

ITEM NUMBER: 18.1

CONFIDENTIAL REPORT

ADJOURNED REPORT – HOARDING FEE RELIEF

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:

- d. commercial information of a confidential nature (not being a trade secret) the disclosure of which –
 - i. could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - ii. would, on balance, be contrary to the public interest

Recommendation – Exclusion of the Public – Section 90(3)(d) 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: 291/25 Adjourned Report - Hoarding Fee Relief in confidence.
 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 291/25 Adjourned Report – Hoarding Fee Relief on the following grounds:
 - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.
 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.
-

Item No: 18.1

Subject: **ADJOURNED REPORT – HOARDING FEE RELIEF**

Summary

At its meeting held on 26 August 2025, Council resolved to adjourn Report No: 273/25 Hoarding Fee Relief to the next meeting to clarify wording in the report in relation to the circumstances under which Lucy Commercial was provided with hoarding fee relief.

Council needs to determine the outcome of the adjourned motion from the meeting held on 26 August 2025 before any new motion can be considered, with the debate to commence at the point of interruption. Councillors Lonie, Patton, Snewin, Bradshaw and Smedley spoke to the motion. Councillor Lonie has the right of reply as the mover.

Motion

From Council meeting 26 August 2025:

That Council:

1. **revokes the confidentiality order and releases the report, attachment and minutes related to Report No: 98/25 – Hoarding Fee Relief Request;**
2. **considers all future requests for fee relief from commercial developers in the public agenda; and**
3. **includes in Council's Annual Report the total value of relief provided and impact on the Council Operating Budget for that year.**

Recommendation

That Council:

1. **revokes the confidentiality order and releases the report, attachment and minutes related to Report No: 98/25 – Hoarding Fee Relief Request;**
 2. **considers all future requests for fee relief from commercial developers in the public agenda; and**
 3. **includes in Council's Annual Report the total value of relief provided and impact on the Council Operating Budget for that year.**
-

Background

At its meeting on 22 April 2025, Council considered, in confidence, a request from Lucy Commercial for a reduction in hoarding fees due to extenuating financial circumstances related to a development project at 19 St Johns Row, Glenelg. Attached to the report is the Council report for information.

Council, at its meeting on 26 August 2025, then considered a report to increase transparency around decision making and reporting in relation to hoarding fee relief applications from developers. Council resolved to adjourn Report No: 273/25 Hoarding Fee Relief to the next meeting to clarify wording in the report in relation to the circumstances under which Lucy Commercial was provided with hoarding fee relief.

Report

Council acceded to the request for the reduction in hoarding fees on the basis that an administrative error was made through the adoption of a new fee structure which significantly increased the applicable hoarding fee.

While Lucy Commercial had outlined other reasons, including financial hardship, in their application, the decision was ultimately based on the administrative error. This was reflected in the original report of 22 April 2025.

Budget

Not applicable

Life Cycle Costs

Not applicable

Strategic Plan

Statutory compliance

Council Policy

Code of Practice – Access to Meetings and Documents

Statutory Provisions

Local Government Act 1999, section 90

Written By: Chief Executive Officer

Chief Executive Officer: Ms P Jackson

Attachment 1

ITEM NUMBER: 18.1

CONFIDENTIAL REPORT

HOARDING FEE RELIEF

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:

- d. commercial information of a confidential nature (not being a trade secret) the disclosure of which –
 - i. could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - ii. would, on balance, be contrary to the public interest.

Recommendation – Exclusion of the Public – Section 90(3)(d) 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: 273/25 Hoarding Fee Relief in confidence.
 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 273/25 Hoarding Fee Relief on the following grounds:
 - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.
 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.
-

Item No: 18.1

Subject: HOARDING FEE RELIEF

Summary

At its meeting on 22 April 2025, Council considered, in confidence, a request from Lucy Commercial for a reduction in hoarding fees due to extenuating financial circumstances related to a development project at 19 St Johns Row, Glenelg.

Council acceded to that request and made the order under section 91(7) of the *Local Government Act 1999* to retain the information in confidence.

It is now recommended that the confidentiality order be revoked.

A request has been received from a resident for greater transparency in reporting and decision making in relation to hoarding fee relief applications from developers. This request has been considered by Administration and responses to each aspect of the request have been provided in this report.

Recommendation

That Council:

1. **revokes the confidentiality order and releases the report, attachment and minutes related to Report No: 98/25 – Hoarding Fee Relief Request;**
 2. **considers all future requests for fee relief from commercial developers in the public agenda; and**
 3. **includes in Council's Annual Report the total value of relief provided and impact on the Council Operating Budget for that year.**
-

Background

At its meeting on 22 April 2025, Council considered, in confidence, a request from Lucy Commercial for a reduction in hoarding fees due to extenuating financial circumstances related to a development project at 19 St Johns Row, Glenelg. Attached to the report is the Council report for information.

