enclosed or partitioned so as to impede the passage of traffic to a material degree; or

b) in relation to a use or activity for which public consultation is required under the regulations.

4.13 In which case, the Council must, before granting the authorisation or permit, follow the relevant steps set out in its public consultation policy.

4.14 However, based on the materials received as part of this review and noting the dock less infrastructure and geo fence proposed to be established, the proposed e-scooter trial **does not**, in the view of KJL, constitute an activity that would amount to an impediment to the passage of vehicular or pedestrian traffic to a '*material degree*'.

4.15 Further, there are no other provisions of the Act which would require the Council to undertake public consultation in relation to the e-scooter trial and the consultation provisions of the *Local Government (General) Regulations 2013* have no application to the facts of this matter.

4.16 Accordingly, the Council does **not** have any statutory obligation to undertake public consultation in relation to the proposed trail of e-scooters in its area and does not have any statutory obligation to undertake public consultation in relation to the issue of a section 222 permit to an e-scooter supplier.

4.17 Furthermore, on a consideration of the Council's *Community Consultation and Engagement Policy (Appendix 2)*, there is no requirement to undertake public consultation on a discretionary basis and there has not been any resolution of the Council requiring the Administration to do so.

4.18 Accordingly, the position of KJL is that His Honour, Justice Blue's, decision in *Coastal Ecology Protection Group Inv & Ors v City of Charles Sturt* [2017] SASC 136 has **no application** to this matter.

Light Vehicle

4.19 However, the Council's ability to issue a permit under section 222 of the Act to an e-scooter supplier to use a public road for a business purpose is not the only legislative requirement that must be met for the purposes of commencing a trial.

- 4.20 Section 161A of the *Road Traffic Act 1961* provides that a person must not drive a light vehicle on or over a road without the approval of the Minister. Any such approval can be subject to conditions as the Minister thinks fit.
- 4.21 Section 161A applies to ‘*any other vehicle of a class declared by regulation to be a class of vehicles to which this section applies.*’
- 4.22 Regulation 48 of the *Road Traffic (Miscellaneous) Regulations 2014* provides that the following are declared to be classes of vehicles which section 161A of the *Road Traffic Act 1961* applies:
- (a) *wind-powered light vehicles commonly known as land yachts;*
 - (b) *bicycles that have an auxiliary motor comprised (in whole or in part) of an internal combustion engine;*
 - (c) **electric personal transporters.** (our emphasis)
- 4.23 An ‘*electric personal transporter*’ is defined at regulation 64A of the *Road Traffic (Miscellaneous) Regulations 2014* to be a vehicle that:
- (a) *has 1 or more wheels; and*
 - (b) *is propelled by 1 or more electric motors; and*
 - (c) *is designed for use by a single person only; and*
 - (d) *has an effective stopping system controlled by using brakes, gears or motor control; and*
 - (e) *is not more than -*
 - (i) *1 250mm in length, 700mm in width and 1 350mm in height; or*
 - (ii) *700mm in length, 1 250mm in width and 1 350mm in height; and*
 - (f) *weighs 60 kilograms or less when the vehicle is not carrying a person or other load; and*
 - (g) *has no sharp protrusions; and*
 - (h) *is not -*
 - (i) *a bicycle; or*
 - (ii) *a motorised wheelchair.*
- 4.24 ‘Approval;’ in these circumstances can be evidenced by the Minister designating an area of use by notice published in the Gazette, as has occurred with the e-scooter trial in the Adelaide CBD. The relevant extracts of the *Road Traffic Act 1961* and the *Road Traffic (Miscellaneous) Regulations 2014* are **Appendix 12**.
- 4.25 Therefore, regardless of the fact that the Alliance Councils have resolved to proceed with a 6-month trial of e-scooters in a designated area along the Coast Park, a trial cannot proceed, until such time as the Minister has, by way of published notice,

approved the use of light vehicles by persons on or over the roads in the designated trial area.

- 4.26 The Council has confirmed that if the Minister does provide approval, the successful tenderer(s) will enter into a formal agreement with the Alliance Councils and will be required to make application to each Council for a permit under section 222 of the Act to use public roads for a business purposes.
- 4.27 A permit issued under section 222 will, of course, contain certain conditions with regards to the operation of the e-scooters in the trial area.

5. RELEVANT CONSIDERATIONS AND FINDINGS

5.1 The above matters have been carefully considered as part of this review and the findings of KJL in relation to each are set out below:

- 5.1.1 as to the Applicant's request in her letter of 10 October 2019 that she be provided with notice of any proposed or existing '*proposal, application or decision for the use of e-Scooters within the Council area*', the Agenda reports, attachments and Minutes pertaining to the Council's proposed 6-month trial of e-scooters is publicly available information;
- 5.1.2 the Council resolution to proceed with the RFT process to engage an e-scooter provider(s) to facilitate a trial was made at its meeting of 24 September 2019, a date **prior to** the receipt of the Applicant's request for notification;
- 5.1.3 the Council's response to the Applicant's request that she be so notified was entirely appropriate. If the Council acceded to this request, not only would it be contrary to its obligations under the Act to act as an informed, transparent and accountable public authority, it would bind itself to a commitment for consultation or notification outside of the statutory framework. Such a commitment would also confer on the Applicant, rights beyond those which are enjoyed by other residents and ratepayers;
- 5.1.4 this is particularly so in circumstances where it was and is, open for the Applicant to inform herself by way of a search of the publicly available Agenda reports, attachments and Minutes on the Council's webpage and/or by attending at the Council meetings of 11 June 2019 and 24 September 2019 (and any other such subsequent meeting at which the Council may consider this matter);
- 5.1.5 in so far as the Applicant has asserted in her letter of 31 October 2019 that the Council has '*bound itself*' to issuing a section 222 permit to any successful tenderer(s), Attachment 1 to the Agenda report for item 14.5 (**Appendix 8**), considered by the Council at its meeting of 24 September 2019, does nothing more than set out the applicable statutory framework within which an e-scooter trial would be required to operate;
- 5.1.6 simply confirming that a successful tender(s) will be required to obtain a permit from the Council under section 222 of the Act to use a public road for a business purpose and confirming that the Alliance Councils only propose to issue '*up to two permits (per Council) to prospective e-scooter*

suppliers' does not operate to bind the Council (or any other Alliance Council) to issuing such a permit, or to otherwise suggest that the Council (or any other Alliance Council) has predetermined the matter;

- 5.1.7 any successful tenderer(s) will be required to submit an application pursuant to section 222 of the Act, and the Council has an obligation to receive and assess that application on its merits and in accordance with its usual Policies and Procedures. If a proposed supplier is unsuccessful in its application, it follows that they will not be able to provide the service;
- 5.1.8 in relation to the Applicant's contentions regarding public consultation, in certain circumstances the Act requires that a council must follow its public consultation policy and in other cases, consultation is discretionary;
- 5.1.9 there is no requirement on the facts of this matter for the Council to undertake a public consultation process under the Act for the trial to proceed;
- 5.1.10 there is, likewise, no requirement under the *Council's Community Consultation and Engagement Policy* for it to undertake discretionary public consultation and there has not been any resolution requiring Administration to undertake a discretionary public consultation process for the trial to proceed;
- 5.1.11 it follows that, as there is no requirement for public consultation, there is no associated requirement for the Council to take into consideration the principles of the *International Association for Public Participation* in its investigation of an e-scooter trial, which principles are said to only apply under the Council's *Community Consultation and Engagement Policy* as part of a community engagement process;
- 5.1.12 accordingly, His Honour Justice Blue's decision in *Coastal Ecology Protection Group Inv & Ors v City of Charles Sturt* [2017] SASC 136 has no application to this matter.

6. CONCLUSIONS AND RECOMMENDATIONS

- 6.1 Taking the above into account, **we find** that the Council did not act unlawfully or unreasonably in its investigation and management of the proposed 6-month e-scooter trial, including the RFT process.
- 6.2 Whilst the Applicant may take the view that, by requesting the Council to notify her, through her legal advisor, of any proposed or existing proposal, application or decision for the use of e-scooters within the Council area, that creates an obligation on the Council to do so, **it does not**.
- 6.3 Indeed, if the Council were to accede to the Applicant's request, it would be required to provide an equivalent opportunity to other residents or ratepayers and this is a process both beyond its obligations under the Act and its responsibilities under its *Community Consultation and Engagement Policy*.
- 6.4 Noting the matters that the Applicant has '*insisted*' upon in her letter of 31 October 2019 (**Appendix 1**), we advise as follows:

- 6.4.1 there is **no requirement** for the Council to rescind or otherwise amend its decision in relation to resolution C240919/1619, to endorse that Administration work with the Alliance Councils to progress the tender documents and development of a 6- month e-scooter trial, and endorse the RFT documents for release to the market;
- 6.4.2 there is **no requirement** for the Council to state unequivocally and publicly that no permit will be issue to an e-scooter provider, until public consultation occurs;
- 6.4.3 there is no statutory or discretionary requirement on the facts of this matter for the Council to undertake public consultation in relation to the proposed e-scooter trial.
- 6.5 We do, however, recommend that if the Minister does provide approvals for the e-scooter trial to proceed, in addition to implementing its section 222 permit application process, the Council also gives consideration to amending its *Roads By-law 2019*, to improve its enforcement and compliance options.
- 6.6 Further, we recommend that the Council confirms, prior to the commencement of any trial, that the proposed designated area consists of 'public roads' for the purposes of the Act.
- 6.7 Irrespective of the manner in which the Council resolves to determine this matter, it is acknowledged that the Applicant has recourse to the Ombudsman if she remains dissatisfied.

KELLEDYJONES LAWYERS



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APPENDICES

APPENDIX 1

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Our Reference: MS: GSB: 23162
Your Reference:

Date 31 October 2019

Chief Executive Officer
Mr Roberto Bria
City of Holdfast Bay Council
GPO BOX 19
BRIGHTON SA 5048

BY EMAIL ONLY: mail@holdfast.sa.gov.au

Dear Mr Bria

**Re: Our client, Dr Pamela Ryan
Use of e-Scooters within the Council Area**

Introduction

1. We refer to your letter of 16 October 2019 (**your letter**), which claimed to respond to our letter of 10 October 2019 (**our letter**).

Council Meeting – 24 September 2019

2. We now have to hand the Council's Agenda and Minutes for its 24 September 2019 meeting (together with the attached documents). We note that the minutes record the following resolutions:
 - 2.1 [that the Council] *endorse administration to continue to work with the Western Alliance of Councils to progress the tender documents and processes development for the 6-month trial, commencing November 2019; and*
 - 2.2 [that the Council] *endorse the Request for Tender document for 'E-Scooter mobility services' for release to the market and the tender process to be managed by the Local Government Association (LGA).*
3. Moreover, we note section D of the attachment to the Agenda provides that:

Under Section 222 of the Local Government Act 1999 (SA), e-scooter operators are required to obtain an On- Street Activity permit (Permit) from Council prior to undertaking a business on a public road. ...

*The Alliance **will issue** up to two permits (per Council) to prospective e-scooter Suppliers as part of this RFP.....*

*The successful supplier/s (maximum 2) **will be permitted** to deploy a maximum of 500 e-scooters (subject to review based on demand) for the duration of the permit.*

(our emphasis)

4. In short, the Council has bound itself to issuing a section 222 permit (**Permit**) to an e-Scooter supplier. It is therefore surprising and disappointing that your letter omitted any reference to this decision, particularly so given that our letter specifically requested to be notified of such a decision.

The Council's Community Consultation and Engagement Policy

5. Your letter referred to the Council's Community Consultation and Engagement Policy (**the Policy**). The Policy provides that the Council will incorporate the principles of the International Association for Public Participation (**IAP2**) in all of its community engagement practices. As you are no doubt aware, the core values of IAP2 provide:

5.1 Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.

5.2 Public participation includes the promise that the public's contribution will influence the decision.

5.3 Public participation promotes sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers.

5.4 Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.

5.5 Public participation seeks input from participants in designing how they participate.

5.6 Public participation provides participants with the information they need to participate in a meaningful way.

5.7 Public participation communicates to participants how their input affected the decision.

6. The purpose of these core values is to help the Council make better decisions which reflect the interests and concerns of potentially affected people.
7. In the case of any e-Scooter trial this necessarily includes our client and other members of the community. Regrettably, the Council has not adhered to these core values on this occasion.

8. In our respectful submission, the Council should have adhered to the Policy by conducting community consultation before deciding that it will, at some stage in the future, issue a Permit to an e-Scooter provider. In other words, this is not a decision that should have been made by councillors behind closed doors, without consultation of the public.

The purpose of this letter

9. In the circumstances, our client respectfully insists that the Council:
 - 9.1 rescinds its decision to endorse and release the tender documents in the present form (i.e. including a binding commitment to issue any s 222 permit);
 - 9.2 states unequivocally and publicly that no Permit will be issued to any e-Scooter providers until public consultation has occurred in relation to whether any e-Scooter trial should occur within the Council's area and in particular utilising the Esplanade, in accordance with the Policy;
 - 9.3 consults the community, including our client, about any proposed trial, and any proposed Permit, prior to either occurring; and
 - 9.4 conducts a review pursuant to s 270 of the *Local Government Act 1999* (SA) of its decision not to notify our client of the decision to issue a Permit, or to bind the Council to issue a Permit in the future.

Conclusion

10. If the Council decides not to accede to our client's requests, our client may institute proceedings for a judicial review pursuant to Rule 200A of the *Supreme Court Civil Rules 2006* (SA) of the Council's decision to 'endorse the Request for Tender documents ... for release' without further notice. The grounds of such review would include: (a) a failure to consider the Policy prior to making the decision; and (b) a failure to comply with the Policy when making the decision. We note the success of such arguments in the Supreme Court's *Coast Path* decision.¹
11. Further or in the alternative to judicial review, our client will (if the Council does not give effect to the requests in [9.1]-[9.3] above) seek a s 270 review of the Council's decision to 'endorse the Request for Tender documents ... for release'.

¹ *Coastal Ecology Protection Group Inc v City of Charles Sturt* (2017) 227 LGERA 1. The points we make are summarised in the headnote thus:

4. On the proper construction of the Local Government Act 1999, a council is required to comply with its public consultation policy insofar as it sets out steps beyond those mandated by the Act (at [385]-[392]), a council is required to follow all steps set out in its policy and not just those steps overtly set out therein (at [401]) and the requirement is an objective one (at [406]).

5. On the proper construction of the council's consultation policy, the council was required to comply with it insofar as it required steps to be taken beyond those mandated by the Act (at [418]).

6. The Council acted in breach of its consultation policy in adopting the management plan (at [428]-[429]), the management plan is consequently unlawful (at [432]) and the April 2016 and January 2017 path decisions are consequently unlawful (at [433]).

12. In the circumstance, we should be grateful if you provide your prompt attention to this matter and inform us as a matter of urgency as to how the Council will progress the s 270 review requested by our client at [9.4] above. If there is some particular form which should be filled out, can you please provide same.
13. We also look forward to your prompt response concerning items [9.1]-[9.3] inclusive above.
14. We advise that our client may rely on this letter for any and all purposes, including in support of any application for costs if litigation eventuates.
15. Should you wish to discuss the above, please do not hesitate to contact the writer.

Yours faithfully

SYKES BIDSTRUP

A handwritten signature in black ink, appearing to be 'GSB', written in a cursive, stylized manner.

GENE SYKES BIDSTRUP

gsb@sykesbidstrup.com.au

Direct Dial: (08) 8100 4710

The original of this letter will not be posted unless requested by you

APPENDIX 2

Trim Container	FOL/17/1049
First Issued / Approved:	22/06/2010
Last Reviewed:	27/06/2017
	C270617/825
Next Review:	30/06/2021

1. PREAMBLE

The City of Holdfast Bay is committed to open, accountable and responsive decision making, which is informed by effective communication and consultation between the council and the community.

1.1 Background

Community engagement, critical in the successful development of sustainable policies and decisions in government, the private sector and the community, is also critical in the ongoing planning, implementation, evaluation and decision making processes of Council services and the management of community resources.

Community consultation supports our Value of Engaging with, developing and recognising the valuable contribution of members of our community to the well-being of our City.

1.2 Purpose

The objectives of this Policy are to:

- a. Promote positive relations between the Council and the community.
- b. Guide effective engagement between the Council and the community.
- c. Enable the community to be informed about and participate in Council planning and decision making.
- d. Provide the framework for appropriately structured, targeted and delivered community engagement as part of Council's decision making.
- e. Support Council decision making which is open, transparent, responsive, inclusive and accountable to the community.

1.3 Scope

Policy applies to Elected Members, employees, contractors and agents or consultants acting on behalf of Council.

1.4 Definitions

Act means the *Local Government Act 1999*.

COMMUNITY CONSULTATION AND ENGAGEMENT POLICY

Community means all people who, own property, live, work, study or conduct business in, or who visit, use or enjoy the services, facilities and public places of the City of Holdfast Bay.

Community Engagement means the community in decision making processes, which is critical in the successful development of acceptable policies and decisions in government, the private sector and the community.

Consultation means two way communications designed to obtain public feedback about ideas on rationale, alternatives and proposals to inform decision making.

Council means the City of Holdfast Bay.

Policy means this Community Consultation & Engagement Policy.

Regulations means the *Local Government (General) Regulations 2013*.

1.5 Strategic Reference

Community: A healthy creative, connected community.

2. PRINCIPLES

- 2.1 The City of Holdfast Bay is committed to effective, ongoing and timely community engagement as an integral part of local governance and key decision making.
- 2.2 Council will be proactive in informing and seeking the views of its community, taking into account the specific needs of different sections of the community, ensuring appropriate strategies, including digital engagement, are developed to maximise the opportunities for participation of all members of the community.
- 2.3 Council will be honest about the degree of influence the community is able to exercise in any particular community engagement event or process.
 - a. Council acknowledges that different sections of the community will have different levels of interest in an individual issue and will tailor its engagement strategies accordingly.
 - b. Council's desire to engage the community will be balanced with other influences such as budgetary constraints.
 - c. Council will define the parameters of the community engagement process for each specific topic, in line with legislative requirements and best practice, and will use community engagement techniques selected to fulfil the "promise" of the defined engagement process.
- 2.4 Council will incorporate the principles of the International Association for Public Participation (IAP2) in all of its community engagement practices, both in those areas affected by legislation and in those areas where employees or Council have determined, as a matter of good practice, to consult with the community.
- 2.5 For the purpose of this policy the following promises apply:

COMMUNITY CONSULTATION AND ENGAGEMENT POLICY

- a. Inform – One way communication providing balanced and objective information to assist understanding about something that is going to happen
 - b. Consult – two way communications designed to obtain public feedback about ideas on rationale, alternatives and proposals to inform decision making – Council will listen and acknowledge concerns and aspirations and provide feedback.
 - c. Involve – participatory process designed to help identify issues and views to ensure that concerns and aspirations are understood and considered prior to decision making – Council will work with the community to ensure that its concerns and aspirations are directly reflected in the alternatives developed.
 - d. Collaborate – working together to develop understanding of all issues and interests to work out alternatives and identify preferred solutions – Council will look to the community for direct advice and innovation in formulating solutions.
- 2.6 Where required by the Local Government Act, or any other Act, Council will at all times meet at least the minimum requirements for public consultation as identified in the Act.
- 2.7 When consultation is legislative, there will be a publication in a newspaper circulating within the area of the council and on the Council's website of a notice describing the matter under consideration and inviting interested persons to make submissions in relation to the matter within a period stated in the notice. The period must be consistent with at least the minimum period of time as stated in the relevant section of the Act.
- 2.8. For the purposes of determining the period of public consultation, the time between the 15 December and the 15 January inclusive in any year, will not be counted when determining the consultation period; and
- 2.9 The Council will consider any submissions received from the public during a consultation period.

