

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 13 August 2013 at 7:00pm.

MEMBERS PRESENT

His Worship the Mayor, AK Rollond
Deputy Mayor, RA Clancy
Councillor RM Bouchée
Councillor KM Donaldson
Councillor LR Fisk
Councillor JD Huckstepp
Councillor SC Lonie
Councillor TD Looker
Councillor S Patterson
Councillor RC Patton
Councillor AP Roe
Councillor LJ Yates

STAFF IN ATTENDANCE

Chief Executive Officer - JP Lynch
Acting General Manager City Assets – K O’Neill
General Manager City Services – RA Cooper
General Manager Corporate Services - IS Walker
Manager Organisational Sustainability – PE Aukett

1. OPENING

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

2. KAURNA ACKNOWLEDGEMENT

With the opening of the meeting His Worship the Mayor stated:
We acknowledge Kaurna people as the traditional owners and custodians of this land.

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

3. PRAYER

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

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

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

4. APOLOGIES

4.1 Apologies Received - Councillor PW Dixon

4.2 Absent - Nil

5. ITEMS PRESENTED TO COUNCIL - Nil

6. DECLARATION OF INTEREST

Members were reminded to declare their interest before each item.

7. CONFIRMATION OF MINUTES

Motion

C130813/977

That the minutes of the Ordinary Meeting of Council held on 23 July 2013 be taken as read and confirmed.

Moved by Councillor Huckstepp, Seconded by Councillor Yates

Carried

8. QUESTIONS BY MEMBERS

8.1 Without Notice

8.1.1 Recording of the Brighton Caravan Park Permanent Residents Public Meeting – Councillor Bouchee

Councillor Bouchee asked a question regarding the transcript provided in the question on notice.

The CEO provided a response

8.1.2 Brighton Caravan Park – Mayor Rollond

8.2.1.1 The Deputy Mayor has now issued two media releases since the last meeting. The first prior to the Public Meeting at Seacliff Surf Life Saving Club on 30 July 2012 and the second at 6.00pm on Friday 9 August 2013 regarding the meeting of the Permanent Residents at the Caravan Park. Has Administration decided it will pick and choose amongst elected members who will be spokesperson to support the issue at hand?

The Chief Executive Officer, Mr J Lynch provided a response.

8.1.2.2 Councillor Clancy was not at the meeting on Friday night and I was – why was her phone number issued to the media to comment on the meeting and not me?

The General Manager City Services, Ms R Cooper provided a response.

- 8.1.2.3 Media Release "From our perspective the workshop was highly productive". There were at least two other people present apart from 2 Council employees – why weren't their opinions included?

The General Manager City Services, Ms R Cooper provided a response.

- 8.1.2.4 Media Release "Put forward some options for relocation". What were those options that were not known?

The Manager Organisational Sustainability, Ms T Aukett provided a response.

- 8.1.2.5 Media Release "It's about making the Park viable again." Does the CEO suggest that the current income from the Park of approximately \$700,000 is not viable and are you aware that Caravan Parks in Christies Beach and Noarlunga make losses?

The Chief Executive Officer, Mr J Lynch provided a response.

- 8.1.2.6 Has the CEO seen the media release from Dr Alice Clark, Executive Director, Shelter SA. Who was at the meeting on 9 August 2013?

The Chief Executive Officer, Mr J Lynch provided a response.

- 8.1.2.7 I quote "Dr Clark summarised this situation is intolerable, undemocratic and insulting to all of the Holdfast Bay population." How does the CEO reconcile these opposing views, one from a Councillor who wasn't present and one from the head of a reputable caring organisation?

The Chief Executive Officer, Mr J Lynch provided a response.

- 8.1.2.8 The Handbook for Council Members states " The Presiding Member may rule that a question with or without notice may not be answered if the Presiding Member considers that the question is vague, irrelevant, insulting or improper." Why did the CEO not refer the next question on the agenda to me to assess if the question and answer conformed to the legislation?

The Chief Executive Officer, Mr J Lynch provided a response.

- 8.1.2.9 Has the CEO seen the latest email today from a Councillor and I quote" Sadly those supporters are cruelly providing false hope to vulnerable people and doing them a great injustice." Does the CEO now concede that Court ation is

inevitable unless you advise the Councillors to consider mediation thereby saving the ratepayers and the residents possibly hundreds of thousands of dollars?

The Chief Executive Officer, Mr J Lynch provided a response.

8.1.2.10 Does the CEO condone/encourage secret taping of public meetings from now on without advising the speaker?

The Chief Executive Officer, Mr J Lynch provided a response.

8.1.2.11 Is it worth investigating who recorded the meeting?

The Chief Executive Officer, Mr J Lynch provided a response.