Refer Attachment 1

Council acceded to the request and provided relief for a period of six months ending on 31 August 2025, to the value of \$66,805.28.

At the Council meeting on 24 June 2025, Councillor Miller asked a question on notice in relation to the value of subsidies and fee reliefs provided to developers over the past decade in the City of Holdfast Bay.

Whilst the majority of the information requested was able to be provided, the fee relief provided to Lucy Commercial was unable to be disclosed due to the report, attachment and minutes of the original report being held in confidence.

Report

Following the meeting on 24 June, Councillor Miller received a letter from a resident requesting the confidential information relating to the fee relief provided to Lucy Commercial be disclosed due to the significant public interest in the matter, particularly in light of recent rate increases.

The current impediment to the request made for the immediate disclosure of the amount of the Lucy Commercial relief is that the information is subject to a confidentiality order under section 91(7) of the *Local Government Act 1999* (having been considered and determined under section 90(2) and (3)(d) of the LG Act). As there is no power delegated to the Chief Executive Officer to review and revoke the confidentiality order, the matter must be considered by Council.

Legal advice has been sought in regard to this request with the advice indicating, whilst it would be appropriate for commercial reasons, to discuss and to decide the matter in a confidential Council meeting, it would be difficult for the Council to justify the maintenance of the matter in confidence under section 91(7) of the LG Act. This advice is further reinforced by the fact that there are no evident reasons in either the Council report and/or the Council minutes which can be relied upon to objectively support the maintenance of the section 91(7) order.

It is therefore recommended that Council revokes the confidentiality order and releases the report, attachment and minutes relating to Report No: 98/25 – Hoarding Fee Relief Request.

The resident raised concerns with the disclosure of substantial rebates to developers to all ratepayers, highlighting the principle of transparency of local government decision making. In addition to the request for disclosure of the fee relief provided to Lucy Commercial, the resident is seeking Council:

1. provide full public reporting of future developer rebates and fee reductions;
2. provide a clear criteria when such rebates are appropriate and justified;
3. undertake community consultation before approving significant fee reduction;
4. provide annual reporting to ratepayers of the total value of rebates provided and their impact on Council finances;
5. alignment with Local Government Association guidelines on transparency and best practice in local government operations.

Consideration has been given to the requests from the resident. It is Administration's view it is reasonable for future reports tabled with Council in relation to fee relief to commercial developers are considered in public. Given the material nature of the amounts of relief being requested, it is appropriate these decisions are transparent.

In relation to decisions being made against a criteria, it is the view of Administration that a formalised criteria is not necessary. Reports to Council provide all relevant information required for Council to make a decision and justification for fee relief is provided based on the unique circumstances of the development. In the event Council does not believe it has all of the information available to them to make a decision, further information can be requested from Administration, a mechanism used by Council often.

With regard to the annual reporting to ratepayers, Administration believes there is merit in including reporting in the Annual Report of the fee relief provided to developers. Again, given the material nature of the amounts of relief requested, and at instances provided, Council does have an obligation to be transparent about the nature of the impact of the relief on the Council's budget. While hoarding fees are not budgeted for, due to the unpredictability of the revenue stream, any fee relief is a loss of potential revenue that Council should disclose.

In relation to community consultation, it is to be noted that such consultation is not subject to any statutory imperative either as part of public consultation policy requirements of the *Local Government Act 1999* or, as proposed, under the draft Community Engagement Charter.

Council could consider including such requests within its consultation policy, however this is not recommended. There are several reasons for this position including:

- it is an application by a third party, albeit in most instances likely to be a corporate third party in relation to financial dealings with the Council, being a process that would, fail to justify a consultation or engagement process. These considerations might be further articulated as confidentiality or, even, privacy concerns;
- information provided by an applicant is, at least in part, likely to entail consideration of personal and/or commercial, sensitive, confidential information, the essence of which should not be available as part of a consultation/engagement process. Indeed, it is likely to be information that, if considered at a Council meeting, would most likely be considered in confidence and redacted from any subsequent publication of the matter until it ceased to be of commercial value. This position does not, preclude that the report and minutes should be public given it involves a waiver of fees that would otherwise be payable to the Council if the associated project proceeded;
- it concerns a waiver of potential income and not an expenditure of actual income;
- it is part of the 'everyday' operational dealings/ administrative matters of council with third parties that does not warrant the financial and time commitment required to delay a decision pending a public process. It would be both detrimental to good business practice and, potentially, to both the Council and the applicant;
- it is an action that is not within the realm of the current draft Community Engagement Charter. It is not within any of the four categories of engagement (being Significant, Standard, Local or Inform(ative)) sufficient to invoke any mandatory engagement process, insofar as there is no immediate and obvious community impact that, objectively and reasonably, supports a consultation or engagement process;

