

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 24 October 2023 at 7:00pm.

MEMBERS PRESENT

Mayor A Wilson
Councillor R Abley
Councillor A Bradshaw
Councillor J Fleming
Councillor A Kane
Councillor C Lindop
Councillor S Lonie
Councillor M O'Donohue
Councillor R Patton
Councillor J Smedley
Councillor R Snewin
Councillor A Venning

STAFF IN ATTENDANCE

Chief Executive Officer – R Bria
General Manager Assets and Delivery – P Jackson
General Manager Community and Business – M Lock
General Manager Strategy and Corporate – S Wachtel

1. OPENING

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

2. KAURNA ACKNOWLEDGEMENT

With the opening of the meeting Her Worship the Mayor stated:

We acknowledge Kurna people as the traditional owners and custodians of this land.

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

3. SERVICE TO COUNTRY ACKNOWLEDGEMENT

The City of Holdfast Bay would like to acknowledge all personnel who have served in the Australian forces and services, including volunteers, for our country.

4. PRAYER

Her 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.

5. APOLOGIES

5.1 Apologies Received – Councillor Miller

5.2 Absent - Nil

6. ITEMS PRESENTED TO COUNCIL

Mayor Wilson recognised Councillor Anthony Venning becoming an Associate Professor.

7. DECLARATION OF INTEREST

Members were reminded to declare their interest before each item.

8. CONFIRMATION OF MINUTES**Motion****C241023/7581**

That the minutes of the Ordinary Meeting of Council held on 10 October 2023 be taken as read and confirmed.

Moved Councillor Abley, Seconded Councillor Patton

Carried Unanimously**9. PUBLIC PRESENTATIONS**

9.1 **Petitions** - Nil

9.2 **Presentation** - Nil

9.3 **Deputations** - Nil

10. QUESTIONS BY MEMBERS

10.1 **Without Notice**

10.1.1 Playground Equipment

Councillor Bradshaw asked a question in relation to end-of-life play equipment.

General Manager, Assets and Delivery took the question on notice.

10.1.2 Flags in Moseley Square

Councillor O'Donohue asked a question in relation to flags flying at half-mast in Moseley Square over the weekend.

The Mayor provided a response.

10.1.3 Edith Butler Pier Boardwalk

Councillor Smedley asked for an update on the Edith Butler Pier Boardwalk.

General Manager, Assets and Delivery provided a response.

10.1.4 Edith Butler Pier Boardwalk

Councillor Patton asked a follow up question in relation to the Edith Butler Pier Boardwalk

General Manager, Assets and Delivery provided a response.

10.2 On Notice - Nil**11. MEMBER'S ACTIVITY REPORTS - Nil****12. MOTIONS ON NOTICE****12.1 Motion on Notice – Jet Skis - Councillor Bradshaw (Report No: 348/23)****Motion****C241023/7581**

That Administration investigates enforcement mechanisms available to manage safety and nuisance complaints associated with the use of personal watercraft along the City of Holdfast Bay coastline.

Administration to submit a report to Council for consideration by December 2023 outlining investigation findings.

Moved Councillor Bradshaw, Seconded Councillor Lindop **Carried Unanimously**

12.2 Motion on Notice – Removal of Tea Trees in Dune System - Councillor Snewin (Report No: 363/23)**Motion****C241023/7582**

That Council approves an additional \$42,000 to the 2023/24 budget to complete the removal of tea trees along the coastal dunes system.

Moved Councillor Snewin, Seconded Councillor Bradshaw **Carried Unanimously**

13. ADJOURNED MATTER - Nil**14. REPORTS OF MANAGEMENT COMMITTEES AND SUBSIDIARIES****14.1 Minutes – Jetty Road Mainstreet Committee – 4 October 2023 (Report No: 353/23)**

The Minutes of the Jetty Road Mainstreet Committee meeting held on 4 October 2023 were attached and presented for Council's information.

Jetty Road Mainstreet Committee Agenda, Report and Minutes are available on council's website and the meetings are open to the public.