3. REFERENCES

3.1 Legislation

- *Local Government Act 1999*

3.2 Other References

- Local Government Association (SA) Community Engagement Handbook – a Model Framework for Leading Practice in Local Government in South Australia. (2008)
- Community Engagement Framework 2018-2021

APPENDIX 3

Trim Container	FOL/17/1052
First Issued / Approved:	27/06/2017
Last Reviewed:	27/06/2017
	C270617/825
Next Review:	30/06/2019

1. PREAMBLE

This Policy outlines the process that will be applied when dealing with applications for an internal review of decisions of the Council, employees of the Council, and other persons acting on behalf of the Council.

1.1 Background

Section 270 of the *Local Government Act 1999* (the Act) requires Council to establish procedures for the review of decisions of the Council, employees of the Council, and other persons acting on behalf of the Council.

1.2 Purpose

The aim of this policy is to provide a fair, consistent and structured process for Council's customers if they are dissatisfied with a Council decision or service.

1.3 Scope

General complaints will be managed in accordance with Council's Customer Feedback and Complaints Policy.

The Internal Review of Council Decisions Policy will apply to all applications for review of decisions of Council, its employees or other persons acting on behalf of Council, except where other statutory processes are available to the applicant:

- Development Act 1993
- Dog and Cat Management Act
- Electoral Act and under the Local Government (Elections) Act
- Environment Protection Act
- Expiation of Offences Act
- Freedom of Information Act
- Industrial Relations matters
- Council By-Laws and Orders
- Code of Conduct issues
- Conflict of Interest matters
- Decisions made under legislative delegations (Food Act, SA Public Health Act)
- Commonwealth Home Support Program matters

1.4 Strategic Reference

Culture: Providing customer-centred services

INTERNAL REVIEW OF COUNCIL DECISIONS POLICY

Culture: Supporting excellent, efficient operations

2. PRINCIPLES

2.1 Applicants

Any person who is affected by the decisions made by Council, its employees or other persons acting on behalf of Council, may lodge an application for an internal review of that decision.

2.2 Application process

2.2.1 Applications are to be made in writing and include:

- a statement clearly indicating that the applicant wishes to have a decision reviewed under Section 270 of the *Local Government Act 1999*
- detail of the decision to be reviewed
- a statement outlining the reasons for requesting a review; and
- any other relevant information.

2.2.2 Applications should be made within 6 months of the most recent Council decision on a matter, however this timeframe may be extended by the Chief Executive Officer (or nominee) on a case by case basis depending on the review merit.

The application should be addressed to:
Chief Executive Officer
City of Holdfast Bay
PO Box 19
Brighton SA 5048

2.3 Review process

2.3.1 Principles of natural justice will be observed in dealing with all matters. All parties will have the opportunity to express their point of view, provide relevant information, and respond to issues raised.

2.3.2 The Chief Executive Officer will nominate an appropriate Contact Officer who will acknowledge the applicant's request and be responsible for dealing with the application for review (except where an application is considered to be frivolous or vexatious, relates to an alternative statutory appeals process, or where the applicant does not have a sufficient interest in the matter).

The Contact Officer will not include any person who has a personal relationship with the applicant, a personal interest in the outcome of the matter, or previously been involved in the decision which is the subject of the review.

2.3.3 The role of the Contact Officer is to:

- explain the procedure to the applicant and advise them of alternative courses of action available

INTERNAL REVIEW OF COUNCIL DECISIONS POLICY

- advise the applicant of the expected timeframe for dealing with the matter and the action to be taken in the first instance
 - undertake a preliminary investigation to determine what actions have already been taken to try to resolve the matter
 - keep the applicant informed of progress or changes in timeframe
 - ensure adequate records are maintained
- 2.3.4 The Contact Officer will assess the application, determine the appropriate action and arrange for an independent review if necessary.
- 2.3.5 Some matters will be referred directly to Council for consideration or further consideration, such as Council, Committee or Chief Executive Officer endorsed decisions, Budgetary matters, scope of service delivery matters, or Civic and ceremonial matters.
- 2.3.6 If applications for review relate to the impact that any declaration of rates or service charges may have had on ratepayers, such applications will be dealt with promptly and, if appropriate, addressed through the provision of relief or concessions under the Act.
- 2.3.7 When undertaking the review, the Contact Officer's role is to review the decision in question and ensure that the original decision-maker complied with the following procedural requirements and made an appropriate decision:
- The decision must be within a power properly conferred on the decision-maker under the relevant Act
 - A decision-maker must consider all matters which are relevant and not take into account matters which are not relevant
 - A decision-maker must not make a decision or exercise a power or discretion in bad faith or for an improper purpose
 - A decision-maker must ensure that findings of fact are based on evidence
 - Decisions must be reasonable
 - Those who may be affected by a decision must be accorded procedural fairness,
 - A decision-maker must properly consider the application of existing policies
 - A decision-maker must not exercise a discretionary power at the direction of another person.
- 2.3.8 In carrying out a review of a decision, the Contact Officer will consider all the information and material that was before the original decision-maker and any additional relevant information or material provided by the applicant, and make the best decision available on the evidence provided.
- 2.3.9 The Contact Officer, in addition to considering whether the decision is legally and procedurally correct, will also consider whether a different decision would be better, based on the evidence. The merits review

INTERNAL REVIEW OF COUNCIL DECISIONS POLICY

process, will involve a review of the facts that support a decision, including any new evidence available.

- 2.3.10 Where the Contact Officer's role is only to prepare the matter for Council's review, the Contact Officer must reference the procedural requirements in clause 2.3.7 when preparing reports for Council's consideration.
- 2.3.11 Where a review may result in a professional indemnity or other claim against Council, an Elected Member or Employee, the Chief Executive Officer (or nominee) will provide the LGA Mutual Liability Scheme with summary information about the review within 30 days of the conclusion of the matter.

2.4 Procedural Fairness

- 2.4.1 Council will observe the following principles of procedural fairness when exercising its statutory powers which could affect the rights and interests of individuals:
 - Give an applicant a right to put their case forward, by giving an applicant the opportunity to provide all relevant documentary evidence.
 - Ensure that the reviewer does not have a personal interest in the outcome.
 - Act only on proper evidence that is capable of proving the case.

2.5 Record keeping

- 2.5.1 Employees will keep clear and accurate records of interviews and review actions, focussing on factual information. Documentation will be kept safe and secure, and only relevant parties with a genuine interest will have access to the records.
- 2.5.2 A register of all applications for review will be maintained. A report will be prepared for Councils on an annual basis, detailing the complaints received in the previous year. This information will also be included in Council's Annual Report.

2.6 Review timeframe

- 2.6.1 An application for review of a Council decision will be formally acknowledged within 5 working days of receipt, including advice to applicants about the expected timeframe for dealing with the matter.
- 2.6.2 In most cases, applications for review will be considered within 28 days. Applicants will be kept informed by the Contact Officer about the progress of the review, and advised in writing of the outcome of the review procedure and process.

2.7 Remedies

INTERNAL REVIEW OF COUNCIL DECISIONS POLICY

2.7.1 Where the review of a decision upholds the applicant's grievance, a remedy or response will be determined which is consistent and fair for both Council and the applicant. The remedy chosen will be proportionate and appropriate to the failure identified and may include, but is not limited to:

- returning the situation to its original status
- an explanation
- an apology or admission of fault
- a change to policy, procedure or practice
- a correction to Council records
- financial compensation or the waiving of a debt
- the remission of a penalty or remedial action
- disciplinary action
- referral of a matter to an external agency for investigation or prosecution.

2.7.2 Any action required will be undertaken promptly, and consideration given to whether changes are required to prevent the situation being repeated.

2.8 Options for Review available to applicants

2.8.1 Applicants may seek external review through the SA Ombudsman, other legal appeal processes, or the Courts at any time during the internal review process. When advising an applicant of the outcome of a review, applicants will be advised of other options for review, any rights of appeal and the right to make a complaint to an external agency such as the SA Ombudsman.

2.9 Policy Review

2.9.1 In order to ensure Council continues to provide the best possible service response for its customers, this policy is subject to periodic evaluation and review.

2.10 Availability of the Policy

This Policy will be available for inspection at Council's principal office during normal business hours and at Council's website www.holdfast.sa.gov.au.

3. REFERENCES

3.1 Legislation

Local Government Act 1999

3.2 Other References

Customer Feedback and Complaints Procedure

APPENDIX 4

SYKES BIDSTRUP

BARRISTERS AND SOLICITORS

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E-Mail

admin@sykesbidstrup.com.au

Our Reference: MS: GSB: 23162
Your Reference:

Date 10 October 2019

City of Holdfast Bay Council
GPO BOX 19
BRIGHTON SA 5048

BY EMAIL ONLY: mail@holdfast.sa.gov.au

Dear Sir / Madam

Re: Applications with respect to e-Scooter use within the Holdfast Bay Council area

Introduction

1. We act for Dr Pamela Ryan, who is a rate payer of the Holdfast Bay Council (**the Council**) and the owner of 28 South Esplanade Glenelg, SA 5044.
2. Our client is vitally interested in any proposal, application, and / or decision with respect to e-Scooter sharing programs that may involve the use of e-Scooters within the Council area, particularly within and on the South Esplanade of Glenelg.
3. As we understand the current state of the law, use of e-Scooters is ordinarily illegal pursuant to Section 161A of the *Road Traffic Act 1961* (SA) and Regulation 48(c) of the *Road Traffic (Miscellaneous) Regulations 2014* (SA). However, that position may change, if:
 - 3.1 Ministerial approval is granted for the use of e-Scooters at a location designated by a local council; and
 - 3.2 the local council provides a permit to the operator of an e-Scooter fleet or program to allow for the use of e-Scooters on public roads (including footpaths, such as the footpath of the South Esplanade of Glenelg).
4. As we understand it, no such approval or permit has been granted within the Council area.

Dr Ryan's concerns

5. Dr Ryan is an avid environmentalist and is particularly concerned that, in the event of any such approval and permit, the South Esplanade will be subject to:
 - 5.1 multiple e-Scooters being left for hire on the South Esplanade, in a fashion which will clutter the area, particularly if e-Scooters are knocked over, creating scenes reminiscent of a junkyard (and the associated environmental impacts);
 - 5.2 e-Scooters being left untidily in ad-hoc end-of-trip location which may clutter and / or 'junk up' the Esplanade (and the associated environmental impacts);
 - 5.3 vandalism of e-Scooters, for example being thrown onto the beach and being swallowed up by the tide (and the associated environmental impacts);
 - 5.4 helmets becoming disassociated with e-Scooters and becoming, effectively, litter (and the associated environmental impacts); and
 - 5.5 anti-social and / or unsafe riding of e-Scooters by users and the associated risks to pedestrians on the Esplanade, including e-Scooters being rendered unable to be ridden lawfully without a helmet.
6. Our client's concerns stem from her witnessing firsthand the adverse impacts abovementioned in other cities around the world (cities where e-Scooter sharing programs are permitted). Moreover, in our respectful submission, one need not look further than the Adelaide CBD (an area where e-Scooter sharing programs are permitted) to further justify our client's concerns.

The purpose of this letter

7. The purpose of this letter is to respectfully request that we, as Dr Ryan's legal representatives, be notified if there is any such proposal, application or decision for the use of e-Scooters within the Council area. In other words, we respectfully request that you provide us with:
 - 7.1 notice of any such proposal, care of this firm, prior to any decision being made;
 - 7.2 an opportunity to respond to the proposal, prior to any decision being made;
 - 7.3 when or if any decision is made, notice of the decision is given to our client, care of this firm, within 5 days of the decision being made; and
 - 7.4 where any decision is made by, or recorded in, any document (for instance, a notice published in a Government Gazette) a copy of that document is provided to this firm with notice of the decision as soon as possible thereafter.
8. For the avoidance of doubt, if there are any existing proposals, applications or decisions in relation to the use of e-Scooters within the Council area, we respectfully make the same request in relation to all such proposals, applications or decisions. The foregoing requests are respectfully made in all circumstances, and regardless of whether notice is required to be given under statute or other law.

Conclusion

9. As you may be aware, there are legal remedies available to persons such as our client when they are dissatisfied with a proposal, application and / or decision. However, there are also strict time limits for taking action and instituting proceedings to challenge the decision. Naturally, our client must be made aware of the proposal, application or decision to obtain advice with respect to same. If that information is withheld from our client, she will not be afforded that opportunity.
10. By this correspondence, we respectfully advise that our client may rely upon this correspondence for any and all purposes, and particularly:
 - 10.1 in support of any extension of time;
 - 10.2 on the question of costs.
11. We respectfully submit that it is in all parties' best interests that proposals and decisions are promptly brought to light. Doing so will ensure that: (a) any input or feedback can be promptly provided, thus improving decision-making; and (b) any challenge is brought in a timely fashion, which has its own benefits.
12. Please be advised that we have sent a similar letter to the Minister for Transport, Infrastructure and Local Government / Minister for Planning, Mr Stephan Knoll MP.
13. Should you have any questions, please call the writer.

Yours faithfully

SYKES BIDSTRUP



GENE SYKES BIDSTRUP

gsb@sykesbidstrup.com.au

Direct Dial: (08) 8100 4710

The original of this letter will not be posted unless requested by you.

APPENDIX 5

Item No: **Insert Item No**

Subject: **ELECTRIC SCOOTERS**

Date: Tuesday 11 June 2019

Written By: Tourism Development Coordinator, Carol McDonald

General Manager: Community Services, Marnie Lock

SUMMARY

In January 2019, the City of Adelaide and the State Government agreed to trial electric scooters (e-scooters) in the City of Adelaide during the 2019 Fringe and Adelaide Festival season for a period of four weeks.

Following a select expression of interest process, the City of Adelaide issued a permit to Lime e-scooters for this period, and the State Government amended regulations to allow the use of e-scooters as part of the trial. Based on the analysis to date, the relatively low complaint levels, and the size and immediate take up of the service, City of Adelaide approved e-scooter companies Beam and Ride to continue as a transport option in the city.

The City of Holdfast Bay has been approached by Port Adelaide Enfield Council, City of Charles Sturt and West Torrens for 'in principal' support a trial of e-scooters along the coast park from Semaphore to Seacliff.

RECOMMENDATION

That Council:

1. **Endorse the City of Holdfast Bay to work in partnership with other councils and organisations to manage and respond to e-scooter service providers;**
 2. **Authorise Council officers to liaise with counterparts at neighbouring councils to develop a consistent response to the arrival of e-scooters, including addressing the legalities and potential risks;**
 3. **Authorises Council officers to investigate the option of supporting a trial of legally compliant e-scooters in a confined area along the coast park.**
-

COMMUNITY PLAN

Community: Building a healthy, active and resilient community

Community: Providing welcoming and accessible facilities

Economy: Making it easier to do business

Economy: Harnessing emerging technology

Economy: Boosting our visitor economy

TOURISM PLAN

Extending visitor length of stay, promote expenditure in the precinct and facilitate return visits to support the Tourism Plan 2020 goal to increase visitor numbers by 25% and reach \$335 million in tourism expenditure for the local economy.

COUNCIL POLICY

Not Applicable.

STATUTORY PROVISIONS

Not Applicable.

BACKGROUND

Dockless bike share schemes operated in Adelaide between December 2017 and June 2018. The City of Holdfast Bay was one of the first Councils to approve a trial for bike sharing with OFO. 20 bikes were available with 1000 trips being undertaken peaking on weekends. 80% of trips were less than 3 kms. Six complaints were received and responded to and five bikes were dumped in the water during this time.

Station-free ride sharing combines e-scooters, a free smartphone application and GPS technology to create a fleet of e-scooters that anyone can ride. In this case, the e-scooters are owned and maintained by an approved ride sharing company with no cost to Council. Riders sign up to access the e-scooters through a smartphone application, and use GPS to locate their nearest e-scooter. The e-scooters do not require a special parking station or kiosk.

To ensure appropriate use of the e-scooters and to keep footpaths and shared spaces tidy, designated 'preferred parking zones' and a virtual geo-fence would guide customers to preferred parking zones. The e-scooters lose power if travelled outside of the geo-fence. Dock less electric scooters are also collected by the operator for charging each evening before being redeployed the following day. This reduces the likelihood of some of the negative effects seen with bike share schemes previously. E-scooters cost \$1 to unlock and 25 cents per minute to ride.

REPORT

Council officers from City Activation, Regulatory Services and Traffic and Transport are currently investigating the option of supporting a trial of legally compliant e-scooters in a confined area along the coast park. A trial of station-free e-scooter sharing service within the City of Holdfast Bay would contribute towards four of the objectives described within Council's strategic plan, Our

Place 2030. A ride sharing platform works towards a healthy, creative and connected community; a community which is aware of its impact on the environment; it supports a diverse and resilient local economy and creates lively and safe places to live.

Despite these positive potential outcomes, it has been widely reported in Adelaide that the trial of e-scooter services operated by Lime did identify some issues. The manager of Transport at the City of Adelaide has provided the following information based on their recent experiences:

- More than 50,000 trips undertaken by over 20,000 users in the four week trial.
- Within the defined trial precinct area, the average distance travelled per ride was 1.25km.

Incidents;

A total of 11 incidents were reported to the City of Adelaide. These incidents are as follows:

- three injuries as a result of falling off or being propelled off an e-scooter while in motion
- six reported near misses between e-scooter riders on footpaths and pedestrians
- one incident of a e-scooter rider lost control and crashed into a parked vehicle
- one incident of a collision between a pedestrian and an e-scooter rider.

Several issues were identified as part of the e-scooter trial. These include:

- Inability for the operator to effectively enforce the geofence (permitted area) resulting in e-scooter users being able to ride and park e-scooters outside of the permitted trial area.
- Conflicting information provided to users within the operator's mobile phone app compared to the South Australian rules and regulations published on government websites.
- Lack of e-scooter user education and awareness, for example not knowing the rules regarding the use of helmets, appropriate riding, where and where not to ride, riding with blood alcohol concentration of less than 0.05, minimum age requirements, and not riding with passengers.
- The conflict between e-scooter users and pedestrians on footpaths and that e-scooters are prohibited from riding on roads and within bike lanes.
- Parking of e-scooters on footpaths conflicting with accessible paths, building entrances and causing nuisance in heavily utilised areas (for example bus stops and restaurant precincts).
- These issues will be addressed as part of the review of the trial and any agreed actions included in the EOI stage.