8.1.3 Caravan Park Residents Workshop – Friday 9 August 2013 – Councillor Donaldson

Councillor Donaldson asked a question regarding the invitees to the Workshop with Caravan Park Residents.

His Worship the Mayor provided a response

8.1.4 Emailed Answer to Question on Cinema Proposal – Councillor Bouchee

Motion

C130813/979

That the emailed answer to the Question regarding the Specific Financial Benefits and Negatives be included in the minutes

Moved by Councillor Bouchee, Seconded by Councillor Fisk

Carried

At the last Council meeting on 23 July 2013, Councillor Bouchee asked the following question:

“Could the CEO please outlay the details of the specific financial benefits and negatives (including potential cash flows) to the Residents/Ratepayers of the Taplin’s Cinema Proposal?”

The Prudential Report accepted by Council at its meeting on 10 July 2012 contained financial implications including cashflow and operating result. The following tables replicate the Prudential Report adjusted for timing (assuming construction occurs and Council’s contribution is made in Year 1). The first table shows the impact on cashflow and the second on the operating result. Following the tables is an explanation of the assumptions used in the Prudential Report. It is important to note that these are estimates based on prevailing assumptions and subject to detailed information in relation to timing of construction, building costs and car-park operating regimes.

	Year 1	Year 2	Year 3
TABLE 1: CASHFLOW			
1. Additional general rate revenue	0	67,000	67,000
2. Additional Jetty Road separate rate	0	27,000	27,000
3. Loss of car-park revenue	(62,000)	(62,000)	(62,000)
4. Operating & maintenance	0	(20,000)	(20,000)
5. Council contribution to carpark	(2,500,000)	0	0
6. Cost of capital	0	(100,000)	(100,000)
INCREASE/(DECREASE)	(2,562,000)	(88,000)	(88,000)

	Year 1	Year 2	Year 3
TABLE 2: OPERATING RESULT			
1. Additional general rate revenue	0	67,000	67,000
2. Additional Jetty Road separate rate	0	27,000	27,000
3. Loss of car-park revenue	(62,000)	(62,000)	(62,000)
4. Operating & maintenance	0	(20,000)	(20,000)
6. Cost of capital	0	(100,000)	(100,000)
7. Depreciation	0	(80,000)	(80,000)
INCREASE/(DECREASE)	(62,000)	(168,000)	(168,000)

Explanations:

1. **Additional general rate revenue:** Estimated as \$67,000 pa in the Prudential Report assuming a capital value for the cinema complex of around \$18 million and applying 2012/13 rates-in-the-dollar for commercial properties. The current rate-in-the-dollar has not increased significantly and we do not know what the construction cost of the cinema will be, nor its resultant capital value for rating purposes. As a result, the estimate in the Prudential Report has not been changed. The proposed cinema development will not be rateable until completed (assumed for this purpose to be Year 2).
2. **Additional separate rate revenue:** Estimated at \$27,000 pa in the Prudential Report assuming that Council increases the aggregate revenue raised from the Jetty Road separate rate to include the new cinema complex. In past years, Council has set a revenue target for the separate rate without explicitly increasing it for new developments. This will be a decision of Council and, accordingly, the estimate in the Prudential Report has not been changed.

3. **Loss of car-park revenue:** The Prudential Report noted revenue from both the Western and Eastern Sites was \$124,000. This has not materially changed since then. The Prudential Report also assumed that Council would receive no revenue from either Site for a period of 12 months during construction. This is a conservative assumption as the proposed HOA requires Taplin to minimize disruption, however it is recognized that both Sites will be simultaneously closed for part of the construction period (although this is not expected to be for a period of 12 months). Following construction, the Prudential Report assumed Council's revenue would be reduced by 50% due to the 4-hours free parking for cinema patrons. Council has not determined whether the 4-hours free parking would extend to all users. For this exercise, it is assumed that Council's revenue will be reduced by 50% during and following construction.
4. **Operating & maintenance:** The estimate of \$20,000 pa in the Prudential Report may be optimistic but is subject to Council's decision on the operating regime for the car-parks, including whether to extend 4-hours free parking to all users, whether to install boom gates, payment kiosks or other technology. Accordingly, this assumption has not been changed.
5. **Council contribution to decked carpark:** The proposed HOA limits Council's contribution to \$2.5 million, payable at the 'back end' of construction following Taplin's commitment. Council's contribution is in the nature of capital and does not on its own affect the operating statement.
6. **Cost of capital:** The Prudential Report assumed Council's contribution of \$2.5 million would largely be funded from the \$2.1 million in Council's Glenelg Access Strategy Reserve Fund at a 4% cost of capital (ie. Loss of interest earned). Whilst interest rates have decreased since July 2012, the market may change by the time Council makes its contribution.
7. **Depreciation:** The Prudential Report estimated the cost of the decked car-park on the Eastern Site to be owned by Council at \$4 million with a 50 year life, resulting in an annual depreciation charge of \$80,000. In the absence of a construction contract, this assumption has not been changed. Depreciation is a non-cash an annual charge in the operating statement.