Motion

C241023/7583

That Council notes the minutes of the Jetty Road Mainstreet Committee of 4 October 2023.

Moved Councillor Abley, Seconded Councillor Kane

Carried Unanimously

14.2 **Minutes – Audit and Risk Committee Minutes – 18 October 2023**
(Report No: 360/23)

The minutes of the meeting of the Audit and Risk Committee held 18 October 2023 were presented to Council for information.

Motion

C241023/7584

That Council:

1. **notes the minutes of the meeting of the Audit and Risk Committee of 18 October 2023, namely that the Audit and Risk Committee:**
 - a. **advises Council it has received and considered a Standing Items Report addressing:**
 - **Monthly Financial Statements**
 - **Risk Management and Internal Control**
 - **External Audit**
 - **Public Interest Disclosures**
 - **Economy and Efficiency Audits**
 - **Audit and Risk Committee Meeting Schedule**
 - b. **informs Council it has reviewed the General Purpose Financial Reports for the year ending 30 June 2023, as required under section 126(4)(a) of the *Local Government Act 1999*, and found them to present fairly the state of affairs of the Council as required under the Local Government (Financial Management) Regulations 2011;**
 - c. **recommends Council adopts the 2022-23 Annual Report, subject to design and minor alterations and the inclusion of the audited financial statements;**
 - d. **advises Council it has received and noted the revised Long-Term Financial Plan; and**
 - e. **advises Council it has reviewed the amended Terms of Reference and recommends them for adoption by Council, with the inclusion to allow for electronic attendance at meetings.**

2. **adopts the revised Terms of Reference, as provided in Attachment 2.**

Moved Councillor Smedley, Seconded Councillor Snewin **Carried Unanimously**

15. REPORTS BY OFFICERS

15.1 Items in Brief (Report No: 347/23)

These items were presented for the information of Members.

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

Motion

C241023/7585

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

1. **Local Government CEO Salary Remuneration Tribunal Determination**
2. **Minda Inc and the City of Holdfast Bay – Volunteering Pilot**

Moved Councillor Lonie, Seconded Councillor Abley

Carried Unanimously

15.2 Appointment of Deputy Mayor (Report No: 318/23)

The Local Government Act 1999 section 51(3) provides that Council may, if it chooses, appoint a Deputy Mayor from one of their Council members, for a term not exceeding four years.

Council has previously made appointments of Deputy Mayor for a term of one year. It is Council's prerogative to determine another term if it chooses.

In the absence of the Mayor, a Deputy Mayor may act in the office of Mayor.

Nominations

The Mayor called for nominations for the position of Deputy Mayor. Councillor Lonie nominated herself and provided reasons for her nomination which was circulated before the meeting.

Conflict of Interest

Councillor Lonie declared a material conflict of interest for **Item 15.2 Appointment of Deputy Mayor** (Report No: 318/23). The nature of the material conflict of interest was that she nominated for the position and would have a direct financial advantage.

Councillor Lonie dealt with the material conflict of interest by making it known to the meeting and leaving the chamber at 7.28pm.

Motion

C241023/7586

That Councillor Lonie be appointed as Deputy Mayor for a period of one year, from 2 December 2023 to 30 November 2024.

Moved Councillor Patton, Seconded Councillor Lindop **Carried Unanimously**

Councillor Lonie re-joined the chamber at 7.28pm

15.3 **Appointment to the Public Art Acquisition Selection Panel 2023-24**
(Report No: 356/23)

This report seeks to appoint an Elected Member to the Public Art Acquisition Selection Panel. This panel consists of an Elected Member, council employees and an Arts professional or educator. The role of the Public Art Acquisition Selection Panel is to assess public art acquisitions in the form of direct purchases and Expressions of Interest commissioning procurement processes.

The Brighton Jetty Sculptures 'Outdoor Category' to be held in January 2024, will be the first works considered by the Public Art Acquisition Selection Panel. If the Panel concludes that no submissions are deemed appropriate based on the selection criteria, no purchase will be made.