After the initial trial the City of Adelaide distributed an expression of interest and awarded Beam and Ride to operate between 7am and 10pm under the following specific conditions:

- To provide their customers with comprehensive information about relevant e-scooter rules and regulations specific to South Australia to ensure responsible riding and public safety when operating and parking the share e-scooters on roads, footpaths, shared use paths and public spaces.
- That e-scooters are not to be used for the sole purpose of advertising or marketing.
- That the number of e-scooters in operation or parked within the boundaries of the Permit is not to exceed the maximum noted on the Permit.
- To ensure that no less than 90% of the permitted operator's fleet remain in operation throughout the permitted period, unless otherwise agreed in writing with Council.
- That all e-scooters are to be equipped with a GPS tracker to enable all e-scooters to be located by the Permit Holder at all times, this is to ensure and monitor a balanced and

appropriate distribution of e-scooters and enable the identification of e-scooter users in the event of an accident, incident or inappropriate use.

- To monitor the location of all e-scooters at all times to avoid nuisance, clutter or congestion caused by its e-scooters, including the ability for the Permit Holder to identify if an e-scooter has been fallen over.
- To provide reports and statistics on availability, usage and complaints for the entire fleet as requested by Council on a monthly basis and on an ad-hoc basis as requested by the Council for the term of the permit.
- To notify and provide reports on any known incidents and injuries resulting in hospitalisation or paramedic attendance of a user or third party within 24 hours of the incident time.
- To provide reports and statistics on known incidents, collisions, near misses and injuries including information about the date, time, contributing factors and severity on a monthly basis and on an ad-hoc basis as requested by Council for the Term of the Permit.
- To undertake a customer satisfaction user survey within 3 months of the commencement date and to share those survey results with Council.
- That the Permit Holder's e-scooters fleet can only be used within approved area. Permit Holders must be able to effectively geo-fenced the approved areas to ensure that e-scooters can only be used in the approved areas outlined in the Permit.
- That all e-scooters are to be speed restricted to a maximum speed of 15km/h and ensure compliance with all relevant legislation and road traffic requirements.
- That all e-scooters are to be legal and safe to operate under Australian laws and regulations.
- Damaged or abandoned e-scooters and inappropriately located e-scooters must be removed within 24 hours.

Proposed Coast Park E-Scooter Trial

Timeframe: This is dependent on approval from the State Government who are responsible for regulations which determine where e-scooters can be ridden. The current Gazette Notice does specifically reference the City of Adelaide as "Council" and does limit e-scooter operators to the designated or allowable geographic area in the City. The Transport Minister can change the allowable area without going back to Parliament through a new Gazette Notice. Nothing would commence before the completion of the Minda Coast Park.

We recommend undertaking an **Expression of Interest** for an e-scooter trial along the coast park. Applications would be reviewed and assessed based on factors including legal compliance, current insurance, business and operational model and evidence of successful operations elsewhere.

The proposed operator's plans should demonstrate how the proposed dock less mobility share scheme would adhere to the recommended operational conditions. At a minimum, a proposed operator's plans should include:

- A helmet supply, servicing and maintenance plan detailing how helmets are to be provided, and devices maintained and documented;
- An electric charging plan to detail the procedure for collecting, charging and re-deploying;

- A publicity plan to promote the customer service hotline, contact information and a process for users to notify the operator in the case of safety or maintenance issues;
- A communications plan to respond to queries and complaints, and minimise escalation to the council; and
- A device distribution management plan. It is recommended that this plan should place the onus for re-distributing clustered devices onto the operator.

Successful operators would be approved through a formal agreement (Permit under Section 222) so Council can ensure that any undesirable outcomes are mitigated, with formally agreed responsibilities, expectations and key performance indicators written into the agreement.

Section 222 provides sufficient options for Council to oversee these services through imposing operational conditions – speed limits, preferred parking zones, operational dates/times and appropriate insurances and geographical areas. The total number of e-scooters permitted will be determined by Council. Council has the right to review and amend the amount of e-scooters throughout the trial period based on performance and demand.

A trial no longer than six months is recommended initially confined only to the coast park so not to impact community safety on congested main streets and narrow footpaths on side streets. This will assist Council officers to evaluate public benefits, positive environmental impacts against any risks associated with e-scooters. A well-regulated, readily available, cheap and easy shared transport service such as e-scooters could offer the community a convenient and flexible travel choice.

BUDGET

There are no budget implications with this report.

LIFE CYCLE COSTS

Council could look at charging a permit fee to generate revenue.

14.6 Electric Scooters (Report No: 207/19)

In January 2019, the City of Adelaide and the State Government agreed to trial electric scooters (e-scooters) in the City of Adelaide during the 2019 Fringe and Adelaide Festival season for a period of four weeks.

Following a select expression of interest process, the City of Adelaide issued a permit to Lime e-scooters for this period, and the State Government amended regulations to allow the use of e-scooters as part of the trial. Based on the analysis to date, the relatively low complaint levels, and the size and immediate take up of the service, City of Adelaide approved e-scooter companies Beam and Ride to continue as a transport option in the city.

The City of Holdfast Bay has been approached by Port Adelaide Enfield Council, City of Charles Sturt and West Torrens for 'in principal' support a trial of e-scooters along Coast Park from Semaphore to Seacliff.

Motion**C120619/1508****That Council:**

1. **endorse the City of Holdfast Bay to work in partnership with other councils and organisations to manage and respond to e-scooter service providers;**
2. **authorise Council Officers to liaise with counterparts at neighbouring councils to develop a consistent response to the arrival of e-scooters, including addressing the legalities and potential risks; and**
3. **authorises Council Officers to investigate the option of supporting a 6 month trial of legally compliant e-scooters in a confined area along Coast Park.**

Variation

The mover Councillor Lonie and the seconder Councillor Smedley agreed to the amendment proposed by Councillor Bouchee for 'a 6 month trial' to be added to clause 3 of item 14.6 Electric Scooters (Report No: 207/19).

Moved Councillor Lonie, Seconded Councillor Smedley

Carried**Division Called**

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

Those voting for: Councillors Clancy, Miller, Bouchee, Smedley, Patton, Chabrel, Lonie and Lindop (8)
Those voting against: Snewin and Bradshaw (2)

Her Worship the Mayor declared the motion

Carried

APPENDIX 6

Tracy Riddle

From: Swain, Scott (DPTI) <Scott.Swain@sa.gov.au>
Sent: Tuesday, 2 July 2019 5:20 PM
To: Carol McDonald
Subject: FW: Electric Scooters Coast Park Trial

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Carol,

Thank you for your email regarding an e scooter Coast Park Trial.

As you are aware, the City of Adelaide is currently managing and monitoring the trial of e scooters, which has been extended by 6 months with a permit end date of 13 October 2019. This trial is restricted to the CBD of Adelaide.

The Government is currently considering the next steps in relation to the operation of innovative transport options, such as e scooters. This includes assessing the Adelaide CBD trial before making any further regulatory amendments, such as broadening the area of operation beyond the CBD.

Scott Swain

Acting Manager, Policy and Strategy

Regulation Directorate

Department of Planning, Transport and Infrastructure

T 8343 2871 • M 0418 674 373 • E Scott.Swain@sa.gov.au

77 Grenfell Street ADELAIDE SA 5000 • PO Box 125 Rundle Mall SA 5001 • DX 171 • 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: Carol McDonald [<mailto:CMcDonald@holdfast.sa.gov.au>]

Sent: Wednesday, 26 June 2019 12:11 PM

To: Swain, Scott (DPTI) <Scott.Swain@sa.gov.au>

Subject: Electric Scooters Coast Park Trial

Hi Scott

Peter Wong from Adelaide City Council forwarded me your contact details.

I am currently working with City of Port Adelaide Enfield, City of Charles Sturt and City of West Torrens on investigating the option of supporting a trial of legally compliant electric scooters in a confined area along the coast park between Outer Harbour and Seacliff.

I wanted to touch base with yourself to understand what will be required from us for DPTI to support this project in regards to legislation and gazettal requirements.

Kind regards
Carol



CAROL MCDONALD
Tourism Development Coordinator
Monday to Thursday
City of Holdfast Bay
P 08 8179 9501
E cmcdonald@holdfast.sa.gov.au
Glenelg Town Hall
Moseley Square, Glenelg SA 5045
www.holdfast.sa.gov.au



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APPENDIX 7



15 August 2019

Hon Stephan Knoll MP
Minister for Transport, Infrastructure and Local Government
Minister for Planning
GPO Box 1533
ADELAIDE SA 5001

Dear Minister Knoll,

Adelaide's Western Region local governments have formed an alliance to drive an economic development strategic focus to advance the interests of the area. The Western Region Alliance of Councils comprises the Cities of Charles Sturt, Holdfast Bay, Port Adelaide Enfield and West Torrens. These Councils are committed to working collaboratively together on key economic projects to benefit the Western Adelaide communities.

Tourism is a growing economic priority for Western Adelaide, directly employing more than 9,600 people and supporting 4,669 businesses in the region. The Western Adelaide Alliance is committed to optimising tourism opportunities by working with businesses and our communities on the best way forward to improve the destination offerings, and to increase the range, quality and diversity of experiences available.

We write this letter seeking support (subject to formal Council considerations) of a six month trial of legally compliant electric scooters in a confined area along the coast park from Outer Harbour to Seacliff including the granting of the necessary legislative approvals to legally enable such a trial to occur. A ride sharing platform works towards a healthy, creative and connected community; a community which is aware of its impact on the environment. It supports a diverse and resilient local economy and creates lively and safe places to live and visit.

Electric scooters will facilitate engagement with Western Adelaide's culture, coast and iconic attractions encouraging visitors and the community to stay longer and explore different precincts along the coast park.

The Western Adelaide Alliance are working closely with the Local Government Association and Adelaide City Council to coordinate a request for quote to ensure successful operators would be approved through a formal agreement to mitigate any undesirable outcomes, outline responsibilities, operating route, regulations, expectations and key performance indicators.

Please find enclosed a letter from the South Australian Tourism Commission in support of trialling electric scooters along the coastal trails.

The Western Adelaide Alliance look forward to working with State Government to support a sustainable tourism industry that supports local, state and national economies.

Please do not hesitate to call Chris Dunn on 0400 290 233 or email chris.dunn@cityofpae.sa.gov.au to discuss further or to meet to determine the required arrangements to progress further.

Signed by the four CEO's:

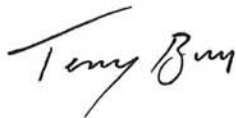
Roberto Bria, Chief Executive Officer City of Holdfast Bay

Date: 15/08/19



Terry Buss PSM, Chief Executive Officer City of West Torrens

Date: 21/8/2019



Paul Sutton, Chief Executive Officer City of Charles Sturt

Date: 19/08/19



Mark Withers, Chief Executive Officer City of Port Adelaide Enfield

Date: 15/08/19



cc: Scott Swain
Acting Manager, Policy and Strategy
Regulation Directorate
Department of Planning, Transport and Infrastructure

Tuesday, 23 July 2019

Roberto Bria
City of Holdfast Bay
PO Box 19
Brighton, SA 5048

Dear Roberto,

RE: Electric Scooter trial, Western Suburb Alliance

Thank you for bringing to the attention of the South Australian Tourism Commission, the collaborative efforts of the City of Holdfast Bay, City of Port Adelaide Enfield, City of Charles Sturt and City of West Torrens councils regarding the investigation of a 6 month trial of legally compliant electric scooters along the coast between Outer Harbour and Seacliff.

According to the National Visitor Survey, on average Adelaide has had more than 3.7 million overnight visitor, and 4.8 million day trip visitors each year and your initiative is an excellent opportunity to provide sustainable transport options for visitors to the city to explore our coastal trails.

The six month trial of compliant electric scooters as a mode of transport along the coast will provide an additional product development opportunity for the state, and visitors will see this as an excellent tourism experience in the city.

Visitors looking for an opportunity for an independent tourism activity, such as riding an e-scooter along the coast will contribute to the visitor economy in each of the council areas involved.

Yours sincerely



Executive Director
Destination Development

APPENDIX 8

Item No: 14.5

Subject: ELECTRIC SCOOTER TRIAL ALONG THE COAST PARK

Date: 24 September 2019

Written By: Tourism Development Coordinator

General Manager: Community Services, Ms M Lock

SUMMARY

This report summarises the outcomes of discussions with DPTI, LGA and the Western Alliance of Councils and further details of the opportunity to consider a trial of electric scooters (e-scooters) within the Holdfast Bay Council area and the implications associated with such a trial.

RECOMMENDATION

That Council:

1. endorse administration to continue to work with the Western Alliance of Councils to progress the tender documents and processes development for the 6-month trial, commencing November 2019; and
 2. endorse the Request for Tender document for 'E-Scooter mobility services' for release to the market and the tender process to be managed by the Local Government Association (LGA).
-

COMMUNITY PLAN

Community: Building a healthy, active and resilient community

Community: Providing welcoming and accessible facilities

Economy: Making it easier to do business

Economy: Harnessing emerging technology

Economy: Boosting our visitor economy

TOURISM PLAN

Extending visitor length of stay, promote expenditure in the precinct and facilitate return visits to support the Tourism Plan 2020 goal to increase visitor numbers by 25% and reach \$335 million in tourism expenditure for the local economy.

COUNCIL POLICY

Not Applicable.

STATUTORY PROVISIONS

Legislation is required to be amended under the Road Traffic Act and a notice in the Government Gazette to enable the use of e-scooters on footpaths or shared paths.

BACKGROUND

On 11 June 2019 Council resolved C120619/1508 as follows:

- 1. endorse the City of Holdfast Bay to work in partnership with other councils and organisations to manage and respond to e-scooter service providers;*
- 2. authorise Council Officers to liaise with counterparts at neighbouring councils to develop a consistent response to the arrival of e-scooters, including addressing the legalities and potential risks; and*
- 3. authorises Council Officers to investigate the option of supporting a 6 month trial of legally compliant e-scooters in a confined area along Coast Park.*

The mover Councillor Lonie and the seconder Councillor Smedley agreed to the amendment proposed by Councillor Bouchee for 'a 6 month trial' to be added to clause 3 of item 14.6 Electric Scooters (Report No: 207/19).

REPORT

Based on the Council resolutions, Council Administration has continued to work with the Cities of Port Adelaide Enfield, Charles Sturt and West Torrens in developing the tender documents and process based on advice from the Local Government Association (LGA) Procurement and advice from the City of Adelaide administration.

It is suggested that a 'Request for Proposal' be put to open tender for obtaining a limited permit to run an 'E-scooter mobility service business' on Council land in a confined area along the Coast Park from Outer Harbor to Seacliff for a distance of approximately 30km. The tender document outlines specific conditions, evaluation criteria and safety policies.

Refer Attachment 1

The e-scooters will only be permitted to be in operation from 6am to 9pm seven days per week. They will be removed each night. Within the City of Holdfast Bay Council area it is suggested that the trial be limited to the Coast Park area only from Glenelg to Seacliff. The area would consist of 'go slow' areas where scooters will be automatically restricted to 5km/hr at areas of high activity such as;

- Patawalonga Gates to Wigley Reserve Playground (200m)
- Glenelg Surf Club via Foreshore Playground & Glenelg Jetty to Stamford Grand Hotel (350m)
- Glenelg Jetty to Moseley Square tram stop (125m)
- Broadway Kiosk (distance 100m)
- Somerton Surf Club via Minda to Gladstone Road (500m)
- Brighton Jetty, Esplanade Hotel to Bindarra Road (125m)
- Seacliff (100m north Wheatland Street to 50m south Wheatland Street = 150m)
- Seacliff Boat Ramp to Seacliff Surf Club (200m).

All other areas would have the scooters speed restricted to a maximum of 15 km/hr. Designated parking areas will be provided so that users will have to 'park' the scooters in set areas (spaced approximately every 600 metres at points of interest) as to not have scooters scattered all over the path at various locations.

Refer Attachment 2

The 'parking areas' and 'go slow' zones will be designated with 'earth wraps' placed on the path surface so that users are clear where these areas are (to be provided by the successful proponent). Additionally, a geotextile grid or similar may be required to be installed at some locations where these designated parking areas are located to ensure the scooters can be parked appropriately at each of these areas. Where no 'hard stand' exists to ensure that the scooters are parked in a neat and tidy manner 'upright' on the side of the path.

It is suggested, the Western Alliance of Councils approach the State Government about relaxing the age of the use of E-Scooters to include children over 12 years of age (the current legislation allows over 18's only); such a proposal will be an excellent attraction for families who visit the coast to use the e-scooters to explore our coastline. It is proposed that up to two proponents are approved with a maximum of 500 e-scooters to be provided along the entire 30km area.

The four Councils have considered a proposal put forward by the LGA to manage the procurement process for the tender and it is recommended that Council take up this offer by the LGA Procurement team given their specialist expertise in this capacity and allowing for a single point of contact for interested proponents.

Letter to the Minister

To progress with the e-scooter trial, it is necessary to have the trial area gazetted by the Minister of Transport, Infrastructure and Local Government. The City of Holdfast Bay administration in consultation with the Western Alliance of Councils, have prepared a formal letter to the Minister requesting that the appropriate legislative approvals to legally enable the e-scooter trial be granted for the six month trial period. The Chief Executives from all Western Alliance Councils have endorsed and signed the letter to the Minister.

The letter mentions the key drivers for the trial and the potential benefits of the trial for tourism and improving connectivity along the coast. The South Australian Tourism Commission has also expressed support for trialing e-scooters along the coastal trail.

Refer Attachment 3

Subject to a successful tender process it is anticipated that the trial could commence in November 2019. A review including a customer satisfaction user survey will be undertaken three months into the trial (by the successful proponent) which will consider items such as incidents, near misses and injuries (if applicable).

BUDGET

There will be minor costs associated with promoting the proposal to the community and stakeholder consultation. There will be some indirect costs associated with Council Administration's time to develop and consider the proposal further. For the trial it is suggested that a 'flat' permit fee of \$8000 across the four councils be applicable for the successful proponent.

Funds of \$1075 +GST per Council are required to be paid to the LGA to run the tender process on behalf of the four Western Alliance Council's.

LIFE CYCLE COSTS

Depending on the success of the trial goes Council could look at charging a higher permit fee to generate revenue.

This report recommended the repairs be effected before the tennis court upgrade proceeds and that a new budget allocation of \$60,000 be approved in the 2019/20 Capital Works budget to fund the work.

Motion**C240919/1618****That Council:**

1. **note the condition and heritage assessment of the retaining wall along the eastern boundary of the Glenelg Oval adjoin the Holdfast Bay Tennis Club;**
2. **approve a new capital project to undertake repair of the failing retaining wall; and**
3. **approve allocation of new capital expenditure of \$60,000 within the 2019/20 Capital Works Program to undertake the work.**

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

14.5 Electric Scooter Trial Along the Coast Park (Report No: 349/19)

This report summarised the outcome of discussions with DPTI, LGA and the Western Alliance of Councils and further details of the opportunity to consider a trial of electric scooters (e-scooters) within the Holdfast Bay Council area and the implications associated with such a trial.