8.2.1 **Question with Notice – Brighton Caravan Park Public Meeting – City of Brighton Arrangements– Councillor Looker (Report No: 279/13)**

His Worship the Mayor, Dr AK Rollond ruled that this question was an incorrect transcript and asked for it to be removed from the Minutes

Motion

That Council overturns the ruling made by the Mayor regarding the Question on Notice presented in Report No: 279/13.

Moved by Councillor Looker, Seconded by Councillor Clancy

Lost

8.2.2 **Questions With Notice – Glenelg Cinema Development – Councillor Bouchee (Report No: 275/13)**

Councillor Bouchee asked the following questions:

1. ***Could the Chief Executive Officer please provide council with shadow plans for the Taplin cinema development for the dates 1 March, 1 June and 1 September prior to any further discussions.?***
2. ***Could the Chief Executive Officer please advise the total measurement of land on the ground level of the Cowper/Milton Street car park which may be owned and or controlled by Mr Taplin in relation to the cinema development...i.e. base of lift/fire exit stairs/ohs requirements for a cinema.***
3. ***Could the Chief Executive Officer please advise where the proposed truck deliveries will take place for the cinema.....due to the height restriction of the ground level car park.***
4. ***Could the Chief Executive Officer advise the proposed operating hours of the cinema on Partridge Street.***
5. ***Could the Chief Executive Officer advise how I the “cheap as chips” large truck make it’s deliveries...they already have issues in the layout..?***
6. ***Could the Chief Executive Officer advise the height of the cinema including the air conditioning and other infrastructure.***
7. ***Could the Chief Executive Officer advise the operating noise level of the proposed air conditioning for the cinema***

ANSWER – Manager Organisational Sustainability

1. Preliminary shadow diagrams for the Western (Cinema) Site only were provided by the Taplin Group and have been included in Report Number 252/13 on the proposed Heads of Agreement forming part of these Agenda papers. These preliminary diagrams cover both the Winter solstice in June and Summer solstice in December for morning, midday and afternoon but will require further refinement. It is possible that these plans could also change following the independent design review by the Office for Design and Architecture SA.

The Taplin Group has advised that final shadow diagrams will be provided to Council for information purposes only as part of the planning assessment process and this has been confirmed in the proposed Agreement.

2. While rights (e.g. access and support) for the first floor cinema will need to be considered and detailed in the future community title plans, the latest Concept Plans suggest that stairs, travelators, lifts and services (but excluding supports) could occupy around 200m² of the ground floor level, or almost 5% of the site area (based on a total land area of some 4275m² as per the 2012 valuation report). This may, however, be subject to change as part of final plans and specifications and community title arrangements.

Importantly, as contemplated by the proposed Heads of Agreement, inclusion of these services as part of the lots to be owned by the Taplin Group will remove any obligation on Council to contribute financially to maintenance, repair or replacement of this infrastructure.

3. While it is understood that traffic management issues are still being worked through by the Taplin Group as part of the traffic management report and will need to be considered as part of the planning assessment process, a review of the Concept Plans suggests that deliveries would most likely occur from Cowper/Milton Street in proximity to lifts and services, similar to other commercial premises fronting Jetty Road. This will, however, need to be confirmed by the traffic management report that will be provided to Council for information as part of the planning assessment process.
4. Details such as the operating hours for the cinema will form part of the planning application for the cinema and are not yet confirmed.
5. While it is understood that the building occupied by Cheap as Chips has a rear (eastern side) roller door accessible from Newman's land, it is likely that they accept some deliveries from the southern entrance adjacent Council's at-grade carpark where some loading spaces currently exist.

Delivery and service arrangements will, however, need to be considered as part of the traffic management plan being prepared by the Taplin Group and included in discussions with the owner/operator of the Cheap as Chips site, which will need to be led by the Taplin Group as contemplated in the proposed Heads of Agreement. The traffic management plan will form part of the planning assessment and a copy will be provided to Council for information under the Agreement.

6. The latest Concept Plans which form part of the proposed Heads of Agreement suggest that the eastern section of the cinema fronting Partridge Street will be approximately 13.2 metres high, while the western section (west of Cowper Street) will be approximately 9.3 metres high.