- it is an operational matter that does not entail any actual expenditure of Council funds as set out in an adopted budget. There is, therefore, no cost-benefit imperative under consideration;
- given the nature of the matter is a proposition from a third-party in the form of an application for financial relief by way of non-payment or part-payment of a Council fee, there is no public policy reason for it to be delayed and to incur financial resources to test the views of the community;
- it would have the potential to have a considerable and negative impact upon both the Council and the third party proposing to undertake business in the council area and might even be considered as contrary to the Objects of the Local Government Act and role and functions of the Council; and
- there may, in certain applications, be an urgent consideration.

Budget

Not applicable

Life Cycle Costs

Not applicable

Strategic Plan

Statutory compliance

Council Policy

Code of Practice – Access to Meetings and Documents

Statutory Provisions

Local Government Act 1999, section 90

Written By: Chief Executive Officer

Chief Executive Officer: Ms P Jackson

Attachment 1

ADJOURNED REPORT

ITEM NUMBER: 18.1

CONFIDENTIAL REPORT

HOARDING FEE RELIEF REQUEST

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:

- d. commercial information of a confidential nature (not being a trade secret) the disclosure of which –
 - i. could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - ii. would, on balance, be contrary to the public interest.

Recommendation – Exclusion of the Public – Section 90(3)(d) 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: 98/25 Hoarding Fee Relief Request 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: 98/25 Hoarding Fee Relief Request on the following grounds:
 - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information in that the financial position of Lucy Commercial would be divulged.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.
 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.
-

Item No: 18.1

Subject: HOARDING FEE RELIEF REQUEST

Summary

At its meeting held on 27 October 2023 the State Commission Assessment Panel granted approval for the construction of a 13-level residential flat building containing 10 apartments, basement carparking and a rooftop terrace on land at 19 St Johns Row, Glenelg.

This report seeks Council's consideration of a reduction in hoarding fees for Lucy Commercial due to extenuating financial circumstances related to their ongoing development project at 19 St Johns Row, Glenelg.

Recommendation

1. **That Council accede to the request made by Lucy Commercial in communication dated 4 March 2025 for a reduction in the payment of hoarding fees associated with the multi-storey apartment development occurring at 19 St Johns Row, Glenelg on the basis that:**
 - a) **the hoarding fee payable to Council for the six-month period from 1 March 2025 to 31 August 2025 is \$66,805.28 (incl. GST); and**
 - b) **the fee reduction ends on 31 August 2025, after which time the hoarding fees payable shall be in line with Council's Fees and Charges schedule published at the time.**

RETAIN IN CONFIDENCE - Section 91(7) Order

2. **That having considered Agenda Item 18.1 98/25 Hoarding Fee Relief Request in confidence under section 90(2) and (3)(d) 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 12 months.**
-

Background

At its meeting held on 27 October 2023 the State Commission Assessment Panel granted approval for the construction of a 13-level residential flat building containing 10 apartments, basement carparking and a rooftop terrace on land at 19 St Johns Row, Glenelg. The development is currently under construction, requiring the placement of hoardings and the decommissioning of street carparking along St Johns Row, the estimated cost of which is \$10,000 per month. This estimate was calculated by Council Administration and subsequently used as the basis for the contractual agreement between the site owner and Lucy Commercial, who have been engaged to undertake the construction.

Lucy Commercial has now made a formal request to have these fees reduced for reasons outlined in the body of this report. It should be noted that a similar dispensation from the payment of hoarding fees was also granted by Council at its meeting held on 12 October 2021 (Resolution No. C121021/2517) to the Taplin Group's hotel and retail development located on the corner of Jetty Road and Colley Terrace, Glenelg, and by resolution on 25 January 2022 (Resolution No. C250122/2532) to the Karidis Corporation for its construction of the Avista Retirement Apartments on Durham Street, occurring immediately opposite the Taplin Group's development site.

Report

In 2024, Council adopted a new fee structure, which applies a charge of \$60 per day per unmarked parking space. An initial hoarding permit was issued in October 2024 to assist with site setup. As part of the approved Traffic Management Plan, Council requested the removal of several parking spaces to accommodate traffic flow, improve neighbouring property access, and ensure uninterrupted waste collection services. These removed spaces were initially charged at the standard road occupation rate, rather than the updated parking space rate.

Due to an administrative oversight, this discrepancy was not corrected until February 2025, at which time Lucy Commercial was formally notified that the fees would be adjusted to the correct rate of \$60 per space per day, effectively doubling the monthly hoarding fee to approximately \$19,000 per month rather than the previous estimate of \$10,000. Lucy Commercial has since written to Council advising that this increase was not budgeted for and has formally requested a concession on the hoarding fees, as provided in Attachment 1 of this report.