Motion**C240919/1619****That Council:**

1. **endorse administration to continue to work with the Western Alliance of Councils to progress the tender documents and processes development for the 6-month trial, commencing November 2019; and**
2. **endorse the Request for Tender document for 'E-Scooter mobility services' for release to the market and the tender process to be managed by the Local Government Association (LGA).**

Moved Councillor Lonie, Seconded Councillor Patton

Carried**Division:**

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

Those voting for: Councillors Snewin, Clancy, Bouchee, Smedley, Abley, Patton, Chabrel, Lonie and Lindop (9)

Those voting against: Councillors Fleming and Bradshaw (2)

Her Worship the Mayor declared the motion

Carried**14.6 Winter Wonderland 2019 Event Report (Report No: 347/19)**

The report provided an overview of the results of Winter Wonderland ice skating rink in Moseley Square that took place from 28 June to 22 July 2019 during the school holidays.

Attachment 1





REQUEST FOR TENDER

Request for Tender (RFT)	<i>E-Scooter Mobility Services (trial)</i>
Closing Time:	XXXXXXXXXXXXXXXXXX
RFT Number:	20-019
Contact Details	Martin Borgas LGA Procurement Mob: 0468 348 777 Email: martin.borgas@lga.sa.gov.au

LGCS Pty Ltd as trustee for LGCS Trust No 1 trading as LGA Procurement
Acting as Agent for
The Western Council Alliance

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1. **Structure of this RFT**

This RFT is comprised of five sections, being:

- 1.1 Section A - Background and General Information to Tenderers
- 1.2 Section B - Conditions of Tendering
- 1.3 Section C - Contract for Purchase of Services
- 1.4 Section D - Specifications
- 1.5 Section E - Tender Response Schedules

2. Section A – Background & General Information

- 2.1 LGA Procurement acting as Agent for the City of Port Adelaide Enfield, the City of Holdfast Bay, the City of West Torrens and the City of Charles Sturt (the **Alliance**) invites tenders from suppliers to obtain a limited permit (6 month trial) to run an e-scooter mobility service business on Council land in a confined area along the coast park (and local streets where applicable) from Outer Harbor to Seacliff for a distance of approximately 30 km. The Alliance will enter into a Contract with the successful supplier.

If the trial is proven to be successful and KPIs are met, then consideration will be made to making this arrangement permanent.

- 2.2 Tourism is a growing economic priority for Western Adelaide, directly employing more than 9,600 people and supporting 4,669 businesses in the region. The Alliance is committed to optimising tourism opportunities by working with businesses and our communities on the best way forward to improve the destination offerings, and to increase the range, quality and diversity of experiences available.

2.2.1 *The e-scooters will only be permitted to be in operation from 6am-9pm 7 days per week.*

2.2.2 *The successful supplier/s (maximum 2) will be permitted to deploy a maximum of 500 e-scooters (subject to review based on demand) for the duration of the permit.*

2.2.3 *The total number of e-scooters permitted will be determined by the Alliance and based on the performance of the supplier's commercial terms of the proposed Contract between the successful Tenderer and the Council.*

2.2.4 *The Alliance reserve the right to amend, restrict or change the geographical area at any time provided that the geographic area falls within the Minister approved area.*

2.2.5 *It is suggested that the E-Scooters be made available for all users from 12 years and up (subject to Ministerial approval)*

3. Section B – Conditions of Tendering

3.1 Definitions

In this RFT, the following terms (unless inconsistent with the context) mean:

- 3.1.1 A reference to a **clause** is a reference to a clause of this RFT.
- 3.1.2 The **Alliance** means the City of Port Adelaide Enfield, the City of Holdfast Bay, the City of West Torrens and the City of Charles Sturt.
- 3.1.3 **Closing Date** means the time and date specified in clause 0, or such later time and date as may be notified in writing to Tenderers by the Council.
- 3.1.4 **Conditions of Tendering** means these conditions of Tendering as attached to Section B of this RFT.
- 3.1.5 **Conforming Tender** means a Tender described in clause 3.5.1.
- 3.1.6 **Contract for the Purchase of Services** means the contract for the supply of the Services as attached to Section C of this RFT, as may be subsequently amended by agreement between the Alliance and the successful Tenderer pursuant to clause 3.9.
- 3.1.7 **Nominated Contact Person** means the person named in clause 3.3.1.
- 3.1.8 **Non-Conforming Tender** means a Tender does not meet the requirements set out in this RFT and/or the Tender Documents.
- 3.1.9 **Preferred Tender** means the Tenderer referred to in clause 3.9.
- 3.1.10 **RFT** means this Request for Tender.
- 3.1.11 **Specifications** means the specifications of the Services specified in Section D of this RFT.
- 3.1.12 **Tender** means a tender submitted by a Tenderer pursuant to this RFT.
- 3.1.13 **Tender Documents** means the documents specified in clause 3.2.1.
- 3.1.14 **Tender Process** means the process for calling, receiving, evaluating and awarding of Tender(s) as proposed in clauses 3.2.6 and 3.2.7 of these Conditions of Tendering.
- 3.1.15 **Tender Response Schedules** are the forms attached to Section E of this RFT.
- 3.1.16 **Tenderer** has the meaning given to it in clause 3.2.2 and includes supplier.
- 3.1.17 **Tenderer's Representative** means the person nominated by a Tenderer under clause 3.3.2.

3.2 Request for Tender

The Alliance seeks Tenders from suppliers for a limited permit to run an e-scooter business on Council land in a confined area as detailed in the attached maps, which are further described in the Tender Documents.

3.2.1 **Tender Documents**

The Tender Documents are comprised of:

- 3.2.1.1 these Conditions of Tendering;
- 3.2.1.2 the Contract for the Purchase of Services;
- 3.2.1.3 the Specifications; and
- 3.2.1.4 maps of operation: and
- 3.2.1.5 the Tender Response Schedules.

3.2.2 **Obtaining a Copy of this RFT**

This RFT is open to any organisation or person who registers its interest and details with on SA Tenders and thereby obtains a copy of the Tender Documents (each such party is a **Tenderer**).

Electronic Lodgement of Tenders

- 3.2.2.1 Tenders must be lodged electronically via SA Tenders the Closing Date **XXXXXXXXXX** and in accordance with the tender lodgement procedure set out in this clause.
 - 3.2.2.2 Where there is any inconsistency between the lodgement procedure set out on the SA Tenders website and those set out in this RFT, this RFT will prevail.
 - 3.2.2.3 Tenders lodged by any other means will not be considered.
 - **Files should be in PDF, docx or doc format.**
 - **The response document should be clearly labelled with RFT 20-019 and the suppliers name.**
 - **File sizes should be limited to 10MB.**
 - 3.2.2.4 Tenderers warrant that they have taken all reasonable steps to ensure that their Tenders are free of viruses or any other matter which would cause harm to the Alliance's website or systems.
 - 3.2.2.5 Tenderers acknowledge that it is their sole responsibility to ensure that sufficient time has been allowed for Tender lodgement, including time that may be required for any problem analysis and resolution prior to the Closing Date.
 - 3.2.2.6 If Tenderers have any problem uploading their Tender, they must contact the Nominated Contact Person prior to the Closing Date. Any failure to do so will result in the Tender being a Non-Conforming Tender.
 - 3.2.2.7 A Tender is deemed to have been lodged by the Tenderer when the Tender has been received by SA Tenders server.
-

3.2.3 **Late Tenders**

Tenders received after the Closing Date **MAY NOT** be considered or accepted.

3.2.4 **Extension of Time for the Submission of Tenders**

3.2.4.1 The Nominated Contact Person may, in its absolute discretion, no less than two business days before the Closing Date, extend the Closing Date by notice in writing to the Tenderers.

3.2.4.2 A Tenderer may request the Council to extend the Closing Date for the submission of a Tender by written application to the Nominated Contact Person.

(a) Any such requests must be received by the Nominated Contact Person at least five business days prior to the Closing Date, and must provide sufficient reasons to support the request.

(b) It is entirely at the Nominated Contact Person's discretion as to whether an extension is granted.

3.2.5 **Tender Validity Period**

3.2.5.1 All Tenders will remain open for acceptance by the Alliance for a period of not less than three months after the Closing Date.

3.2.5.2 Once submitted, a Tenderer cannot withdraw its Tender without the prior consent of the Alliance, unless the Tender is withdrawn in writing before the Closing Date.

3.2.6 **Proposed Tender Process**

- Issue of Tender invitation
- Initial conformance of submissions
- Weighted assessment of submissions
- Shortlisting
- Presentations
- Preferred supplier selection
- Contract negotiation

3.2.7 **Proposed Timing of Tender Process**

The proposed timing for the Tender Process is as follows:

Request for Tenders	[insert date]
Closing Date	[insert date]
Notification to successful Tenderer	[insert date] (indicative)
Execution of Contract for Purchase of Services	[insert date] (indicative)

Commencement of Provision of Services	[insert date] (indicative)
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3.2.8 **Copying Tenders**

Tenderers must not use this RFT or the RFT Documents (including any attached technical and other written information supplied by the Alliance) for any purpose other than to prepare a Tender. This includes not copying this RFT or the RFT Documents (including any attached technical and other written information supplied by the Alliance) and providing a copy to any third party not involved in the preparation of a Tender.

3.3 **Communication between the Parties**

3.3.1 **Enquiries or Requests for Information or Clarification**

3.3.1.1 Any enquiries or requests for information or clarification regarding this RFT or the Tender Documents must be made in writing and addressed to the Nominated Contact Person.

The Nominated Contact Person is

Martin Borgas
Operations Manager
LGA Procurement
martin.borgas@lga.sa.gov.au

3.3.1.2 The Nominated Contact Person may (but is not obligated to) respond to a Tenderer's enquiries or requests for information or clarification.

3.3.1.3 If the Nominated Contact Person provides any information to a Tenderer by way of clarification, then the Alliance reserves the right to provide that information to other Tenderers.

3.3.1.4 No statement made by the Nominated Contact Person, or any other representative of the Alliance should be construed as modifying this RFT or any of the Tender Documents, unless confirmed in writing by the Nominated Contact Person.

3.3.2 **Tenderer's Contact Person**

3.3.2.1 Tenderers are required to nominate a person to be the authorised contact person and supply an address for the service of any notices for the purpose of this RFT (**Tenderer's Representative**).

3.3.2.2 Each Tenderer must notify the contact person of its Tenderer's Representative within 7 business days of obtaining the Tender Documents.

3.3.2.3 All communications with the Tenderer will be via the Tenderer's Representative.

3.3.3 **Site/Industry Briefing**

3.3.3.1 The Alliance may conduct a site/industry briefing. The briefing (if conducted) is intended to provide Tenderers with background information, and Tenderers are not to treat any statements made at the briefing as variations to this RFT.

- 3.3.3.2 The Alliance reserves the right to require all Tenderers to attend the site/industry briefing.
- 3.3.3.3 Details of the briefing will be provided to Tenderers at least seven business days prior to the briefing. Tenderers may be notified of the site/industry briefing by email, and the Alliance may post the details of the briefing on the internet.
- 3.3.3.4 Each attending Tenderer must advise the Nominated Contact Person of the details of that Tenderer's attendees (including name and position) at least two business days before the briefing.

3.3.4 ***Tenderer not to solicit the Alliance and its employees***

The Tenderer and its representatives must not interfere or attempt to interview or to discuss its Tender with Councillors or employees of the Alliance, other than the Nominated Contact Person. The Alliance reserves the right to reject any Tender submitted by a Tenderer which contravenes this clause.

3.4 **Tender Preparation**

3.4.1 ***Tenderers to be informed***

Each Tenderer must, prior to submitting its Tender, become acquainted with the specifications and conditions of the proposed project to be supplied to the Alliance, and make all necessary examinations, investigations, inspections and deductions.

3.4.2 ***Evidence of Registration or Licensing***

Each Tenderer must (if applicable) be licensed or registered for the provision of the services.

3.4.3 ***Conflict of Interest***

Tenderers must inform the Alliance of any circumstances or relationships which will constitute a conflict or potential conflict of interest if the Tenderer is successful. If any conflict or potential conflict exists, the Tenderer must advise how it proposes to address this.

3.4.4 ***Use of Sub-contractors***

Where a Tenderer proposes to use resources from organisations other than the Tenderer itself, substantial information relating to the contractual arrangements for such resources must be detailed in the Tender, together with information on the relevant experience of such other organisation.

3.4.5 ***Ombudsman Act***

Tenderers should be aware that the *Ombudsman Act 1972* (SA) has been amended so that the definition of "administrative act" under that Act includes an act done in the performance of functions under a contract with a Council. That Act also includes powers enabling the Ombudsman to investigate matters in the public interest. The Tenderer must ensure compliance with all obligations arising under that Act and any other applicable legislation.

3.4.6 ***Freedom of Information***

Tenderers should be aware that the *Freedom of Information Act 1991* (SA)(**FOI Act**) gives members of the public rights to access documents of the Council. The FOI Act promotes openness

in governance and accountability of government agencies and confers the public with a legally enforceable right to be given access to documents, including contracts entered into by the Council, except those contracts or provisions which should be kept confidential for public interest purposes, the preservation of personal privacy or are commercial in confidence.

3.4.7 Collusion

The Tenderer must not collude with any other Tenderers or potential Tenderers.

3.4.8 Tenderer's confidential information

3.4.8.1 Subject to clauses 3.4.8.2 and 4, the Alliance will treat as confidential all Tenders submitted by Tenderers in connection with this RFT.

3.4.8.2 The Alliance will not be taken to have breached any obligation to keep information provided by Tenderers confidential to the extent that the information:

- (a) is disclosed by any Council to its advisers, officers, employees or subcontractors solely in order to conduct the RFT process or to prepare and manage any resultant agreement;
- (b) is disclosed to any Council's internal management personnel, solely to enable effective management or auditing of the RFT process;
- (c) is disclosed by any Council to the responsible Minister;
- (d) is authorised or required by law to be disclosed; or
- (e) is in the public domain otherwise than due to a breach of the relevant obligations of confidentiality.

3.5 Tender Documents

3.5.1 Conforming Tenders

A Conforming Tender is a Tender which meets all of the requirements set out in this RFT and the Tender Documents.

3.5.2 Non-Conforming Tenders

The Alliance is not required to, but may at its sole discretion, consider an incomplete, informal or a Non-Conforming Tender. Failure to respond to or meet any of the requirements set out in this RFT and the Tender Documents will result in the Tender being deemed a Non-Conforming Tender.

3.5.3 Content of Tenders

3.5.3.1 Tenderers are required to complete the Tender Response Schedules and submit them to the Alliance.

3.5.3.2 Tenderers can also supply any other additional information or documents. The Alliance may have reference to such additional information or documents in evaluating the Tenders.

3.5.3.3 All prices quoted by Tenderers in their Tender are:

- (a) to be in Australian dollars;
- (b) to be exclusive GST; and
- (c) (if subject to rise and fall) to provide full details of how the rise and fall applies and the method of determining the price.

3.5.3.4 If a Tenderer proposes to supply the services on a basis different to that envisaged by the Tender Documents (whether for reasons of innovation, efficiency or otherwise) that proposal should be fully documented and justified with the Tender. The Alliance does not warrant that any discussion with the Alliance's Nominated Contact Person prior to the Closing Date in relation to such a proposal will be taken into account in evaluating the Tenders.

3.6 Acknowledgement by Tenderers

Tenderers acknowledge that the Alliance:

- 3.6.1 makes no representations and offers no undertakings in issuing this RFT or the Tender Documents;
- 3.6.2 is not bound to accept the lowest Tender or required to accept any Tender;
- 3.6.3 may accept all or part of any Tender;
- 3.6.4 may require one or more Tenderers (but is not obliged to require all) to supply further information and/or attend a conference or interview;
- 3.6.5 may require one or more Tenderers (but is not obliged to require all) to make presentation(s);
- 3.6.6 may undertake "due diligence" checks on any Tenderer, including verifying references and/or referees, and undertaking company searches and credit checks;
- 3.6.7 will not be responsible for any costs or expenses incurred by the Tenderer arising in any way from the preparation and submission of its Tender;
- 3.6.8 accepts no responsibility for a Tenderer misunderstanding or failing to respond correctly to this RFT;
- 3.6.9 will not be liable for or pay any expenses or losses incurred by any party whether in the preparation of a Tender or prior to the signing of any Contract for the Purchase of the Services or otherwise; and
- 3.6.10 will not be bound by any verbal advice given or information furnished by any member, officer or agent of the Alliance in respect of the Tender Documents or this RFT, but will only be bound by written advice provided by the Nominated Contact Person.

3.7 Alliance's Rights

The Alliance reserves the right to:

- 3.7.1 amend, vary, supplement or terminate this RFT at any time;
- 3.7.2 accept or reject any Tender, including the lowest price tender;

- 3.7.3 negotiate with any supplier regarding all or any part of the Services to be supplied pursuant to this RFT;
- 3.7.4 vary the timing and process referred to in clauses 3.2.6 and 3.2.7;
- 3.7.5 postpone or abandon this RFT;
- 3.7.6 add or remove any Tenderer;
- 3.7.7 accept or reject any Tenders whether or not they are Conforming Tenders;
- 3.7.8 accept all or part of any Tender;
- 3.7.9 negotiate or not negotiate with one or more Tenderers; and/or
- 3.7.10 discontinue negotiations with any Tenderer.

3.8 Tender Evaluation

- 3.8.1 In assessing Tenders, the Alliance will have regard to, but not necessarily be limited to, the following criteria (not listed in any order of priority):
 - 3.8.1.1 insurance;
 - 3.8.1.2 compliance with work health and safety requirements;
 - 3.8.1.3 customer service experience and capacity;
 - 3.8.1.4 the tendered prices, including the proposed pricing structure;
 - 3.8.1.5 the level of risk associated with negotiation of an acceptable Contract for the Purchase of the Services;
 - 3.8.1.6 environmental management systems (if applicable);
 - 3.8.1.7 degree of compliance with the requirements set out in this RFT and the Tender Documents; and
 - 3.8.1.8 such other matters that Alliance considers relevant, including:
 - (a) Details of current and previous relevant experience in the supply of the Services;
 - (b) E-Scooter product and technology.
 - (c) Financial resources.
 - (d) Staff resources.
 - (e) Current and future contracts/workload.
 - (f) Deployment Plan.
 - (g) Safety.
 - (h) Customer Service Plan.
 - (i) Operations and performance monitoring.
 - (j) Value add.

3.8.2 ***Use of Tender Documents***

The Alliance may use, retain and copy any information contained in the Tenders for the evaluation of this RFT and for the finalisation of the provisions of the Contract for the Purchase of the Services.

3.8.3 ***Debriefing of Tenderers***

If requested, Tenderers may be debriefed against the Alliance's evaluation criteria. Tenderers will not be provided with information concerning other Tenderers, apart from publicly available information. No comparison with other Tenders will be made.