Nominations

Her Worship the Mayor called for nominations to the Public Art Acquisition Selection Panel.

A Nomination was received for Councillor O'Donohue.

Her Worship the Mayor announced that Councillor O'Donohue had been selected for the Public Art Acquisition Selection Panel which was included in the Council's motion.

Motion

C241023/7586

That Councillor O'Donohue be appointed to the Public Art Acquisition Selection Panel 2023-24.

Moved Councillor Lonie, Seconded Councillor Abley **Carried Unanimously**

Conflict of Interests

Mayor Wilson declared a general conflict of interest for Item 15.4 Partridge Street, Glenelg – Wombat Crossing (pursuant to section 74 and 75A(a) of the *Local Government Act 1999*), on the basis that she is a parent of children attending the school. It was noted that section 75A (2) (d) provides an exemption for a member having a child at that school.

Mayor Wilson dealt with the general conflict of interest by making it known to the meeting and remaining in the meeting as she was acting in the interests of the community.

Councillor O'Donohue declared a general conflict of interest for Item 15.4 Partridge Street, Glenelg – Wombat Crossing (pursuant to section 74 and 75A(a) of the *Local Government Act 1999*), on the basis that she is a parent of children attending the school. It was noted that section 75A (2) (d) provides an exemption for a member having a child at that school.

Councillor O'Donohue dealt with the general conflict of interest by making it known to the meeting and remaining in the meeting as she was acting in the interests of the community. Councillor O'Donohue voted for the motion.

15.4 **Partridge Street, Glenelg – Wombat Crossing** (Report No: 362/23)

Council carried a motion on 14 March 2023 to undertake design and construction of a separate school crossing point at Partridge Street, Glenelg.

Design has reached a hold point as the construction estimate has exceeded the allocated funding. Administration requested approval to increase the adopted budget for the Partridge Street wombat crossing from \$150,000 to \$310,000 excluding GST for design and construction.

Delivery is scheduled to begin during the summer school holidays with timing subject to market availability of contractors and materials.

Motion

C241023/7587

That Council:

1. **notes the report and project progress; and**
2. **endorses the additional budget of \$160,000, excluding GST, to complete the Partridge Street, Glenelg wombat crossing.**

Moved Councillor Smedley, Seconded Councillor Snewin **Carried Unanimously**

15.5 **2022-23 General Purpose Financial Statements** (Report No: 357/23)

The completed financial statements for the year ended 30 June 2023 have been reviewed by the Audit and Risk Committee and audited by council's external audit firm, Dean Newbery, who have indicated that an unqualified audit opinion will be provided. They were presented to Council to be received, noted, and authorised.

Motion

C241023/7588

1. **That the financial statements for the City of Holdfast Bay for the year ended 30 June 2023 as contained in Attachment 1 to Report No: 357/23 2022-23 General Purpose Financial Statements be received and noted.**
2. **That the Mayor and the Chief Executive Officer be authorised to sign the following certification of the financial statements;**

In our Opinion:

- (a) **the accompanying (2022-23) financial statements comply with the *Local Government Act 1999*, Local Government**

(Financial Management) Regulations 2011 and Australian Accounting Standards;

- (b) the financial statements present a true and fair view of the Council's financial position at 30 June 2023 and the results of its operations and cash flows for the financial year;**
- (c) internal controls implemented by Council provide a reasonable assurance that the Council's financial records are complete, accurate and reliable and were effective throughout the financial year; and**
- (d) the financial statements accurately reflect the Council's accounting and other records.**

Moved Councillor Smedley, Seconded Councillor Snewin **Carried Unanimously**

15.6 Budget and Annual Business Plan Update – As at 30 September 2023
(Report No: 361/23)

This report covered the first update of Council's 2023/24 budget conducted as at 30 September 2023.

A comprehensive review of Municipal budgets has increased the forecast operating surplus by \$503,534 to a forecast surplus of \$456,473. Major favourable variances accounted for include additional revenue received through both the Supplementary Local Road Funding program and the Local Roads and Community Infrastructure (LRCI) program.

