

**Confidential Minutes of the Ordinary Meeting of Council of the City of Holdfast Bay held in the Council Chamber, Glenelg Town Hall, Moseley Square, Glenelg, on Tuesday 25 July 2023.**

**18. ITEMS IN CONFIDENCE**

**18.1 Somerton Surf Life Saving Club Restaurant and Function Centre Sub-Lease  
(Report No: 238/23)**

**Motion - Exclusion of the Public – Section 90(3)(b&d) Order C250723/7503**

- 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: 238/23 Somerton SLSC Restaurant and Function Centre Sub-Lease of 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: 238/23 Somerton SLSC Restaurant and Function Centre Sub-Lease on the following grounds:**
  - b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would prejudice the commercial position of the Council.**
  - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.**

**In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.**

- 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.**

Moved Councillor Miller, Seconded Councillor Abley

**Carried Unanimously**

The Somerton Surf Lifesaving Club (the Club) has a lease over the Somerton Surf Lifesaving Club building for a term of 21 years expiring on 6 December 2026 (Head Lease). Pursuant to Clause 5 of the Head Lease, the Club is entitled to sub-lease areas within the building to third parties, on the proviso that Council consent to the terms and conditions. Following the granting of planning consent for a change of land use for the first floor of the building, subsequent negotiations led to Council granting consent for the establishment of a sub-lease for a third-party to operate the restaurant and function centre for a limited term of one (1) year, which is due to expire on 27 October 2023. This report seeks a decision from Council on whether to grant a new sub-lease, and if so, on what terms.

**Motion**

**C250723/7504**

**That Council:**

1. **approves a sub-lease between the Somerton Surf Lifesaving Club Inc (as Sub-Lessor) and Gambell & Sutton Pty Ltd (as the Sub-Lessee) for a restaurant and function centre for the first floor of the building on the following terms:**
  - **term: three (3) years and forty (40) days from 27 October 2023 until 6 December 2026, being commensurate with the expiry of the Head Lease for the Somerton Surf Life Saving Club facility;**
  - **renewal: option for one renewal only, limited to two years (providing the Head Lease is renewed beyond 6 December 2026)**
  - **sub-lease area: delineated in red on the plan annexed hereto as Attachment 1 being approximately 402m<sup>2</sup>;**
  - **trading hours established by the City of Holdfast Bay Council Assessment Panel in decision notice 21029363, being:**
    - Monday - Closed**
    - Tuesday – Closed**
    - Wednesday – 11am to 10pm**
    - Thursday – 11am to 10pm**
    - Friday – 11am to Midnight**
    - Saturday – 11am to Midnight**
    - Sunday – 11am to 10pm**
    - Public Holidays – Relative to day above**
  - **commencing rent payable to the Sub-Lessor: \$75,000 per annum excluding GST to be reviewed annually in accordance with movements in CPI (Adelaide All-Groups) subject to:**

- a) payment of \$22,500 per annum excluding GST by the Club to Council from the date of the sub-lease being executed to be reviewed annually in accordance with movements in CPI (Adelaide All-Groups); and
  - b) an adjustment made to the Head Lease commensurate with the execution of the sub-lease to include the restaurant and function centre use and new Head Lease rent payment to Council.
2. authorises the Mayor and Chief Executive Officer to execute and seal any documents required to give effect to this sub-lease.

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

3. Having considered Agenda Item 18.1 Somerton Surf Life Saving Club Restaurant and Function Centre Sub-Lease (Report No: 238/23) in confidence under Section 90(2), 90(3)(b) and 90(3)(d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, attachments and minutes be retained in confidence for a period of 24 months with the Chief Executive Officer authorised to release the documents on the expiry of the 24 month confidentiality period.

Moved Councillor Abley, Seconded Councillor Smedley

**Division Called**

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

Those voting for: Councillors Patton, Kane, Abley, Snewin, Venning, Lonie, Lindop, Miller, O'Donohue, Smedley (10)

Those voting against: Councillor Bradshaw (1)

The Mayor declared the motion

**Carried**