3.9 **Acceptance of Tender**

- 3.9.1 Each Tenderer acknowledges that it may be appointed to a panel of contractors to provide supply any or all of the Services. Accordingly, the Alliance reserves the right to negotiate a panel contracting arrangement with the successful Tenderers to supplement the Contract terms and conditions.
- 3.9.2 The Alliance reserves the right to negotiate different terms and conditions for the Contract for the Purchase of the Services with any one or more Tenderers (each referred to as a **Preferred Tenderer**).
- 3.9.3 The Alliance and the Preferred Tenderer may (if required) enter into negotiations for the award and execution of a Contract for the Purchase of the Services.
- 3.9.4 If, despite their best endeavours and acting in good faith, the Alliance and the Preferred Tenderer are unable to negotiate and agree on the terms of the Contract for the Purchase of the Services, the Alliance reserves the right to negotiate with any other parties, including other Tenderers, for the supply of the Services.
- 3.9.5 The successful Tenderer will be notified in writing by the Alliance of the Alliance's acceptance of its Tender. The successful Tenderer must not make any oral or written public statements in relation to the awarding of a Contract for the Purchase of the Services until written notice is received by the Tenderer.
- 3.9.6 The notification of the acceptance of Tender by the Alliance creates an obligation on the Alliance and the successful Tenderer to enter into the Contract for the Purchase of the Services (subject to any variations agreed pursuant to this clause 3.9).
- 3.9.7 The successful Tenderer acknowledges and agrees that all intellectual property created by the successful Tenderer arising out of the supply of the Services belongs to the Alliance, and the successful Tenderer will do all reasonable things necessary to assist the Alliance in the protection and transfer of ownership of the intellectual property resulting from the supply of the Services.

3.10 **Unsuccessful Tenders**

Unsuccessful Tenderers must, if required by the Alliance, return the Tender Documents to the Alliance, once they have been advised that their Tender is unsuccessful.

3.11 **No Legal Requirement**

The issue of this RFT or any response to it does not commit, obligate or otherwise create a legal obligation on the Alliance to purchase the Services from the Tenderers.

4. **Governing Law**

- 4.1 This RFT is governed by the law in South Australia.
- 4.2 The parties irrevocably submit to the exclusive jurisdiction of the courts in South Australia.

5. **ICAC**

Tenderers acknowledge that if they enter into a contract with any Council they will be considered to be public officers for the purposes of the *Independent Commissioner Against Corruption Act, 2012* (SA) (**ICAC Act**) and will be obliged to comply with the ICAC Act and the Directions and Guidelines issued pursuant to the ICAC Act.

6. **Section C – Contract for Purchase of Services**

To Be negotiated with the successful Tenderer/s



7. Section D – Project Brief and Specifications for the Services

Introduction

Adelaide's Western Region local governments (the Alliance) have formed an alliance to drive an economic development strategic focus to manage and support the introduction of a 6 month trial for e-scooters for the coastal area. The Alliance of Councils comprises the Cities of Charles Sturt, Holdfast Bay, Port Adelaide Enfield and West Torrens. These Councils are committed to working collaboratively together on key economic projects to benefit the Western Adelaide communities.

The Alliance also has the following functions under the Local Government Act:

- To plan for the development and future requirements of the area.
- To provide services and facilities for the area.
- To take measures to protect the area from natural and other hazards and to mitigate the effects of such hazards.
- To provide infrastructure for the community and for development within the area.

The Alliance is seeking suitable Suppliers to provide shared e-scooter mobility services under the e-scooter permit each of the four Council's in a confined area along the coast park (shared path) from Outer Harbor to Seacliff including local streets where a path does not exist.

Under Section 222 of the Local Government Act 1999 (SA), e-scooter operators are required to obtain an On- Street Activity permit (Permit) from Council prior to undertaking a business on a public road.

Preferred Supplier

Shortlisted or preferred Supplier(s) may be invited to attend an interview at a nominated location within the Alliance area, to discuss their submission in further detail.

Demonstration

Shortlisted or preferred Supplier(s) will be required to undertake a live demonstration of their e-scooter product, apps and data reporting systems. The demonstration will occur at a nominated time and location (within the Adelaide metropolitan area).

The Supplier/s will need to be able to demonstrate:

- the ability to effectively geofence the e-scooter including:
- the ability to stop an e-scooter when it passes outside of an allowable area
- the ability to reduce the speed of an e-scooter when passing through a geofenced area (speed restricted zone of 5km/h or nominated speed)
- the ability to restrict speed limits to 15km/h to meet the legislated requirements and within selected areas that may be nominated by Council/s.
- the ability to apply preferred parking zones, near field technology, docked or semi-docked systems.

Number of Permits to be issued

The Alliance will issue up to two permits (per Council) to prospective e-scooter Suppliers as part of this RFP.

Commencement Date and Term

The Commencement Date for the e-scooter permit will be xxxx and operate for a period of six (6) months concluding on xxxx(End Date). The Alliance reserve its right to amend, suspend or extend the permit period (Term). A review will be undertaken after 3 months. The supplier should identify how this could look in their tender submission.

Council reserves the right to review the Permit and Permit Term subject to any Legislative Review, and any State Government changes to Legislation, Acts or Regulations.

Council has no obligation to continue the permit period beyond the Term or that any Suppliers will be provided with a permit to operate beyond the period. However, if KPI's are met and there is general support for the continuation then a more permanent arrangement will be strongly considered.

E-scooter fleet and conditions

The successful supplier/s (maximum 2) will be permitted to deploy a maximum of 500 e-scooters (subject to review based on demand) for the duration of the permit. The successful supplier must deploy a minimum of 50 e-scooters within the first two weeks of the Commencement Date. The total number of e-scooters permitted will be determined by the Alliance and based on the performance of the suppliers.

The Alliance has the right to review and amend the maximum number of e-scooters throughout the permit period. The review will include a demand evaluation and will include performance analysis of the Supplier's ability to resolve issues and complaints.

E-scooter geographic area

The e-scooter permit will be geographically limited to the area within the coast park (shared path) and local streets within the Cities of Port Adelaide Enfield, Charles Sturt, West Torrens and Holdfast Bay and is subject to the area approved by the Minister for Transport (the Minister) in the amendment to South Australian regulations and Gazette Notice issued on xxxxx.

Further information on the area can be found in the link below. The geographic area is shown in the maps attached to this invitation.

http://governmentgazette.sa.gov.au/sites/default/files/public/documents/gazette/2019/February/2019_008.pdf

The Alliance reserve the right to amend, restrict or change the geographical area at any time provided that the geographic area falls within the Minister approved area.

The permitted geographical area may be amended or changed by the Minister through an approved amendment and Gazette Notice.

Time of charge remaining' to be provided

The time of charge remaining shall be provided either on the app when engaged or on the scooter so that the user is aware of the 'charge' left on the scooter prior to engagement. Each supplier shall indicate how this will be implemented. This is to ensure that there will be adequate charge available for a new user upon engagement for their intended journey.

Go slow areas and exclusion zones

E-scooters will need to speed limited to 5km/h in the following areas:

- 100 metres either side of the Semaphore Jetty
- 50 metres either side of the Largs Bay Jetty
- Henley Square
- Patawalonga Gates to Wigley Reserve Playground (200m)
- Glenelg Surf Club via Foreshore Playground & Glenelg Jetty to Stamford Grand Hotel (350m)
- Glenelg Jetty to Moseley Square tram stop (125m)
- Broadway Kiosk (distance 100m)
- Somerton Surf Club via Minda to Gladstone Road (500m)
- Brighton Jetty, Esplanade Hotel to Bindarra Road (125m)
- Seacliff (100m north Wheatland Street to 50m south Wheatland Street = 150m)
- Seacliff Boat Ramp to Seacliff Surf Club (200m)
- Other areas as required and stipulated in the attached maps

Suppliers will provide their customers with comprehensive information about relevant e-scooter rules and regulations specific to South Australia to ensure responsible riding and public safety when operating and parking the share e-scooters on roads, footpaths, shared use paths and public spaces.

The Coast Park (Shared path) and Local streets will need to be defined by the Supplier by a geofence or similar so that any use outside the defined area will be prohibited by forcing the scooters to come to a slow halt.

Failure by the Supplier to enforce these restricted areas will be considered a breach of permit and may be subject to enforcement actions and suspension or revocation of the e-scooter Supplier's permit. Further information of the enforcement actions is referred to below.

Scooter parking areas

Scooters are to be permitted only in 'permitted parking areas' and should not let the user disengage unless they are in one of these permitted parking areas. Permit Holders are to educate users of preferred or restricted parking zones.

The parking areas and 'go slow' zones will need to be designed 'on ground' along the shared path at the designated locations with 'earthwrap' stencils or similar so that users are aware of these zones/areas. If the trial does not proceed past the 6 month trial period then the suppliers will need to remove these earth wraps at their costs at completion of the trial period.

- When e-scooters are parked near public bike racks, the designated racks should be left available for parking bicycles.
- E-scooters must be setback from entrances, safety exits and street infrastructure such as seating, fire hydrants and tactile indicators for the vision impaired.
- A maximum number of scooters at each parking area will need to be negotiated between the successful supplier and relevant Council.

Performance Monitoring

The Alliance will monitor and evaluate the performance, issues, complaints, demand and supply of e-scooters that operate within the defined areas.

The key measures of the e-scooter permit include:

- Compliance including the suppliers ability to enforce the geographic area restrictions and the Supplier's education campaigns to ensure user behaviour.
- Safety including, complaints, injury (users and non-users) and nuisance. Analysis will be undertaken by collected data from the Supplier, South Australian Police and Emergency Services, the South Australian Government, Hospitals and Medical institutions and Council/s.
- Usage including number of trips and their statistics per supplier, pick-up and drop off locations and demand for e-scooter services. Analysis will also include the number of suppliers and e-scooters provided in the permits.
- Impact on the transport network including mode shift (private motorised vehicle trip avoided), integration with other modes of transport and carbon emissions saved (CO2 emissions from private motorised vehicle trips avoided). Each supplier will be required to undertake a survey of users and provide this data to the Alliance for analysis.

Compliance and Enforcement Actions

The Alliance will monitor and evaluate the performance of the permit holder and will liaise with State Government on any performance issues.

Failure to comply with the Permit and its conditions may constitute a breach of the Local Government Act 1999. Failure to comply with the Permit and its conditions may result in Council/s taking enforcement action against the permit holder. Enforcement action may include the issuing of expiation notices or initiation of prosecution proceedings. Further, failure to comply with the permit and its conditions also may result the permit being altered, suspended until compliance can be achieved, or cancelled.

Specifications

The Supplier/s will ensure:

- Adherence to the directions of the relevant Council/s and relocate any e-scooters that are not suitably parked or may create a nuisance.
 - An awareness campaign is undertaken that is not limited to the suppliers mobile phone application to increase awareness of the applicable laws and rules to increase user compliance.
 - That e-scooters are to be removed from the public realm within 7 days of the expiry of this Permit.
 - That a total Permit Fee of \$8000 (GST excluded) is applicable for this Permit. This fee is invoiced prior to the commencement of the Permit. If the permit is revoked for any reason, relevant fees charged in advance will be reimbursed. The Permit Holder will be notified in writing if there are any changes to the fees for this permit.
 - E-scooters are not to be used for the sole purpose of advertising or marketing.
 - The number of e-scooters in operation or parked within the boundaries of the Permit is not to exceed the maximum noted on the approved Permit.
 - That no less than 90% of the permitted operator's fleet remain in operation throughout the permitted period, unless otherwise agreed in writing by email to the specified contact.
 - All e-scooters are to be equipped with a GPS tracker to enable all e-scooters to be located by the Permit Holder at all times, to ensure and monitor balanced and appropriate distribution of e- scooters and enable the identification of e-scooter users in the event of an accident, incident or inappropriate use.
 - Monitoring of the location of all e-scooters at all times to avoid nuisance, clutter or congestion caused by its e-scooters, including the ability for the Permit Holder to identify if an e-scooter has been fallen over.
 - Provide reports and statistics on availability, usage and complaints for the entire fleet as requested by the specified contact person on a monthly basis and on an ad-hoc basis as requested by the LGA or their delegate for the term of the permit.
 - Notification and provision of reports on any known incidents and injuries resulting in hospitalisation or paramedic attendance of a user or third party within 24 hours of the incident time.
 - Provision of reports and statistics on known incidents, collisions, near misses and injuries including information about the date, time, contributing factors and severity on a monthly basis and on an ad- hoc basis as requested by Council for the Term of the Permit. Data should be consistent with the metric system used in Australia.
 - A customer satisfaction user survey is undertaken within 3 months of the commencement date and to share those survey results with the Alliance Team. Additional user surveys may be requested by Council/s throughout the Permit Term. Each supplier will need to demonstrate how they will undertake this requirement as part of their submission.
 - The Permit Holder's e-scooters fleet can only be used within the approved area as outlined in the Minister's approved Gazetted area. E-scooters are prohibited to be outside of the times of 6am to 9pm, outside of the Minister's approved area or in any other area nominated
-

by Council. Permit Holders must be able to effectively geofence the approved areas to ensure that e-scooters can only be used in the approved areas outlined in this Permit.

- All e-scooters are to be speed restricted to a maximum speed of 15km/h and ensure compliance with all relevant legislation and road traffic requirements.
- All e-scooters are to be legal and safe to operate under Australian laws and regulations.
- Ability to respond to and resolve issues within the following response times:

ISSUE	EXAMPLES (without limitations)	RESPONSE TIME
Dangerously located e-scooters	Hanging from a tree On a median strip	Within 30 minutes
Damaged or abandoned e-scooters	Missing Wheels	Within 24 hours
Inappropriately Located	Parked in private area (car park)	Within 24 hours

The Council may:

- Impound e-scooters if they are not removed within the listed response times. These e-scooters will then be treated as abandoned goods and may be disposed of in line with the provisions of the *Unclaimed Goods Act 1987 (SA)* as deemed fit. Associated costs may be recovered from the Permit Holder.
- Issue penalties for breaches and offences.
- To ensure e-scooters remain in a safe and presentable condition so as not to detract from the amenity of the area in which they are parked.

8. **Section E – Tender Response Schedules**

See separate word attachment for completion



Schedule 1 Tender Form - Formal Offer

I/We _____ (Tenderer) on
having read, understood and fully informed myself/ourselves/itself of the contents, requirements and obligations of the
Request for Tender, do hereby tender to provide the Services described in the Specifications in accordance with the Contract
for the amounts set out in the Tender Return Schedules attached.

The Tenderer:

1. is subject to the terms and conditions set out in the Conditions of Tendering;
2. irrevocably offers to provide the Services on the terms of the Contract and the Specifications which form part of the Tender Documents subject only to the variations set out in Schedule 12;
3. confirms that this Tender has been prepared without any consultation, communication, agreement or other arrangement with any competitor regarding:
 - 3.1 prices or methods, factors or formulae used to calculate prices;
 - 3.2 the intention or decision to submit a Tender, or the terms of the Tender;
 - 3.3 the submission of a Non-Conforming Tender; and
 - 3.4 the quality, quantity, specifications or particulars of the Services; and
4. holds this offer open and capable of acceptance by the Council for a period of 90 days from the closing date.

The undersigned undertakes that if selected as the successful Tenderer, I/we/it will execute and be bound by the Contract in accordance with the Conditions of Tendering.

If the Tenderer is a company, it must execute this Tender as follows:

Executed by [Insert Company name] pursuant to section 127 of the <i>Corporations Act 2001</i>	
_____ Signature of Director	_____ Signature of Director/Company Secretary (Please delete as applicable)
_____ Name of Director (print)	_____ Name of Director/Company Secretary (print)
OR	
_____ Signature of Sole Director and Sole Company Secretary	
_____ Name of Sole Director and Sole Company Secretary (print)	
OR	
Signed for [Insert name of Representative] by an authorised representative in the presence of:	
_____ Signature of witness	_____ Signature of authorised representative
_____ Name of witness (print)	_____ Name of authorised representative (print)
	_____ Position of authorised representative (print)

If the Tenderer is an individual, the document must be executed as follows:

Signed by [insert name] in the presence of:	
_____ Signature of witness	_____ Tenderer
_____ Name of witness (print)	

If the Tenderer is a partnership, the Tender must be executed as follows:

Partner 1:

Signed sealed and delivered by [insert name] in the presence of:	
_____ Signature of witness	_____ Signature of partner
_____ Name of witness (print)	
_____ Address of witness (print)	

Partner 2:

Signed sealed and delivered by [insert name] in the presence of:	
_____ Signature of witness	_____ Signature of partner
_____ Name of witness (print)	
_____ Address of witness (print)	

Schedule 2 Tenderer's Details

1. Name of Tenderer State in full the name(s) of the person(s) or the registered name(s) of the company(s) and trading names. ABN number	
2. Contact person Nominate a contact person for this tender to deal with any questions or queries that may arise.	
3. Registered address	
4. Postal address	
5. Telephone	
6. Fax	
7. Email	
8. Tender conditions Tenderer to sign that it has read and understood this RFT and the Conditions of Tender.	
9. Amendments to Tender Documents Tenderer to indicate the amendments it requests.	

1. Banker's Name:
Address:
.....

3. The limits of the bank overdraft facilities:

5. Nett asset value of the Tenderer's Company: \$

- 6.3 value of sundry creditors indicating the amount applicable:

7. What percentage of the Tenderer's South Australian business does this tender represent in terms of turnover?

_____ %

Schedule 4 Licences and Accreditation

List details of any licences or accreditations required or relevant to this Tender.

[Faint, illegible text, likely a watermark or bleed-through from the reverse side of the page]



Schedule 5 Insurance

Provide details of insurance currently held by you and any proposed subcontractor that would be extended to provide cover for work under the Contract.

Insurance type	Policy no	Extent of cover		Expiry date	Name of insurer
		Per incident \$A	In aggregate \$A		
Public and products liability					
Vehicles plant & equipment					
Return to Work(or equivalent) if required by law					
Directors and officers (if applicable)					
Other					

Schedule 6 Work Health & Safety & Risk Management

1. Tenderer Work Health and Safety Management System Questionnaire

1.1	Work Health and Safety policy and management	Yes	No
(a)	Does the Tenderer have a written Work Health and Safety Policy in compliance with the WHS Act (2012)? If yes provide a copy of policy Comments:	<input type="checkbox"/>	<input type="checkbox"/>
(b)	Does the Tenderer have a Work Health and Safety Management System recognised by an independent authority (eg Return to Work SA)? If yes provide details:	<input type="checkbox"/>	<input type="checkbox"/>
(c)	Does the Tenderer have a Work Health and Safety Management System manual or plan? If yes provide a copy of contents page(s) Comments:	<input type="checkbox"/>	<input type="checkbox"/>
(d)	Are work health and safety responsibilities clearly identified for all levels of staff? If yes provide a copy of contents page(s) Comments:	<input type="checkbox"/>	<input type="checkbox"/>
1.2	Safe work practices and procedures		
(a)	Has the Tenderer prepared safe operating procedures or specific safety instructions relevant to its operations? If yes provide a summary listing of procedures or instructions Comments:	<input type="checkbox"/>	<input type="checkbox"/>

-
- (b) Does the Tenderer have any permit to work systems? ☐ ☐
- If yes provide a summary listing or permits:
-
-
- (c) Is there a documented incident investigation procedure? ☐ ☐
- If yes provide a copy of a standard incident report form
- (d) Are there procedures for maintaining, inspecting and assessing the hazards of plant operated/owned by the company? ☐ ☐
- If yes provide details:
-
-
- (e) Are there procedures for storing and handling hazardous substances? ☐ ☐
- If yes provide details:
-
-
- (f) Are there procedures for identifying, assessing and controlling risks associated with manual handling? ☐ ☐
- If yes provide details:
-
-

1.3 Work Health and Safety training

- (a) Describe how work health and safety training is conducted in your company:
-
-

- (b) Is a record maintained of all training and induction programs undertaken for employees in your company? ☐ ☐

If yes provide examples of work health and safety training records:

.....
.....