Capital expenditure has increased by \$1,000,665 as a result of a number of grant-funded projects including Phase 4 of the LRCI program and additional project funding already approved by Council. This has been offset by an increase in capital revenue of \$605,834.

There were no changes to the revised budget forecast for Alwyndor.

Attached were financial reports for Municipal and Alwyndor operations, commercial activities, and progress summaries and analysis of Annual Business Plan projects.

Motion

C241023/7588

That Council:

- 1. notes the first 2023-24 budget update for Council's municipal operations including:**
 - (a) an increase in the forecast operating result for 2023/24 of \$503,534 from a deficit of \$47,061 to surplus of \$456,473;**

- (b) an increase in forecast capital expenditure of \$1,000,665 from \$32.149 million to \$33,149 million;
 - (c) an increase in forecast capital revenue of \$605,834 from \$4.979 million to \$5.584 million;
 - (d) a decrease in forecast net financial liabilities of \$18,703 at 30 June 2023 from \$38.339 million to \$38.321 million.
2. notes for Alwyndor operations no change to the 2023-24 revised budget forecast.
 3. notes the Annual Business Plan quarterly update for September 2023.

Moved Councillor Smedley, Seconded Councillor Lonie **Carried Unanimously**

15.7 **2022-23 Annual Report** (Report No: 358/23)

Council's Annual Report is a legislative requirement under section 131 of the *Local Government Act 1999*. The information contained within the publication provides legislators and the community with assurance that the City of Holdfast Bay is meeting its strategic and governance requirements. The publication also provided a detailed overview of the council's services and achievements during the year.

The 2022-23 Annual Report has been prepared to meet all statutory requirements. The report showed that council has continued to deliver quality and improved services and facilities to its community.

Motion

C241023/7589

That Council adopts the 2022-23 Annual Report, which appears as Attachment 1 to this report, subject to design and minor alterations and the inclusion of the audited financial statements.

Moved Councillor Lindop, Seconded Councillor Smedley **Carried Unanimously**

15.8 **Greater Adelaide Regional Plan – Discussion Paper** (Report No: 350/23)

The report sought Council's endorsement for a written submission to the State Government's invitation for comments on the Greater Adelaide Regional Plan Discussion Paper, which was recently released for consultation. The Discussion Paper asked that councils throughout Greater Adelaide assist to identify urban growth opportunities to accommodate anticipated population increases over the next thirty years. The City of Holdfast Bay's submission proposed a considered approach, seeking to protect the city's rich urban character and sensitive natural environment, whilst acknowledging the opportunities offered by its road and rail corridors to accommodate greater urban densities.

Motion**C241023/7590**

That Council endorses the written submission provided as Attachment 2 to this report in response to the Greater Adelaide Regional Plan Discussion Paper.

Moved Councillor Lonie, Seconded Councillor Abley

Carried Unanimously15.9 **Time and Place for Ordinary Council Meetings** (Report No: 341/23)

The *Local Government Act 1999* requires Council to hold at least one meeting per month.

It is a decision of the Council to determine its meeting schedule. Meeting schedules can be reviewed and amended at any time by the Council.

Council currently meets on the second and fourth Tuesdays of each month (February – November) and once in January and December due to the festive season.

In discussion with the Mayor, it was proposed that Council amends the meeting schedule to consider whether members would like to change the meeting frequency to one meeting in April, July and October to accommodate the school holiday period.