While the proposed Heads of Agreement will allow service infrastructure necessary to carry out the business function of the cinema to exceed this height (by up to a further 5 metres), the Concept Plan only shows service infrastructure to a height of approximately 1.5 metres above the top-most part of each section of the building at this stage (partially screened by a parapet), which is likely to form part of the air-conditioning infrastructure. Other potential service infrastructure has not yet been confirmed but could, for example, include masts/transmission equipment for live broadcasts. Third party infrastructure that does align with the business use of the building would not be appropriate.

It is likely that service infrastructure will be required to be screened and impacts minimised as much as practical (particularly when viewed from the street, adjacent properties and public areas) as part of any future planning approval for the building.

7. Noise from air-conditioning units and other impacts on adjacent properties from the proposed development will be considered as part of the planning assessment process when more detailed plans are submitted.

While the Development Assessment Commission is likely to be the relevant planning authority in this instance, Council's Development Assessment Unit would usually require compliance with the EPA's *Environment Protection (Noise) Policy 2007* for commercial air-conditioning units and submission of a post construction noise assessment report to confirm compliance with these noise standards.

9. MEMBER'S ACTIVITY REPORTS

9.1 **Members Activity Report – Murray Darling Association – Councillor Yates**
(Report No: 276/13)

Presented for the information of Members is an activity report relating to my activities as a Council Representative on the Murray Darling Association

9.2 **Mayor's Activity Report – May 2013 – July 2013** (Report No: 271/13)

Presented for the information of Members is the Activity Report for the Mayor for May 2013 – July 2013.

Motion

C130813/980

That the Mayor's Activity Report for May 2013 – July 2013 report be received and noted.

Moved Councillor Bouchee, Seconded Councillor Yates

Carried

9.3 **Patwatch Meeting**

Councillor Fisk reported that he and Councillors Looker, Patton and Yates attended the Patwatch meeting.

9.4 **Norman Waterhouse Lawyers Annual Conference**

Councillor Looker reported that he attended full day Norman Waterhouse Lawyers conference for Local Government.

9.5 **St Mary's Memorial School**

Councillor Patton reported that he addressed the St Mary's Memorial School 4 and 5 year old students.

10. PUBLIC PRESENTATIONS

10.1 **Petitions**

10.2 **Presentation**

10.2.1 **BikeSA**

Mr Michael Bridge, General Manager BikeSA made a presentation to Council for 5 minutes on Adelaide City Bikes in the City of Holdfast Bay region.

Councillor Bouchee left the chamber at 7.24pm.

Councillor Huckstepp left the chamber at 7.24pm.

Councillor Bouchee rejoined the chamber at 7.25pm.

Councillor Huckstepp rejoined the chamber at 7.26pm.

10.3 Deputations

10.3.1 Free Bike Hire Program

Mayor Rollond approved a five minute deputation from Steve Bland from the Glenelg Holiday Group regarding Free Bike Hire Program.

Councillor Donaldson left the chamber at 7.43pm.

Councillor Donaldson rejoined the chamber at 7.44pm.

11. MOTIONS ON NOTICE

11.1 Motion on Notice – Frequency of Meetings– Councillor Looker (Report No: 267/13)

Motion

That prior to the setting of the council meeting program for 2014 administration prepare a report exploring options regarding the frequency of council meetings.

Moved Councillor Looker, Seconded Councillor Patterson

Lost

BACKGROUND

Council has a schedule that arranges twice monthly meetings and 24 meetings a year. Meetings involve significant organisation and some expense and it may be that a schedule involving less meetings will still enable council business to be conducted efficiently. Should fewer meetings be decided then Council may be able to use the time to increase the workshop schedule to enable deeper exploration of relevant issues in a manner not possible in a formal council meeting. For urgent matters there is always the option of a 'special meeting'. We may decide that status quo is fine but it is appropriate we review how we function to seek efficiencies and improvements.

12. ADJOURNED MATTER - Nil

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

14. REPORTS BY OFFICERS

14.1 Items in Brief (Report No: 260/13)

These items are presented for the information of Members.

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

Motion

C130813/981

That the report be noted and items of interest discussed.

Moved Councillor Bouchee, Seconded Councillor Yates

Carried**14.2 Free Bike Hire – Trial Program (Report No: 272/13)**

This report provides updated information to Council of a proposal from Bike SA to enter into an agreement to provide a free bike hire scheme. The program offers free unlimited bike hire to the public and supports strategies to reduce car use, improve health, wellbeing and mobility for residents, visitors and tourists. Whilst the program is highly commendable, it comes at a cost which is currently unfunded by Council.