1.4 **Work Health and Safety workplace inspection**

- (a) Are regular work health and safety inspections at worksites undertaken? ☐ ☐

If yes provide details:

.....
.....

- (b) Are standard workplace inspection checklists used to conduct work health and safety inspections? ☐ ☐

If yes provide details or examples:

.....
.....

- (c) Is there a procedure by which employees can report hazards at workplaces? ☐ ☐

If yes provide details:

.....
.....

1.5 **Work Health and Safety consultation**

- (a) Is there a work health and safety committee? ☐ ☐
- (b) Are employees involved in decision making over work health and safety matters? ☐ ☐
If yes please provide details:
.....
.....
- (c) Are there employee elected work health and safety representatives? ☐ ☐
Comments:
.....

1.6 **Work Health and Safety performance monitoring**

- (a) Is there a system for recording and analysing work health and safety performance statistics? ☐ ☐
If yes provide details:
.....
.....
- (b) Are employees regularly provided with information on company work health and safety performance? ☐ ☐
If yes provide details:
.....
.....
- (c) Has the company ever been convicted of a work health and safety offence? ☐ ☐
If yes provide details:
.....
.....

1.7 **Safety performance**

(a) Please provide the following information for the last three years

	2009/2010	2010/2011	2011/2012
What was the average number of employees in your organisation?			
What was the approximate number of hours worked?			
How many injuries have occurred to your employees which resulted in a fatality, permanent disability or time lost from work of one day or more?			
What is the Lost Time Injury Frequency Rate?			
What is the total number of full days lost due to injury?			
What is the average days lost per injury?			

Schedule 7

Supplier Overview and Deployment Plan

Company overview

- Each Supplier must provide an overview of the company including which cities in the Australia/New Zealand region they operate in, contact information for local regulatory contact in each city. The cities and countries operated in globally will also need to be provided.
- Each Supplier must to identify how many e-scooters they operate globally and how many e- scooters are in currently operation in the Australia/New Zealand region and how many are in the region but not operating (for example in storage).

E-scooter product

Each Supplier must provide details and descriptions of the e-scooters to be used as part of the Permit. This includes technical information on the e-scooter weight, power rating, dimensions, load ratings, safety features (lights, bells, brakes etc), charging requirements, unique identification, images of branding proposed and version number including any indication of planned upgrades or enhancements over the Term of the Permit. Inspection and Maintenance regimes are to be provided.

Each Supplier must provide details and descriptions outlining that their e-scooters are legal and safe to operate under Australian law including details such as:

- Proposed number of e-scooters to be launched on issuing of the permit/start date and the company's proposed expansion throughout the permit period.
- Predicted daily deployment and removal process, including key deployment locations, parking and number of e-scooters.
- Proposed process for e-scooter recharging.
- Operating timeframes, hours and any restrictions.

E-scooters company information

Each Supplier must provide:

- Public contact phone numbers and email addresses and any other contact methods
 - Operating hours of contact centres and the contact centre's operating structure
 - Nominated local management and operations teams phone numbers and email addresses
 - Company Executive contact information and key Council liaisons.
-

Schedule 8 Safety and Security

Safety history report (if applicable)

Each Supplier must provide a succinct report on safety history of their current operations in the Australia/New Zealand region. The report shall include:

- Total number of reported and/or observed crashes and collisions
- Total number of reported injuries, categorised by property damage only, minor injury, serious injury and fatalities
- Total number of third-party injuries (i.e. pedestrians) categorised by property damage only, minor injury, serious injury and fatalities
- A summary of the changes to policy, requirements or policies as a result of the above safety incidents.

Supplier's safety policies

Each Supplier must demonstrate their:

- Emergency and incident management, notification, reporting and timeframe policies.
- Communication Strategy including user education programs, policies and practices to encourage user compliance (for example helmet use, drink driving/riding and speed laws), including policies to protect third party safety (i.e. pedestrians), safe riding and parking, minimum age restrictions, training, how the Supplier will educate users on applicable State laws – include each law as separate point to be demonstrated.
- Public education communications about how the Supplier will communicate to the general public about e-scooters, their use, safety and complaint reporting. Please include the languages that this information will be communicated in.
- Methodology to increase awareness of applicable laws and rules to significantly increase compliance of its users, not limited to communication through mobile phone application.
- Policies and practices relating to the issuing of helmets including replacements and timeframes.
- Injury and claims process and handling policies and timeframes.

Suppliers company policies

Each Supplier must provide or demonstrate their:

- Privacy policies including user data security and how the Supplier safeguards user information, including personal, financial and travel information. The Supplier will also need to provide what information is captured from users when using the app and the information required by the user when signing up. This may include contact information, access to cameras, GPS locations, contacts list, social media connectors etc. The Supplier must also demonstrate why this information is required and if this information is used for third party commercial uses
 - Inspection, maintenance and servicing methodologies and procedures for the operation of the Supplier's e-scooter fleet
 - Pricing model, user fees, deposits or any other financial requirements of users
 - Refund and reimbursement policies
-

- User agreements, terms and conditions and any user indemnity clauses or waivers
- User behaviour management including policies on compliance, poor behaviour, safety and user incidents.

Schedule 9 Operations and Performance inc Reporting and Data Sharing

Each Supplier must demonstrate:

- The ability to provide geofenced areas or other similar technology to effectively restrict e-scooters from operating or being parked in areas nominated by Council, State Government or Minister, including but not limited to:
- The areas shown in the attached maps.
- Outside of the Minister approved geographic area.
- Or any other area nominated by Council.
- Ability to determine if the geofence has been breached by users and send push notifications to users warning of incorrect use.
- Ability to penalise incorrect use and/or incentivise correct use.
- Ability to restrict speed limits to meet the legislated requirements and within selected areas that may be nominated by the relevant Council.
- Ability to limit the maximum operating speed to 15km/h as per the Minister approved Gazette notice.
- Ability to significantly further reduce speed limits (5km/h) in areas nominated by each Council.
- Ability to provide preferred parking zones or restrict where e-scooters can be parked.
- Technology the Supplier has available or has in development, for docked, semi-docked e- scooter or preferred parking areas, including but not limited to near fields technology.
- Ability to determine if an e-scooter has been appropriately and safely parked.
- Ability to determine if an e-scooter is faulty, damaged or vandalized.
- Ability to determine if an e-scooter has fallen over.
- Methodology for providing helmets for e-scooter users.
- Methodology or ability to affix helmets to each e-scooter, track helmets, or use technology to determine if an e-scooters is without helmets to aid with riders complaining with the requirement to wear a helmet.
- Ability to monitor and act upon reports of litter caused by abandoned, removed, or damaged e-scooters and helmets.
- Methodology on how the Supplier proposes to ensure users comply with all applicable State Laws.

Data sharing agreement

The successful Supplier must agree to provide the Alliance and State Government, either directly or through an approved third-party provider, access to:

- Availability data for their entire e-scooter fleet
- Trip data from their fleet, including historical information, number of hires (broken down by location
- Council region/suburb or other nominated division), pick-up and drop off locations, journey length, time, patterns of use, heat maps, and point-to-point use.
- Carbon emissions reporting (approximate kWh consumption km travelled)
- Collision and injury data
- Complaint data.

Each Supplier must provide reports and statistics to the Alliance and its nominees on a monthly basis or as requested for the term of the Permit.

Each Supplier must notify and provide reports on any known incidents and injuries resulting in hospitalisation or paramedic attendance of a user or third party within 24 hours of the incident time.

Each Supplier must provide reports and statistics on known incidents, collisions, near misses and injuries including information about the date, time, contributing factors and severity on a monthly basis or as requested by the Alliance for the term of the Permit. Data should be consistent with the metric system used in Australia.

Each Supplier must provide a methodology for South Australian Police to obtain information relating to an investigation, incident or enforcement. The Supplier must detail what information can be provided and the proposed timeframes.

Each Supplier will be required to undertake a sample survey of its users within three months of the Commencement Date to determine mode shift, saved carbon emissions, trip integration with other modes of transport and user demographics.

Suppliers must also provide access to any user surveys undertaken. The Alliance may require the Supplier to undertake additional user surveys, at the Supplier's cost, throughout the Permit Term.

Schedule 10 Conflict of Interest and Industrial Relations Record

- Provide details of any interest, relationship or clients which may or do give rise to a conflict of interest and the issue about which that conflict or potential conflict does or may arise.
- Provide a summary of the Tenderer's industrial relations record over the last five years.

Schedule 11 Referees

Details of at least three references for similar work and information on the approximate date when work was completed and the approximate value of work undertaken.

Reuse this page if more than three references are provided.

Client Name:

Address:

Contact Name:

Telephone:

Date of Work:

Value of Work:

Client Name:

Address:

Contact Name:

Telephone:

Date of Work:

Value of Work:

Client Name:

Address:

Contact Name:

Telephone:

Date of Work:

Value of Work:

Schedule 12 Statement of Conformity

If the Tender does not comply with all the requirements of the Tender Documents, the Tenderer must list below all areas of non-conformity, partial conformity or alternative offer and the reasons therefore.

The Tender must be read to disregard and render void any area of the Tender which is non-conforming, partially conforming or an alternative offer except to the extent detailed in this Schedule.

If any non-compliance is determined to be unacceptable, the Tender may not be further considered.

NC = Non-conforming

PC = Partially conforming

AO = Alternate offer

[illegible]

Schedule 13 Organisation Structure, Facilities and Resources

1. Organisation structure

Provide details of the staff and the organisation structure proposed to be used for provision of the Services. Details must include but not be limited to:

- Company structure, including size and location of office, organisation structure
- Number of staff proposed to be used and their qualifications and experience
- Details of the award, enterprise agreement, and/or local area workplace agreement, under which staff will be employed, and rates of pay, conditions, or allowances

2. Employees

Provide details

3. Other details (eg specific plant & equipment, vehicles)

4. Facilities

Provide details

5. **Proposed subcontractors**

Provide details in the Table below the proposed major sub-contractors or other representatives to be employed or engaged by the Tenderer. The Tenderer must specify and define the Services to be provided by sub-contractors.

Subcontractor's name and address	Services to be provided	Item(s)

6. **Contingency arrangements**

Provide details of contingency arrangements should any facilities or sites required to facilitate the Contract become unavailable in the short and long term.



Schedule 14 Experience

1. Past performance

For how many years has the Tenderer engaged in the type of work required by the Contract?

Has the Tenderer had an appointment terminated on a project in the last five years. If yes please provide brief details.

Has the Tenderer terminated a project in the last five years. If yes please provide brief details.

Has the Tenderer refused to continue providing services under a contract in the last five years unless the terms or payments were changed from those which were originally agreed. If yes please provide brief details.

2. Current contracts

Provide details of current contracts in a local government environment including the range of services provided and the numbers and types of properties serviced.

Other commitments

Provide details of other work commitments expected to continue during the term of the Contract.



Schedule 15 Customer Service Plan

Tenderers must demonstrate their capacity and skill in regard to the provision of customer service. Tenderers must describe what systems they will use and performance levels that will be achieved in the provision of advice and response to enquiries, complaints, and requests for assistance from members of the public. This must include but not be limited to:

- procedures for the handling of all enquiries and complaints;
- staff education programs to ensure highest levels of customer service are attained and maintained;
- indicative performance standards for handling of enquiries and complaints, including specific time scales;
- number and qualifications of staff who will provide this service;
- location/s of enquiry and assistance points where enquiries and complaints will be managed;
- hours of availability of customer service and supervisory staff;
- how the complaints register will be maintained;
- proposed information leaflets, forms and reports that will be used in providing this service

Complaint history report (if applicable)

Each Supplier must provide a succinct report on their complaint history of their current operations in the Australia/New Zealand region. The report shall include the number and type of complaints reported by users, non-users, Councils, Government Agencies or any other sources. The report should include the average time taken to resolve complaints and by type.



Schedule 16 Implementation Schedule

1. Implementation schedule

Tenderers must provide a comprehensive project plan that encompasses all activities required and timelines for each activity from Contract execution to the Contract 'start date'.

2. Transition plan

Tenderers must comprehensively describe their proposals to ensure minimum disruption to service and assistance to customers in adjusting to the new service, during the transition periods at the commencement and also at the termination of the Contract. Such initial transition plan should include timetables for:

- service information leaflets
- notices to users regarding service problems

Schedule 17 Value Added Services

Each Supplier may provide details of any other benefits it can offer to improve the value of its RFP to Council. This may include ideas and systems proposed for improved performance.

Each Supplier is to provide additional details regarding:

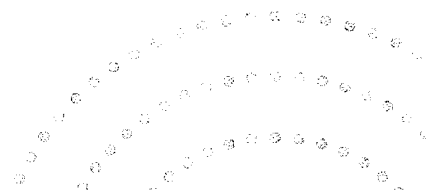
- Information on how e-scooters contribute towards public health, community benefit or any other benefit to the Adelaide community as a whole
- Information on the value add to Council as the primary transport design authority in our City
- Information, proposals, methodology or ideas for integrating the Supplier's e-scooter business with Mobility-as-a-Service (MaaS) platforms, end-to-end journey planning and web-based mapping services, the South Australian public transport system or other shared mobility services.

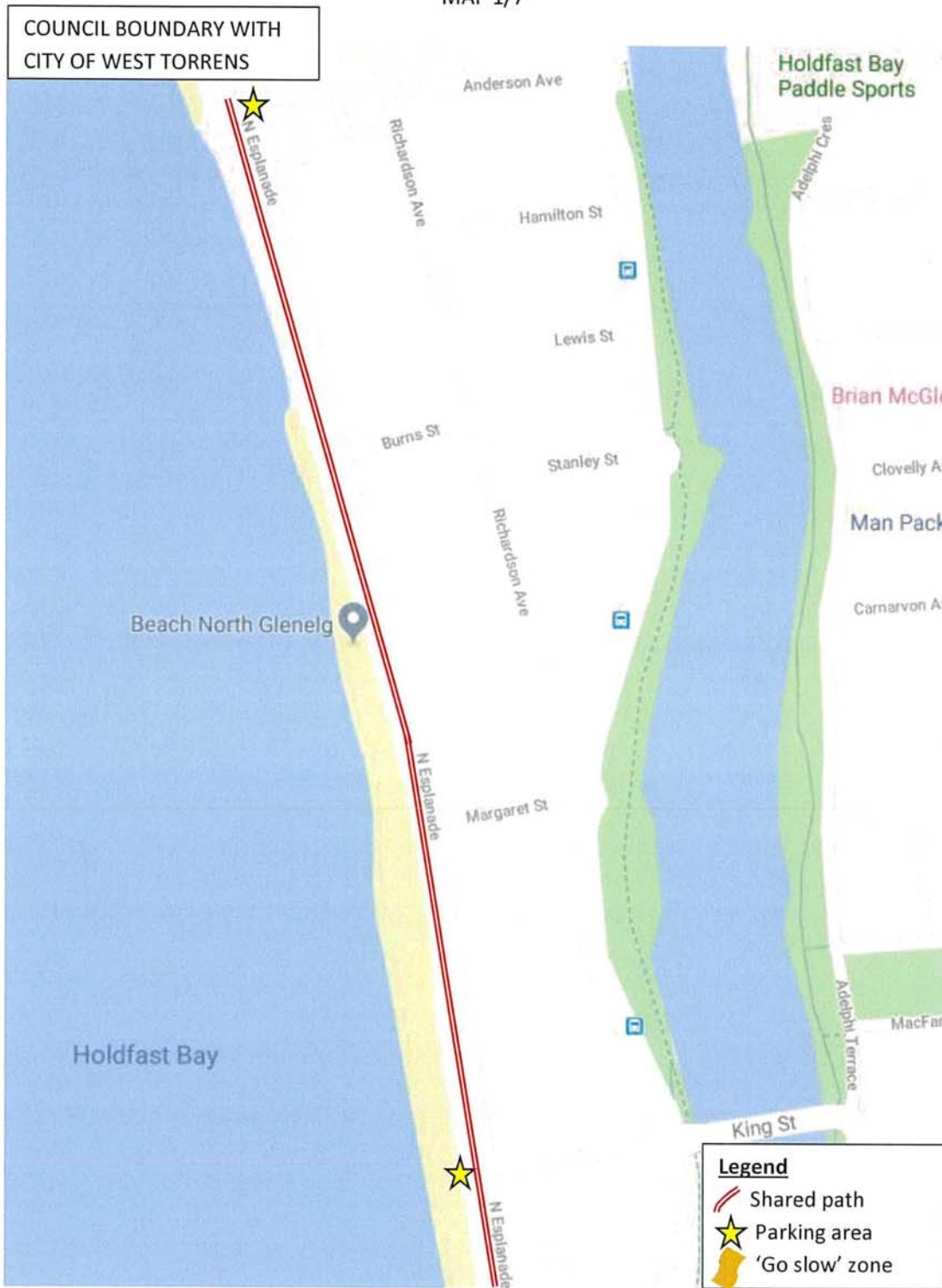
Schedule 18 Pricing

All prices must be listed exclusive of GST

Provide a breakdown of the costs for the Services, and/or breakdown of fixed and variable costs (if applicable).