Refer Attachment 1

The unexpected cost of the hoarding is exacerbated by extenuating circumstances affecting the construction project, as outlined below:

1. **Unexpected De-watering Costs:**
Lucy Commercial encountered significant unanticipated costs due to a mismatch between the forecasted and actual site water yield. While the environmental report estimated 0.2 litres per second, the actual yield was 3.0 litres per second, resulting in considerable additional de-watering costs.
2. **Licence Over Sail Negotiations and Legal Expenses:**
Further financial strain has resulted from negotiations with neighbouring property owners regarding tower crane over sail agreements, which included paying for dilapidation reports, legal fees for multiple parties, and the company's own legal representation.
3. **Neighbour Compensation Requests:**
Some neighbouring properties have also requested weekly compensation payments due to the presence of the tower crane above their land, placing additional financial stress on the project.
4. **Construction Cost Escalations:**
Like many businesses in the sector, Lucy Commercial has faced significant labour and material cost increases, further impacting the project's budget.

Cost pressures aside, additional considerations lending support to a hoarding fee reduction include:

- The parking space removals were implemented at the request of council to benefit local residents and ensure service access.
- Lucy Commercial has consistently demonstrated full compliance with all council permit conditions and has engaged constructively with council officers throughout the project.
- All hoarding-related fees have been paid in full and on time up to this point.
- Lucy Commercial is a local, family-run business and an active contributor to the Holdfast Bay community.
- Enforcing the full hoarding fees at the updated rate poses a risk to the financial stability of Lucy Commercial, potentially resulting in an incomplete project and negative impacts on the surrounding community.

Having consideration for the extenuating circumstances involved and the cost estimates that were originally offered to the developer at the time, it is recommended that there are sufficient grounds to accede to the request by Lucy Commercial a reduction to the quantum of hoarding fees otherwise payable based on the Council's schedule of Fees and Charges.

Budget

The hoarding fee payable to Council for the six-month period from 1 March 2025 to 31 August 2025 is \$66,805.28 (including GST). This amount reflects a reduction of \$49,665.28 from the original fee of \$116,470.56.

Life Cycle Costs

There are no life cycle costs associated with this report.

Strategic Plan

Holdfast 2050+ Vision: Protecting our heritage and beautiful coast.

Council Policy

Hoarding, Scaffolding or Other Equipment and Damage Policy

Statutory Provisions

Local Government Act 1999, sections 188 and 221

Written By: Development Engineer

A/General Manager: Assets and Delivery, Mr B Blyth

Attachment 1

ADJOURNED REPORT

From: [Sarah Farcut-Young](#)
To: [Holdfast Mail](#)
Cc: [Florin Lucy Commercial](#)
Subject: Confidential - Exemption Request Lucy Commercial
Date: Tuesday, 4 March 2025 2:58:48 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
Importance: High
Sensitivity: Confidential

Caution: This Email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender or know the content is safe.

Dear City of Holdfast Bay CEO,

I hope this email finds you well. I am writing to formally request an exemption from hoarding permit fees for our current project at 19 St Johns Row, Glenelg which was awarded to us late last year.

As a local Holdfast Bay based, family-run building business, we take great pride in contributing to the community where we also reside. However, we recently encountered an unexpected financial challenge. Our contract with the client does not allow us to pass on council permit fees, and unfortunately, we did not anticipate the significant cost of the hoarding fees when preparing our agreement. The invoices received over the past three months have already exceeded our contractual allowance for permits, and moving forward, these fees are being paid directly from our own funds, putting a strain on our business operations.

We acknowledge that different councils have varying fee structures, and in this instance, we overlooked the difference when budgeting for this project. While this was an oversight on our part, we did not anticipate the significant cost difference, which has now placed unexpected financial pressure on our business. Additionally, the increase in fees since the inception of our application has added further stress, making it even more challenging to manage this expense. Given these circumstances, we kindly seek your consideration for an exemption or part exemption from these hoarding permit fees. This would provide significant relief and allow us to continue operating sustainably within the Holdfast Bay community.

We truly believe this project is a landmark and will contribute to the street scape of St Johns Row, the Esplanade and wider coastal look. There will be a four level carpark available for visitors and residences, which can take some pressure of the current street parking.

We greatly appreciate your time and understanding and would appreciate the opportunity to discuss this matter further at your earliest convenience.

Thank you for your consideration.

Kind Regards,



Sarah Farcut-Young

Finance & Estimating

www.lucycommercial.com.au



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T: 08 7324 0956

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Entrance via Scott Street