Motion**That the report be adjourned for two meetings to allow for further information to be provided in the report regarding alternative providers.**

Moved by Councillor Patton, Seconded by Councillor Huckstepp

Lost**Motion****C130813/982****That the City of Holdfast Bay declines the free bike hire program.**

Moved Councillor Looker, Seconded Councillor Bouchee

Carried**14.3 Cinema and Car Park Proposal – Heads of Agreement (Report No: 252/13)**

The Taplin Group approached Council in early 2012 with an unsolicited proposal to construct a cinema complex above Council's at grade car park in Cowper/Milton Street and a deck car parking facility over Council's eastern Partridge Street carpark. Council subsequently resolved on 10 July 2012 to commence negotiations on a Heads of Agreement subject to broad objectives and commence a process for revocation of the community land status of the Cowper/Milton Street (Western) site to facilitate the proposed development of a cinema complex and car park on Council's land.

Negotiations on a Heads of Agreement have now concluded and a proposed agreement is presented to Council for consideration. The proposed Heads of Agreement reflects the terms under which the Taplin Group is prepared to continue the proposed development. There are some areas where the Heads of Agreement does not meet all the broad objectives of Council's 10 July resolution. While every effort is being and will be made to manage Council's risk, there is always a degree of financial risk in any development project.

Therefore, upon considering the details of the proposed Heads of Agreement, Council is asked to either proceed or not proceed with the

proposed development by entering into or not entering into the Agreement.

Ministerial approval to revoke community land has also been granted following public consultation and is subject to Council's final endorsement.

Motion

Council resolves Option 1 – to commit to the proposed development by entering into the Heads of Agreement with the Taplin Group, attached to this Report (as per the detailed recommendation below):

Option 1 . Council resolves:

1. **Having received approval from the Minister by way of letter dated 19 February 2013, to revoke the community land classification of the whole of the land comprised in Certificates of Title Volume 5117 Folio 402, Volume 5123 Folio 173, Volume 5123 Folio 219, Volume 5324 Folio 96, Volume 5402 Folio 363, Volume 5402 Folio 364, Volume 5651 Folio 969, Volume 5853 Folio 854, Volume 5397 Folio 315, Volume 5397 Folio 316 and Volume 5397 Folio 317 (Western Site).**
2. **To act outside its policies for contracts and tenders under Section 49 of the Local Government Act 1999 in relation to the sale or disposal of land or assets and the procurement of services by engaging directly with Taplin Management Pty Ltd and/or nominees (Taplin) in relation to the transfer of two Torrens titles to be created in air above the Western Site to Taplin and the construction of two Council car parks by Taplin on the Western (Cinema) Site and on that land comprised in Certificates of Title Volume 5840 Folios 214 and 215, Volume 5555 Folio 121 and Volume 5864 Folio 948 (Eastern Site) for the following reasons:**
 - 2.1 **Taplin approached Council with a unique proposal for the use of the land, which would be mutually beneficial. This proposal included a cinema which would not be achieved if Council simply engaged a contractor to build a car park.**
 - 2.2 **Taplin has proven skills and experience in similar developments, including the development of the multi-screen complex at Mitcham Shopping Centre**
 - 2.3 **Taplin has a proven interest in and commitment to, the greater Glenelg precinct being a major business and land holder in the area, and has recently successfully developed the Bay Junction retail centre**
 - 2.4 **Taplin's business interests provided reassurance that the proposal will be completed**
 - 2.5 **The costs per additional car park space in Taplin's proposed development were less than if Council proceeded on its own (noting the report from Walter Brooke).**

- 3. To enter into a heads of agreement with Taplin substantially in the form of the draft heads of agreement attached to the report to Council dated 13 August 2013 (HOA) and relating to the proposed cinema and car park development on the Western Site and the Eastern Site described in that report (Proposed Development) and authorises the Chief Executive Officer to make such minor changes to the HOA as the Chief Executive Officer deems necessary and appropriate to finalise the HOA for execution (including but not limited to inserting the relevant Taplin corporate entity details) and then to execute the HOA on behalf of Council.**
- 4. To authorise the Chief Executive Officer, subsequently to the execution of the HOA, to execute on behalf of the Council a development contract with Taplin on such terms and conditions as are determined by the Chief Executive Officer in negotiation with Taplin provided that such terms and conditions are consistent with the:**