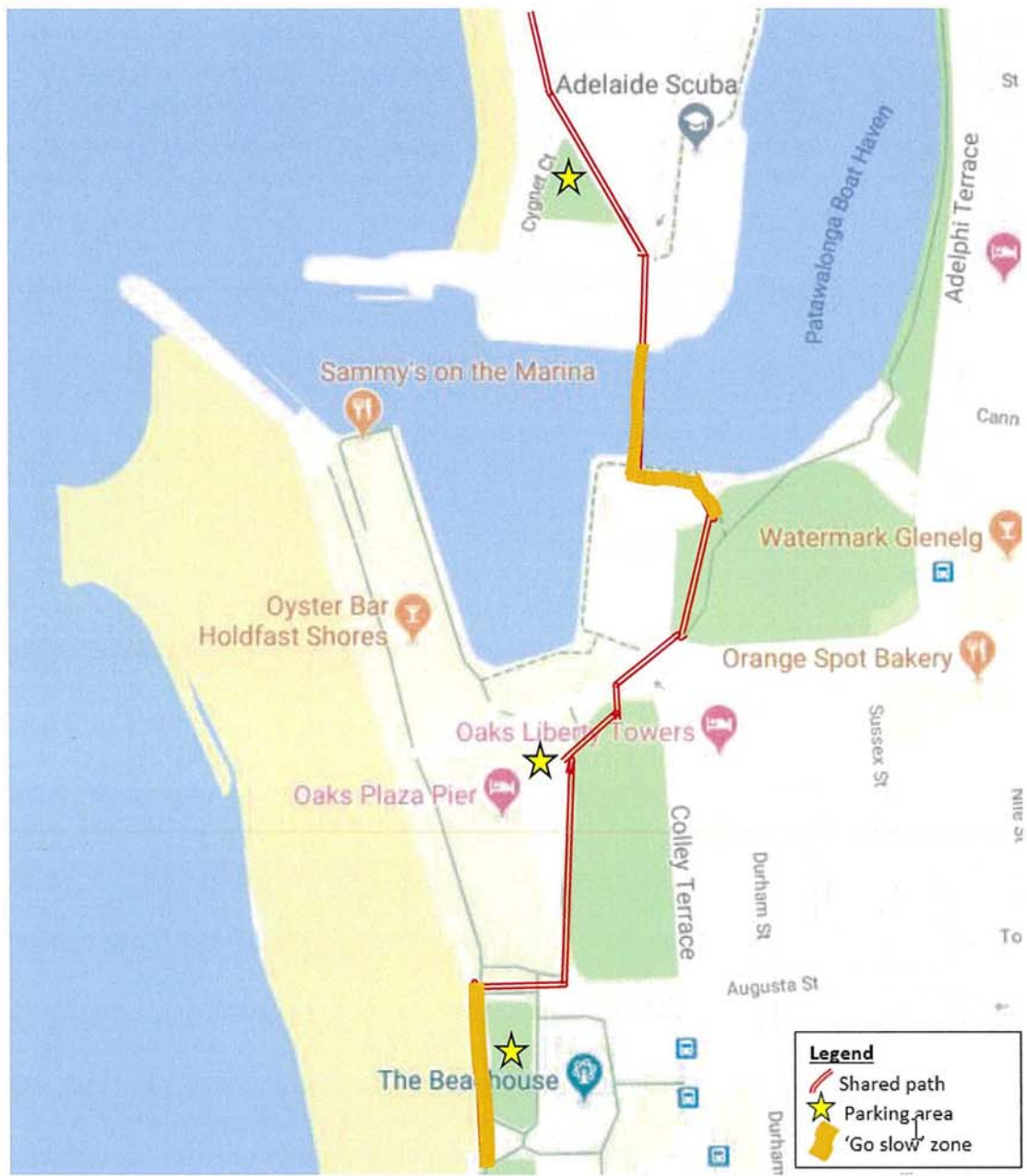
Attachment 2



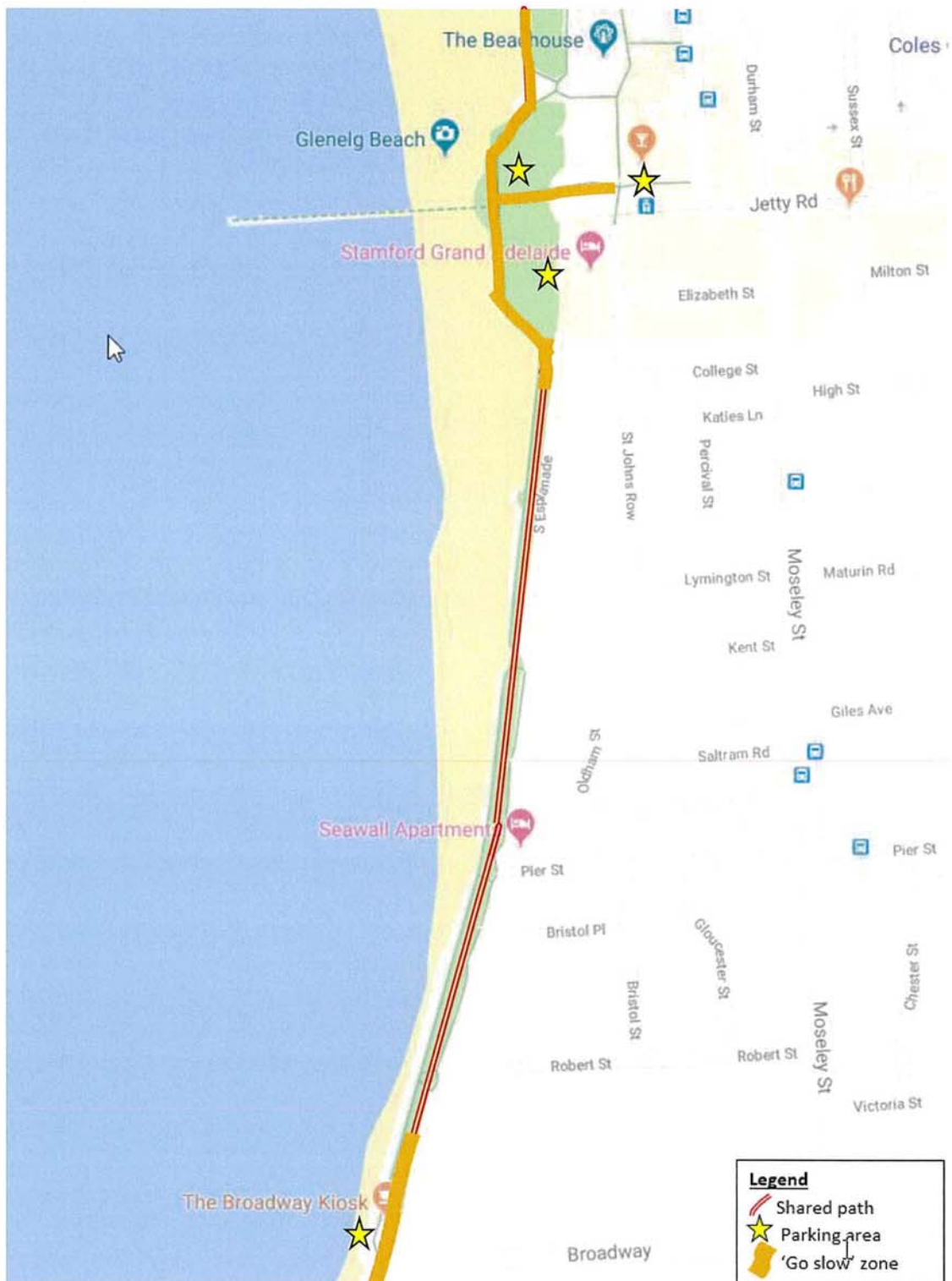


Note: permitted area restricted to 1.0 metre either side of shared path

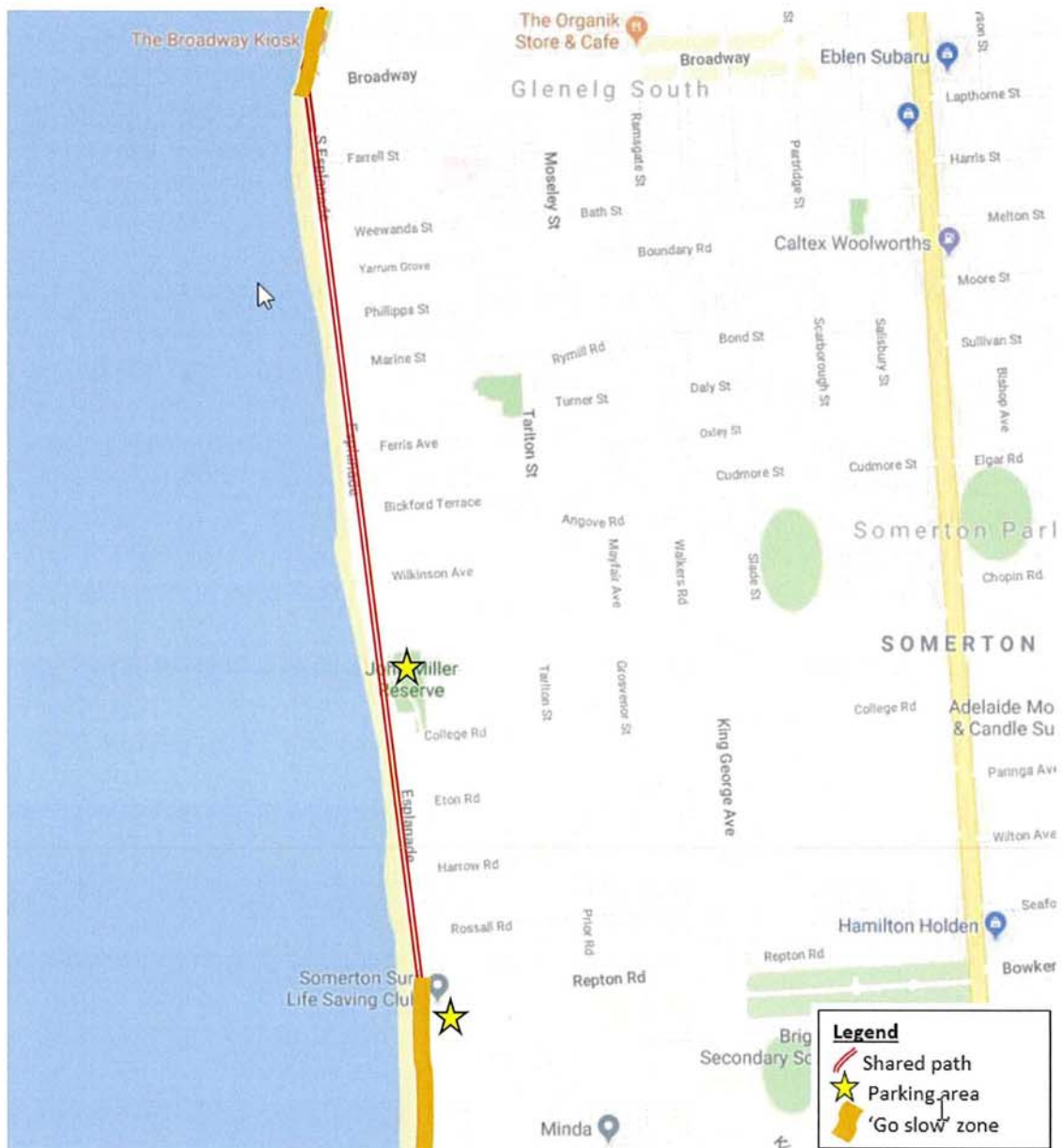
MAP 2



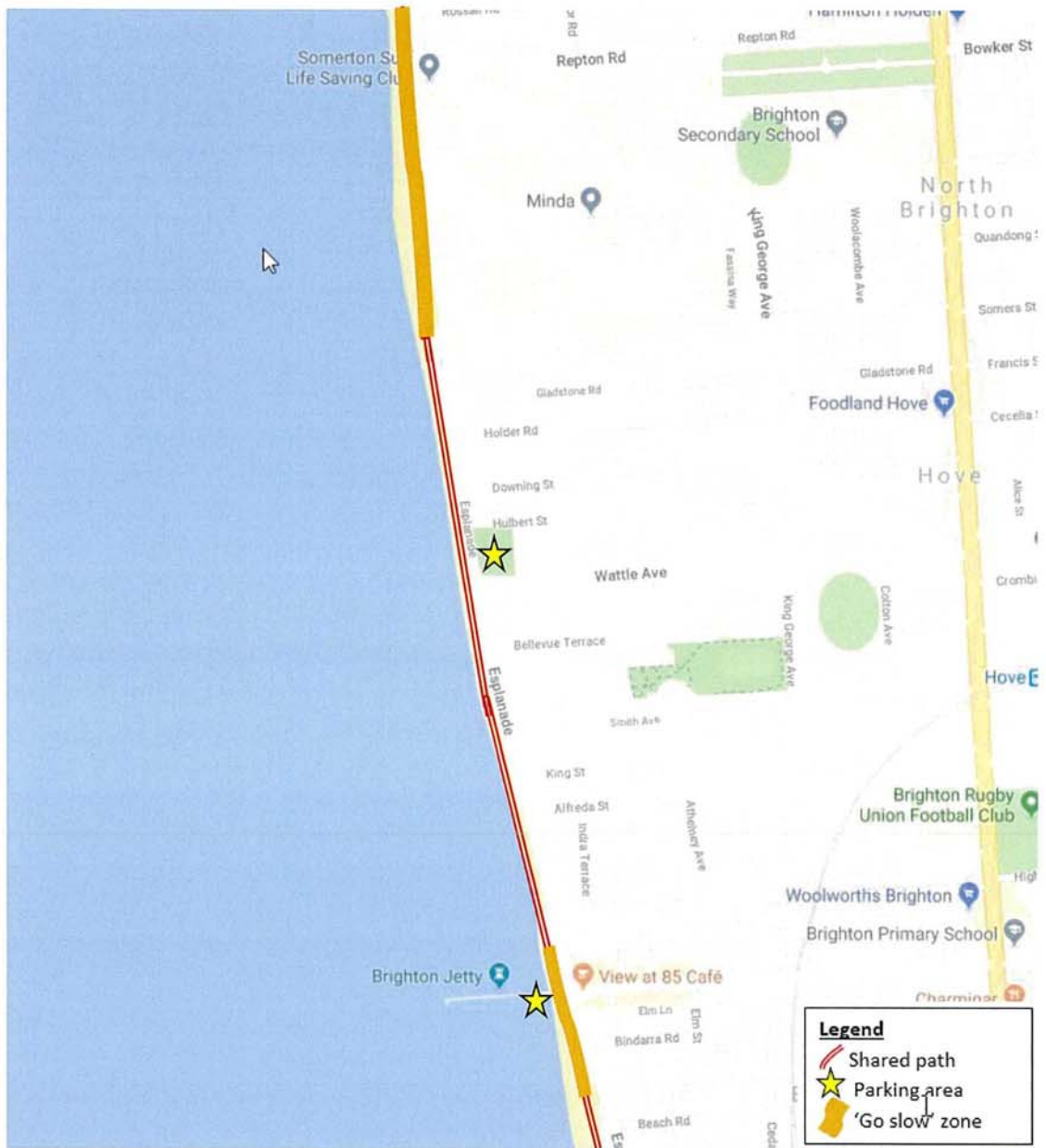
MAP 3



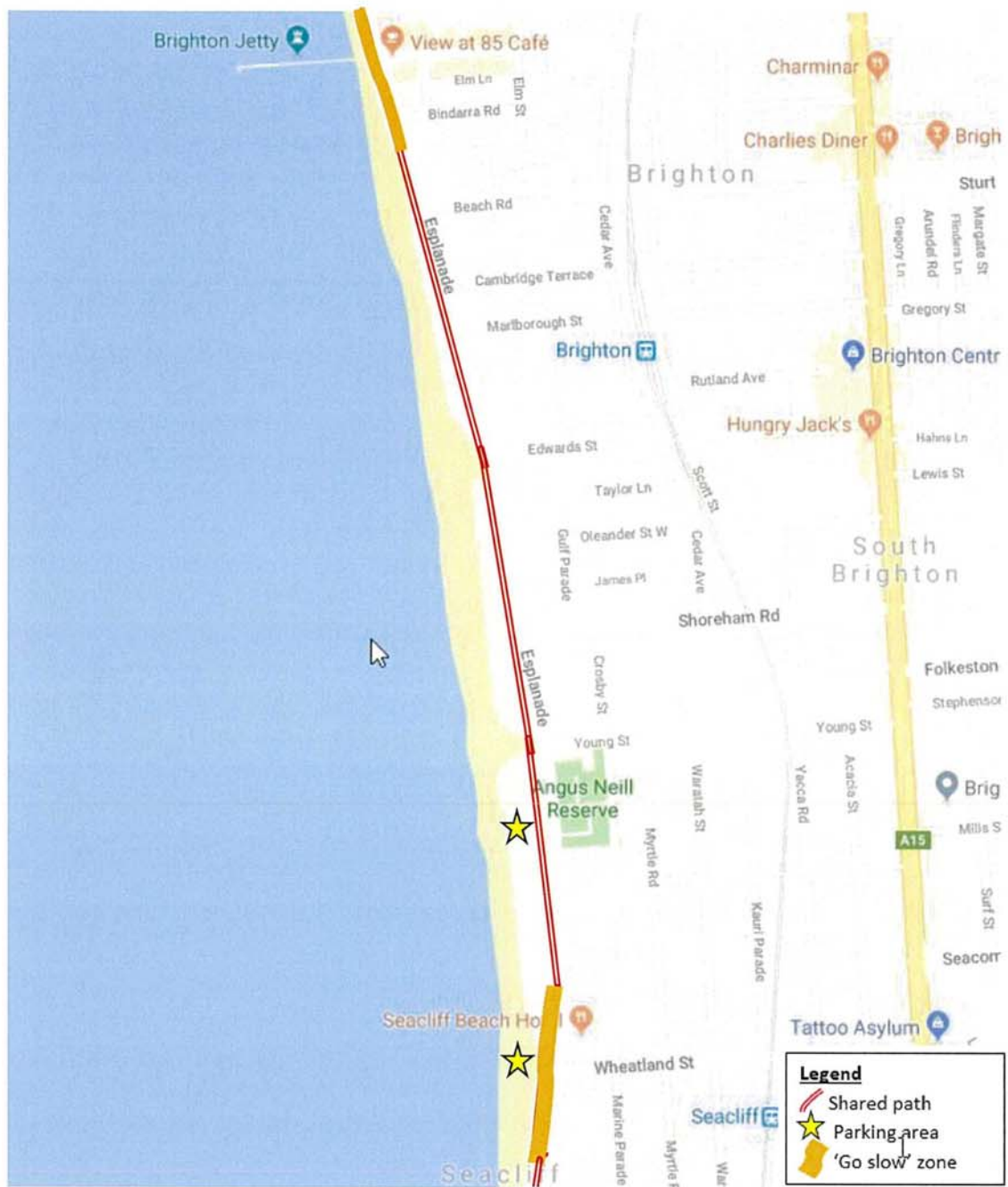
MAP 4



MAP 5



MAP 6



MAP 7



Attachment 3





15 August 2019

Hon Stephan Knoll MP
Minister for Transport, Infrastructure and Local Government
Minister for Planning
GPO Box 1533
ADELAIDE SA 5001

Dear Minister Knoll,

Adelaide's Western Region local governments have formed an alliance to drive an economic development strategic focus to advance the interests of the area. The Western Region Alliance of Councils comprises the Cities of Charles Sturt, Holdfast Bay, Port Adelaide Enfield and West Torrens. These Councils are committed to working collaboratively together on key economic projects to benefit the Western Adelaide communities.

Tourism is a growing economic priority for Western Adelaide, directly employing more than 9,600 people and supporting 4,669 businesses in the region. The Western Adelaide Alliance is committed to optimising tourism opportunities by working with businesses and our communities on the best way forward to improve the destination offerings, and to increase the range, quality and diversity of experiences available.

We write this letter seeking support (subject to formal Council considerations) of a six month trial of legally compliant electric scooters in a confined area along the coast park from Outer Harbour to Seacliff including the granting of the necessary legislative approvals to legally enable such a trial to occur. A ride sharing platform works towards a healthy, creative and connected community; a community which is aware of its impact on the environment. It supports a diverse and resilient local economy and creates lively and safe places to live and visit.

Electric scooters will facilitate engagement with Western Adelaide's culture, coast and iconic attractions encouraging visitors and the community to stay longer and explore different precincts along the coast park.

The Western Adelaide Alliance are working closely with the Local Government Association and Adelaide City Council to coordinate a request for quote to ensure successful operators would be approved through a formal agreement to mitigate any undesirable outcomes, outline responsibilities, operating route, regulations, expectations and key performance indicators.

Please find enclosed a letter from the South Australian Tourism Commission in support of trialling electric scooters along the coastal trails.

The Western Adelaide Alliance look forward to working with State Government to support a sustainable tourism industry that supports local, state and national economies.

Please do not hesitate to call Chris Dunn on 0400 290 233 or email chris.dunn@cityofpae.sa.gov.au to discuss further or to meet to determine the required arrangements to progress further.

Signed by the four CEO's:

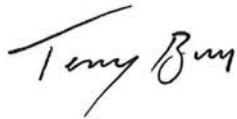
Roberto Bria, Chief Executive Officer City of Holdfast Bay

Date: 15/08/19



Terry Buss PSM, Chief Executive Officer City of West Torrens

Date: 21/8/2019



Paul Sutton, Chief Executive Officer City of Charles Sturt

Date: 19/08/19



Mark Withers, Chief Executive Officer City of Port Adelaide Enfield

Date: 15/08/19



cc: Scott Swain
Acting Manager, Policy and Strategy
Regulation Directorate
Department of Planning, Transport and Infrastructure

Tuesday, 23 July 2019

Roberto Bria
City of Holdfast Bay
PO Box 19
Brighton, SA 5048

Dear Roberto,

RE: Electric Scooter trial, Western Suburb Alliance

Thank you for bringing to the attention of the South Australian Tourism Commission, the collaborative efforts of the City of Holdfast Bay, City of Port Adelaide Enfield, City of Charles Sturt and City of West Torrens councils regarding the investigation of a 6 month trial of legally compliant electric scooters along the coast between Outer Harbour and Seacliff.

According to the National Visitor Survey, on average Adelaide has had more than 3.7 million overnight visitor, and 4.8 million day trip visitors each year and your initiative is an excellent opportunity to provide sustainable transport options for visitors to the city to explore our coastal trails.

The six month trial of compliant electric scooters as a mode of transport along the coast will provide an additional product development opportunity for the state, and visitors will see this as an excellent tourism experience in the city.

Visitors looking for an opportunity for an independent tourism activity, such as riding an e-scooter along the coast will contribute to the visitor economy in each of the council areas involved.

Yours sincerely



Executive Director
Destination Development

APPENDIX 9

19MTI3135

Mr Roberto Bria
Chief Executive Officer
City of Holdfast Bay
PO Box 19
BRIGHTON SA 5048



Government
of South Australia

The Hon Stephan Knoll MP
Member for Schubert

Dear Mr Bria

Thank you for your letter seeking support for a trial of e-scooter devices within the Council areas of Holdfast Bay, West Torrens, Charles Sturt and Port Adelaide Enfield, collectively known as the Western Adelaide Alliance.

As you may be aware, I approved a Gazette Notice enabling a trial of these devices in the Adelaide City Council (the Council) CBD and operators were issued a business permit by the Council. In close consultation with the Department of Planning, Transport and Infrastructure (the department) and South Australia Police (SAPOL), the Council issued further business permits, extending the trial until 13 October 2019.

I am advised the department is waiting on information from key stakeholders, including SAPOL, the Council and operators, to address the safety and operational issues for all parties and the community identified through the trial. Once this information is assessed, the department will be in a position to brief me on future options with respect to these devices.

I note the Councils' interest in a trial and the department will keep you and your nominated points of contact informed of the outcomes of the existing trial that may affect your proposal.

I trust the above information is of assistance.

Yours sincerely

HON STEPHAN KNOLL MP
MINISTER FOR TRANSPORT, INFRASTRUCTURE AND LOCAL GOVERNMENT
MINISTER FOR PLANNING

9/10/2019

cc: Terry Buss PSM, Chief Executive Officer, City of West Torrens
Paul Sutton, Chief Executive Officer, City of Charles Sturt
Mark Withers, Chief Executive Officer, City of Port Adelaide Enfield
Minister for Transport, Infrastructure and Local Government
Minister for Planning

Roma Mitchell House Adelaide SA 5000 | GPO Box 1533 Adelaide SA 5001 DX 171
Tel 08 7109 8430 | Email ministerknoll@sa.gov.au



APPENDIX 10



21 October 2019

Hon Stephan Knoll MP
Minister for Transport, Infrastructure and Local Government
Minister for Planning
GPO Box 1533
ADELAIDE SA 5001

Dear Minister Knoll,

Adelaide's Western Region councils have formed an alliance to drive an economic development strategic focus to advance the interests of the area. The Western Region Alliance of councils comprises the Cities of Charles Sturt, Holdfast Bay, Port Adelaide Enfield and West Torrens. These Councils are committed to working collaboratively together on key economic projects to benefit the Western Adelaide communities.

We refer to our previous correspondence to you dated 15 August 2019, signed by the four CEOs of the Western Region Alliance, for which we have recently received an acknowledgement and provide the following information to request further consideration of our request.

The Western Region Alliance believes a trial along the Coast Park should be assessed differently from trials in the wider metropolitan area. The Coast Park trial will be linear in nature and confined to the Coast Park only. It will not encroach upon residential areas (except for a small section within the City of Charles Sturt where such a path does not exist) and will not connect to the Adelaide City Council trial area. Our trial will provide valuable information to the State Government about whether locals and tourists alike support this mode of transport along the coast. Our team will share the results of the trial with the State Government and, accordingly, will provide insight for assessing the needs and concerns associated with an extension of a trial of electric scooter use to the wider metropolitan area.

Tourism is a growing economic priority for Western Adelaide, directly employing more than 9,600 people and supporting 4,669 businesses in the region. The Western Region Alliance is committed to optimising tourism opportunities by working with businesses and our communities on the best way forward to improve the destination offerings, and to increase the range, quality and diversity of experiences available.

We seek your support for a six month trial in the summer months (between November 2019 and April 2020) of electric scooters in a confined area along the Coast Park from Outer Harbour to Seacliff, including the granting of the necessary legislative approvals to legally enable such a trial to occur. It should be noted that all four Councils endorsed progressing with such a trial in September 2019 and we are now seeking State Government support. A ride-sharing platform works towards a healthy, creative and connected community; a community which is aware of its impact on the

environment and supports a diverse and resilient local economy and creates lively and safe places to live and visit.

Electric scooters will facilitate engagement with Western Adelaide's culture, coast and iconic attractions encouraging visitors and the community to stay longer and explore different precincts along the Coast Park.


The Western Region Alliance is working closely with the Local Government Association of SA and Adelaide City Council to coordinate a Request For Quote process to ensure successful operators would be approved through a formal agreement to outline responsibilities, operating routes, regulations, expectations and key performance indicators and to mitigate any undesirable outcomes.

Please find enclosed a letter from the South Australian Tourism Commission in support of trialling electric scooters along the Coast Park.

The Western Region Alliance looks forward to working with State Government to support a sustainable tourism industry that supports local, state and national economies.

Please do not hesitate to call Chris Dunn on 0400 290 233 or email chris.dunn@cityofpae.sa.gov.au to discuss further or to meet to determine the required arrangements to progress further.

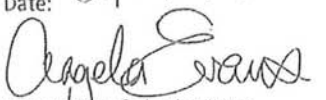
Signed by the four Mayors:


Mayor City of Holdfast Bay

Date: 22/10/19


Mayor City of West Torrens

Date: 21/10/19


Mayor City of Charles Sturt

Date: 20/10/2019


Mayor City of Port Adelaide Enfield

Date: 21/10/19

cc: Scott Swain
Acting Manager, Policy and Strategy
Regulation Directorate
Department of Planning, Transport and Infrastructure

APPENDIX 11



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

16 October 2019

Mr G Bidstrup
Sykes Bidstrup Barristers and Solicitors
77 Angas Street
ADELAIDE SA 5000

Email: admin@sykesbidstrup.com.au

Dear Sir

RE: Response to letter: Application with respect to e-Scooter use within the Holdfast Bay Council area.

We refer to your letter of 10 October 2019 in relation to your client Dr Pamela Ryan, and the possible use of e-Scooters within Council's area.

The request in your letter for your client to be informed of any proposal, application or decision regarding the use of e-Scooters within Council's area is one that cannot be acceded to by Council.

The Local Government Act 1999 (the Act) and relevant Regulations, provides a statutory framework for Council to follow in relation to the conduct of its business. That framework provides for the publication of certain material in relation to Council meetings, for access to Council meetings, and for public consultation in accordance with various criteria set out in the Act and Regulations.

Council also has published its own clear policy on consultation with the public on matters falling within the relevant policy.

If Council agreed to your request, it would be binding itself to a commitment for consultation or notification outside of the statutory framework and outside of its own policy. This could be seen as not only a breach of the Local Government Act and a breach of its own policy, but also an unjustified impediment on Council's ability to conduct its business.

Such an undertaking could also cause Council to be in breach of other obligations it might have, or should be prepared to give, towards other parties seeking to interact with Council in relation to the issue which concerns your client.



The fact that Council does not give any undertaking to notify or consult as your client has requested, does not in way amount to a dismissal of her views or of her rights. The concerns of your client that you have expressed in your letter have been noted, and as is the case with all persons who have a legitimate interest in a matter that falls within the remit of Council, your client is free to engage with Council to continue to seek information, or express her views.

Yours faithfully

A handwritten signature in black ink, appearing to be 'RB' or similar initials, written in a cursive style.

Mr Roberto Bria
Chief Executive Officer

APPENDIX 12

- (10) In this section—

component vehicle of a combination means a towing vehicle or trailer of the combination;

prescribed distance means a distance (in any direction) within a radius of 30 kilometres of—

- (a) the location of the vehicle when the direction is given; or
- (b) any point along the forward route of the journey, if the direction is given in the course of a journey of the vehicle;

suitable location means a location that the officer believes on reasonable grounds to be suitable for the purpose of complying with the direction, having regard to any matters the officer considers relevant in the circumstances.

- (11) This section applies to a vehicle regardless of whether or not the vehicle is, has been or becomes the subject of a direction under Part 2 Division 5.
- (12) This section does not limit or prevent the exercise of powers under Part 2 Division 5 for the purpose of determining whether there is or has been a breach of a light vehicle mass, dimension or load restraint requirement (or any other purpose).

Division 5—Further safety provisions

161A—Driving of certain light vehicles subject to Ministerial approval

- (1) A person must not drive a light vehicle to which this section applies on or over a road without the approval of the Minister.
- (2) An approval under subsection (1) is subject to such conditions (if any) as the Minister thinks fit and specifies in the instrument or notice of approval.
- (3) This section applies to—
 - (a) air cushioned vehicles; and
 - (b) any other vehicle of a class declared by regulation to be a class of vehicles to which this section applies.

162A—Seat belts and child restraints

- (1) Subject to this section and the regulations, every motor vehicle must be equipped in accordance with the regulations with seat belts, anchorages for seat belts and anchorages for child restraints.
- (3) The Governor may, by regulation—
 - (a) declare that any vehicle or vehicles of any class are exempt from the provisions of this section; and
 - (b) prescribe specifications as to the design, materials, strength, construction and installation of seat belts, anchorages for seat belts, child restraints and anchorages for child restraints; and
 - (c) prescribe the seating positions for which seat belts, anchorages for seat belts or anchorages for child restraints are required; and

Central Inspection Authority means the Central Inspection Authority established by Part 4A of the Act;

commercial motor vehicle means—

- (a) a light motor vehicle constructed or adapted solely or mainly for the carriage of goods; or
- (b) a light motor vehicle of the type commonly called a utility; or
- (c) a bus that is a light motor vehicle;

converter dolly means a pig trailer with a fifth wheel coupling designed to convert a semi-trailer into a dog trailer;

dog trailer means a trailer (including a trailer consisting of a semi-trailer and converter dolly) with—

- (a) 1 axle group or single axle at the front that is steered by connection to the towing vehicle by a drawbar; and
- (b) 1 axle group or single axle at the rear;

electric personal transporter—see regulation 64A;

expiation notice means an expiation notice under the *Expiation of Offences Act 1996*;

expiation reminder notice means an expiation reminder notice under the *Expiation of Offences Act 1996*;

fifth wheel coupling means a device (other than an upper rotating element and a kingpin) used with a prime mover, semi-trailer or converter dolly to—

- (a) permit quick coupling and uncoupling; and
- (b) provide for articulation;

GTM (gross trailer mass) means the maximum loaded mass transmitted to the ground by the axles of a trailer when it is connected to a towing vehicle—

- (a) as specified by the manufacturer; or
- (b) as specified by an Australian Authority if—
 - (i) the manufacturer has not specified a maximum loaded mass transmitted to the ground by the axles of the trailer when connected to a towing vehicle; or
 - (ii) the manufacturer cannot be identified; or
 - (iii) the trailer has been modified to the extent that the manufacturer's specification is no longer appropriate;

pig trailer means a trailer—

- (a) with 1 axle group or a single axle near the middle of its load carrying surface; and
- (b) connected to the towing vehicle by a drawbar;

prescribed certification mark means the certification mark of—

- (a) Standards Australia; or

- (c) cause a defective vehicle label affixed to a vehicle to be defaced or removed from the vehicle.
- (3) The Minister must maintain a record of authorisations issued under section 145(8) of the Act and must make that record available for public inspection.

**48—Light vehicles that are not to be driven without Ministerial approval
(section 161A of Act)**

The following are declared to be classes of vehicles to which section 161A of the Act applies:

- (a) wind-powered light vehicles commonly known as land yachts;
- (b) bicycles that have an auxiliary motor comprised (in whole or in part) of an internal combustion engine;
- (c) electric personal transporters.

49—Seat belts and seat belt anchorages (section 162A of Act)

- (1) Subject to subregulations (7) and (8), vehicles manufactured on or after 1 January 1969 are exempt from the provisions of section 162A of the Act and this regulation.
- (2) The provisions of this regulation apply for the purposes of section 162A of the Act.
- (3) A car, car-type utility or car-type panel van first registered after 30 June 1964 must be fitted with—
 - (a) anchorages for a seat belt suitably placed for use by the driver; and
 - (b) anchorages for a seat belt suitably placed for use by a person sitting alongside of and on the same seat as the driver or on a separate seat by the side of the driver's seat.
- (4) An anchorage required to be fitted in accordance with subregulation (3) must—
 - (a) in the case of a vehicle first registered after 30 June 1964 but before 10 November 1966—comply with the specification for anchorages published in the Gazette of 28 May 1964, page 1180; or
 - (b) in the case of a vehicle first registered on or after 10 November 1966 but before 8 February 1968—comply with the specification for anchorages published in the Gazette of 10 November 1966, page 1927; or
 - (c) in the case of a vehicle first registered on or after 8 February 1968 but before 15 January 1970—comply with the specification for anchorages published in the Gazette of 8 February 1968, page 346; or
 - (d) in the case of a vehicle first registered on or after 15 January 1970—comply with the *Australian Standards Specification for Seat Belt Anchorage Points*—(A.S.D. 11–1967).
- (5) A car, car-type utility or car-type panel van first registered on or after 1 January 1967 must be fitted with—
 - (a) a seat belt suitably placed for use by the driver; and
 - (b) at least 1 other seat belt placed for use by a person sitting alongside of and on the same seat as the driver or on a separate seat by the side of the driver's seat.

(5) This regulation applies to—

- (a) the portion of Road Number 8832 Riddoch Highway (Mount Gambier—Port MacDonnell) known as Bay Road, Mount Gambier, that lies between an imaginary line formed by the prolongation of the western boundary of section 391, Waterworks Reserve, Hundred of Blanche across the road and an imaginary line 30 metres south of and parallel to an imaginary line formed by the prolongation of the southern boundary of allotment 22 Filed Plan 321 across the road;
- (b) the portion of John Watson Drive, Mount Gambier that lies between an imaginary line formed by the prolongation of the northern boundary of section 415, Hundred of Blanche, across the road and an imaginary line formed by the prolongation of the northern-most boundary of section 414, corporation reserve, Hundred of Blanche across the road;
- (c) the portion of Road Number 6604 Ocean Boulevard, City of Marion that lies between an imaginary line formed by the prolongation of the northern boundary of Majors Road across the road, and an imaginary line formed by the prolongation of the eastern boundary of Brighton Road across the road.

64A—Electric personal transporters

(1) An electric personal transporter or the driver, owner, operator or manufacturer of an electric personal transporter (as the case requires) is exempt from—

- (a) section 45 of the Act; and
- (b) the provisions of Parts 3A, 4 (Divisions 1 to 4, inclusive) and 4A of the Act; and
- (c) regulation 54 of these regulations,

insofar as those provisions are applicable to such a vehicle or person.

(2) In this regulation—

electric personal transporter means a vehicle that—

- (a) has 1 or more wheels; and
- (b) is propelled by 1 or more electric motors; and
- (c) is designed for use by a single person only; and
- (d) has an effective stopping system controlled by using brakes, gears or motor control; and
- (e) is not more than—
 - (i) 1 250mm in length, 700mm in width and 1 350mm in height; or
 - (ii) 700mm in length, 1 250mm in width and 1 350mm in height; and
- (f) weighs 60 kilograms or less when the vehicle is not carrying a person or other load; and
- (g) has no sharp protrusions; and
- (h) is not—
 - (i) a bicycle; or

- (ii) a motorised wheelchair.

Note—

It is an offence to drive an electric personal transporter on a road without the approval of the Minister—see section 161A of the Act and regulation 48 of these regulations.

65—Prohibition on towing more than 1 vehicle

- (1) Subject to this regulation, a light motor vehicle towing more than 1 vehicle must not be driven on a road.
- (2) If a light motor vehicle is driven in contravention of subregulation (1), the driver and the owner and the operator of the motor vehicle are each guilty of an offence.
Maximum penalty: \$2 500.
- (3) Subregulation (1) does not apply to a tractor towing 2 vehicles.

66—Prohibition on parking in certain public places

- (1) A person must not park a vehicle (other than a bicycle) in a public place owned by or under the care, control or management of a council or parking authority except in an area specifically set aside for parking by the council or parking authority.
Maximum penalty: \$1 250.
- (2) In this regulation—

parking authority means a road authority (other than the Commissioner of Highways or a council) that has the care, control or management of a road on, above or near which the road authority has, with the approval of the Minister under section 17 of the Act, installed, maintained, altered or operated, or caused to be installed, maintained, altered or operated, traffic control devices for the purposes of Part 12 of the *Australian Road Rules* (Restrictions on stopping and parking).

67—Prohibition on fishing etc from certain bridges

- (1) The Minister may, if of the opinion that it is appropriate to do so in the interests of road safety, by notice in the Gazette, prohibit fishing or other specified activities from a specified bridge or causeway.
- (2) The Minister may, by notice in the Gazette, vary or revoke a notice under this regulation.
- (3) A person must not contravene a notice under this regulation.
Maximum penalty: \$750.

68—Prohibition on dogs on certain bicycle paths

- (1) A person who owns or has possession or control of a dog must ensure that the dog does not enter or remain on a bicycle path to which this regulation applies.
Maximum penalty: \$750.
- (2) In proceedings for an offence of contravening subregulation (1), an allegation in the complaint that a specified person was the owner or had possession or control of a specified dog at a specified time will be accepted as proved in the absence of proof to the contrary.