 - 4.1. HOA;**
 - 4.2 Council Objectives and the Taplin Objectives (as set out in the HOA); and**
 - 4.3 Fundamental Terms (as set out in the HOA);**
- 5. To authorise the Chief Executive Officer (with the assistance of such technical expertise as he deems necessary or appropriate), on behalf of Council and in accordance with the HOA, to consider detailed design and construction plans and specifications for the Proposed Development prepared by Taplin as required by the HOA and, unless the Chief Executive Officer considers they are inconsistent with the Concept Plans and Design Principles (as attached to the HOA), approve such detailed design and construction plans and specifications and to consider and approve variations to the approved detailed design and construction plans and specifications throughout the planning and construction stages of the Proposed Development.**
- 6. Subject to execution of a development contract and satisfaction of the relevant conditions precedent in the development contract, to:**

 - 6.1 transfer two Torrens title lots in air to Taplin to construct the proposed cinema on the terms contemplated by the HOA;**
 - 6.2 authorise the Chief Executive Officer to approve such Lands Titles Office instruments or other documents as are required to effect the amalgamation of the titles on the Western Site, creation of the Torrens title allotments in air and the transfer of the Torrens title allotments to Taplin in accordance with the HOA and/or development contract;**
 - 6.3 authorise the Chief Executive Officer to sign any and all documents necessary to effect the amalgamation of the titles on the Western Site, creation of the Torrens title allotments in air and the transfer of the Torrens title**

- allotments to Taplin in accordance with the HOA and/or development contract; and
- 6.4 where the common seal of Council is required to be affixed to any such documents, authorise the Mayor and Chief Executive Officer to affix the common seal to such documents.
7. Subject to execution of a development contract and satisfaction of the relevant conditions precedent in the development contract, to:
- 7.1 authorise the Chief Executive Officer to approve such Lands Titles Office instruments or other documents as are required to create the community title division on the Western (Cinema) Site in accordance with the HOA and/or development contract;
- 7.2 authorise the Chief Executive Officer to sign any and all documents necessary to effect the community title division on the Western Site in accordance with the HOA and/or development contract; and
- 7.3 where the common seal of Council is required to be affixed to any such documents, authorise the Mayor and Chief Executive Officer to affix the common seal to such documents.
- 7.4 to authorise the Chief Executive Officer to execute on behalf of Council such other agreements or documents as may be required to effect the Proposed Development as contemplated by the HOA on terms considered appropriate by the Chief Executive Officer.

Moved Councillor Looker, Seconded Councillor Roe

Councillor Fisk spoke to the motion and asked the following questions of the Chief Executive Officer:

1. What is the valuation on the Cowper Street car park site as;
 - (a) Car park without community title
 - (b) Car park plus separable stratum above for a cinema complex
 - (c) Car park plus separable stratum for highest and best usage as far as economic returns to council
2. What is the effective increase/decrease in car parking within the Glenelg retail precinct if a 4 hour free parking regime is introduced for Cinema patrons in both Cowper Street and Partridge Street car parks.
3. Whether there is any evidence that a cinema proposal has been tested via a market process to determine whether it provides the most efficient use of Council's assets per Sect 59 (1)(a) (iii)
4. What is the dollar amount that per the above valuations that this motion is proposing be transferred to a private developer in complete absence of any evidence that it does in fact provide any value in return for the disposal;
5. What does the Council owe (any outstanding loans etc.) on any of the properties that are the subject to these motions.

Following the questions and the personal statement and questions Councillor Fisk advised that pursuant to Regulation 19 of the *Local Government (Procedures at Meetings) Regulations 2000* he required the tabling of all information regarding the Proposed Cinema Development prior to discussion and voting on the motion.

Councillor Fisk stated that he would remain standing until all of the documents relating to the Proposed Cinema Development were tabled to the meeting.

His Worship the Mayor ruled that this was a reasonable request from Councillor Fisk and pursuant to Regulation 19 of the *Local Government (Procedures at Meetings Regulations) 2000* the Chief Executive Officer should table all of the documents relating to the Proposed Cinema Development.

Councillor Fisk remained standing.

Councillor Patterson left the chamber 8.50pm.

The Chief Executive Officer sought legal advice on the way that the meeting could proceed.

Councillor Clancy asked a question regarding the legal advice.

Councillor Clancy left the chamber at 8.52pm.

Councillor Clancy rejoined the chamber at 8.53pm.

Motion

C130813/983

That Cinema and Car Park Proposal – Heads of Agreement (Report No: 252/13) be adjourned to the next meeting of Council on 27 August 2013.

Moved by Councillor Clancy, Seconded by Councillor Lonie

Carried

- 14.4 Review of Heritage and Character Development Plan Amendment Items Held in Confidence (Report No: 223/13)

Council's practice is to review documents held in confidence every 12 months and this practice has continued with a formal review occurring in May 2013. Since this review has been completed the Minister for Planning has placed on interim effect a Heritage and Character DPA. Following consultation on the DPA, it has become clear that the two documents previously considered in the earlier review should now be released from confidence.

This report recommends both items are released from confidence.

Motion

C130813/984

- 1. That the Confidential Report Number 101/08 be released from confidence.**
- 2. That the Confidential Report Number 506/08 be released from confidence.**

Councillor Roe left the chamber at 8.53pm.

Moved Councillor Bouchee , Seconded Councillor Yates

Carried

- 14.5 Alwyndor Aged Care Management Committee Appointments (Report No: 251/13)

The Alwyndor Management Selection Sub-Committee has recently completed the interview process to fill the vacancy on the Alwyndor Management Committee (AMC). The selection panel, comprising Cr Rosemary Clancy, Chief Executive Officer Mr Justin Lynch and AMC Chairman Mr Nick Hakof were unanimous in their recommendation that Mr Todd Bamford be endorsed as the successful candidate and appointed for a two year term to expire on 30 June 2015.

Motion

C130813/985

That Council endorses the recommendation of the Alwyndor Management Committee in relation to the appointment of Mr Todd Bamford to fill the vacancy on the Management Committee for a two year term to expire on 30 June 2015.

Moved Councillor Clancy, Seconded Councillor Lonie

Carried

- 14.6 Australia Day Dry Zones (Report No: 272/13)

Based upon the success of the 2013 Australia Day Dry Zones for both Angus Neil Reserve and Tarniwarra Park, the City of Holdfast Bay will lodge separate applications with the Office of the Liquor and Gambling Commissioner to again impose these locations as temporary short-term dry areas for Australia Day 2014.

The application is based upon the feedback and responses received from the 2013 Australia Day stakeholder debrief. The boundaries and conditions of these dry zones will emulate those of the 2013 dry zones. Full details of which are listed below.

Motion

C130813/986

That Council endorse the proposed Dry Zones and support the lodgment of the respective applications with the Office of the Liquor and Gambling Commissioner for their legislative enactment.

Moved Councillor Yates, Seconded Councillor Lonie

Carried

- 14.7 Buffalo Restaurant - Licence (Report No: 254/13)

During a representation to Council on 23 July 2013, Mr Finlayson, representing Buffin Pty Ltd, advised that the maintenance costs for the Buffalo are substantially higher than expected and this was made apparent by part of the

external structure 'falling off'. Mr Finlayson also advised that his company, Buffin Pty Ltd, is not able to support the maintenance cost for the Buffalo to keep The Buffalo operating and short of the City of Holdfast Bay purchasing the vessel in its current condition Mr Finlayson will commence closing the business with the doors finally being closed at the end of February 2014.

Councillor Patterson rejoined the chamber at 8.56pm.

Councillor Roe rejoined the chamber at 8.58pm.

Motion

C130813/987

1. **That Council notes Report No: 254/13 and funds a condition report to a maximum of \$ 8,500.00.**
2. **That Council includes in the condition report information from the manufacturer on the piles for the building regarding their lifespan.**
3. **That subject to the availability and outcomes of the condition report, that Buffin Pty Ltd be encouraged to conduct an expression of interest process for the purchase of The Buffalo, and that the current rental arrangements would continue to apply to any new purchasers.**

Moved Councillor Bouchee, Seconded Councillor Donaldson

Carried

15. RESOLUTIONS SUBJECT TO FORMAL MOTIONS - Nil

Motion

C130813/988

That the Council meeting be suspended to allow for the Strategic Planning and Development Policy Committee to meet.

Moved by Councillor Looker, Seconded by Councillor Lonie

Carried

The Council meeting was suspended at 9.08pm to allow the Strategic Planning and Development Policy Committee to meet.

The Strategic Planning and Development Policy Committee concluded at 9.21pm and the Council Meeting resumed.

Councillor Lonie rejoined the chamber at 9.21pm.

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

16.1 Rail Corridor – Electrification – Realignment Of Fencing

Motion

C130813/989

That Council write to the Department of Transport seeking further information regarding the Land which has been offered to Council due to the Realignment of Fencing along the Rail Corridor. That subject to no contamination or access issues being identified the Chief Executive Officer is authorised to execute any

documentation to enable transfer of the identified land that meets the needs of the City of Holdfast Bay.

Councillor Donaldson left the chamber at 9.40pm.

Moved by Councillor Yates, Seconded by Councillor Clancy

Carried

17. ITEMS IN CONFIDENCE

17.1 2 Aboyne Avenue Seacliff Park - Sale (Report No: 263/13)

Motion

C130813/990

1. That under provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer, General Managers and administrative staff in attendance in order to consider in confidence this item.
2. That the Chief Executive Officer is satisfied that it is necessary that the public be excluded to enable the Council to discuss and to consider the matter at the meeting on the following grounds:
 - a. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead) in the in regards to *2 Aboyne Avenue Seacliff Park - Sale*

And

 - b. Information the disclosure of which –
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest, as the benefit or detriment to Council in not disclosing information relating to *2 Aboyne Avenue Seacliff Park - Sale* outweighs the public interest at this time.

Moved Councillor Lonie, Seconded Councillor Clancy

Carried

Councillor Donaldson rejoined the chamber at 9.41pm.

2 Aboyne Avenue Seacliff Park - Sale (Report No: 263/13)

ORDER TO RETAIN DOCUMENTS IN CONFIDENCE

Motion

C130813/992

1. That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the documents relating to Report No: 263/13 including:
 - Report
 - Attachment
 - Minutes
 relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(a and b).
2. That the Chief Executive Officer be authorised to release the minutes relating to Report No: 263/13 all conditions of the sale are satisfied.
3. This resolution will be reviewed within 12 months by the Council.

Moved Councillor Lonie, Seconded Councillor Looker

Carried

Councillor Huckstepp left the chamber at 9.46pm.

His Worship the Mayor sought leave of the meeting to consider item 17.3 at this point as he would be declaring a conflict of interest in item 17.2.

17.3 **Minutes - Executive Committee Meeting – 1 August 2013** (Report No: 278/13)

Motion

C130813/993

1. That under provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer, General Managers and administrative staff in attendance in order to consider in confidence this item.
2. That the Chief Executive Officer is satisfied that it is necessary that the public be excluded to enable the Council to discuss and to consider the matter at the meeting on the following grounds:
 - a. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead).

And

 - g. matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty.

Moved Councillor Lonie, Seconded Councillor Clancy

Carried

Councillor Fisk declared an interest in the following matter due to his personal views on considering Code of Conduct Complaints and left the chamber at 9.47pm.

Councillor Huckstepp rejoined the chamber at 9.50pm.

Councillor Looker made a personal statement, regarding the Code of Conduct Complaints, and declared an interest in the matter as they involved his conduct and left the chamber at 9.52pm.

Minutes - Executive Committee Meeting – 1 August 2013 (Report No: 278/13)

ORDER TO RETAIN DOCUMENTS IN CONFIDENCE**Motion****C130813/995**

1. **That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the documents relating to Report No: 287/13 including:**
 - **Minutes**
 - **Report**
 - **Attachment****relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(a and g).**
2. **That the Chief Executive Officer be authorised to release Report No: 287/13 and the Minutes of the Executive Committee meeting held 1 August 2013 after all parties are informed of the committee's decision.**
3. **This resolution will be reviewed within 12 months by the Council.**

Moved Councillor Lonie, Seconded Councillor Patton

Carried

Councillors Fisk and Looker rejoined the chamber at 9.53pm.

His Worship the Mayor, Dr AK Rollond declared an interest in the matter, due to his support and advocacy for Caravan Park Residents and left the chamber at 9.53pm.

The Deputy Mayor, Councillor RA Clancy assumed the chair at 9.54pm

17.2 Brighton Caravan Park Upgrade - Update (Report No: 277/13)**Motion****C130813/996**

1. **That under provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer, General Managers and administrative staff in attendance in order to consider in confidence this item.**

2. That the Chief Executive Officer is satisfied that it is necessary that the public be excluded to enable the Council to discuss and to consider the matter at the meeting on the following grounds:
- a. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead).
- And
- h. legal advice.
- And
- 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.

Moved Councillor Lonie, Seconded Councillor Patterson

Carried

The Deputy Mayor, Councillor RA Clancy sought leave of the meeting to suspend the meeting for 10 minutes to allow the elected members a chance to review Report No: 277/13.

The meeting was suspended for 10 minutes to allow members to read the documents provided.

Brighton Caravan Park Upgrade - Update (Report No: 277/13)

ORDER TO RETAIN DOCUMENTS IN CONFIDENCE

Motion

C130813/1000

1. That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the documents relating to Report No: 277/13 including:
 - Minutes
 - Report
 - Attachment
 relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(a, h and i).
2. That the Chief Executive Officer be authorised to release Resolution Number C130813/998 once all of the affected residents are informed of Council's decision.
3. That the Chief Executive Officer be authorised to release Part 4 of Resolution Number C130813/998 be released from confidence once the Mayor has been formally informed of Council's decision.
4. This resolution will be reviewed within 12 months by the Council.

Moved Councillor Lonie, Seconded Councillor Donaldson

Carried

CLOSURE

The Meeting closed at 10.35 pm.

CONFIRMED 27 August 2013

MAYOR