Motion

1. **That Council continues to meet on the second and fourth Tuesday of February, March, April, May, June, August, September, October and November;**
2. **That Council continues to hold a meeting once in each month of December and January due to the holiday periods;**
3. **That Council approves to hold a meeting once in April, July and October giving consideration to the school holiday period;**
4. **That Council will meet in the Council Chamber, Glenelg Town Hall, Moseley Square Glenelg;**
5. **That Council meetings will commence at 7.00pm;**
6. **If required an information briefing session will be held prior to Council meetings commencing at 6.00pm; and**
7. **Information briefing sessions commencing at 6.00pm will be held on the first, third and fifth Tuesdays of each month.**

Moved Councillor Abley, Seconded Councillor Kane

Amendment**C241023/7591**

Councillor Smedley proposed the following amendment:

1. **That Council continues to meet on the second and fourth Tuesday of February, March, April, May, June, July, August, September, October and November;**
2. **That Council continues to hold a meeting once in each month of December and January due to the holiday periods;**
3. **That Council will meet in the Council Chamber, Glenelg Town Hall, Moseley Square Glenelg;**
4. **That Council meetings will commence at 7.00pm;**
5. **If required an information briefing session will be held prior to Council meetings commencing at 6.00pm; and**
6. **Information briefing sessions commencing at 6.00pm will be held on the first, third and fifth Tuesdays of each month.**

Moved Councillor Smedley, Seconded Councillor Patton

The amendment to become the motion was

Carried

The motion as amended was

Carried**Division Called**

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

Those voting for: Councillors Patton, Snewin, Venning, Fleming, Lonie, O'Donohue, Smedley (7)

Those voting against: Councillors Kane, Abley, Lindop, Bradshaw (4)

The Mayor declared the motion

Carried

15.10 **Code of Practice – Access to Meetings and Documents – Outcomes of Consultation** (Report No: 343/23)

Section 92 of the *Local Government Act 1999* requires councils to have a Code of Practice for Access to Meetings and Documents (the Code). The Code sets out the commitment of the City of Holdfast Bay to provide public access to Council and Council Committee meetings and associated documents and in what circumstances the public access will be restricted.

The Code is required to be reviewed within 12 months of each periodic election with the review process to include mandatory public consultation for a minimum period of 21 days.

Motion**C241023/7592**

That Council adopts the Code of Practice – Access to Meetings and Documents.

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

15.11 **Review of Council's Delegations** (Report No: 352/23)

The Council may delegate its statutory powers and functions pursuant to section 44 of the *Local Government Act 1999* and powers of delegation under other legislation.

Under section 44(6a) of the *Local Government Act 1999* Council is required to undertake a review of its delegations within 12 months after the conclusion of each periodic election.

To this end, a comprehensive review of delegations has been undertaken and new delegations were proposed.

Kelley Jones were engaged to develop a simplified delegations framework, with updated delegations therein (Attachment 1). There are notable benefits to the new proposed framework, specifically, many clauses that were considered to be duties, rather than delegable powers, were removed. Also, with the exception of certain powers which were considered necessary to remain with Council, most powers are proposed for delegation to the Chief Executive Officer, which ensures operational efficiency.

The report requested Council revoke existing delegations and presents new delegations.

Motion

C241023/7593

That having conducted its review of the Council's Delegations Register in accordance with section 44(6a) of the *Local Government Act 1999*, the Council:

1. Revocations

1.1 Hereby revokes its previous delegations to the Chief Executive Officer of those powers and functions under the following Acts and subordinate legislation:

- 1.1.1 *Aged Care Act 1997 (Cth)***
- 1.1.2 *Burial and Cremation Act 2013;***
- 1.1.3 *Community Titles Act 1996;***
- 1.1.4 *Criminal Procedure Act 1921;***
- 1.1.5 *Development Act 1993;***
- 1.1.6 *Disability Inclusion Act 2018;***
- 1.1.7 *Dog and Cat Management Act 1995;***
- 1.1.8 *Electricity Act 1996;***
- 1.1.9 *Electronic Conveyancing National Law (South Australia) Act 2013;***
- 1.1.10 *Environment Protection Act 1993;***
- 1.1.11 *Environment, Resources and Development Court Act 1993;***

- 1.1.12 *Expiation of Offences Act 1996;*
- 1.1.13 *Fences Act 1975;*
- 1.1.14 *Fines Enforcement and Debt Recovery Act 2017;*
- 1.1.15 *Fire and Emergency Services Act 2005;*
- 1.1.16 *Food Act 2001;*
- 1.1.17 *Freedom of Information Act 1991;*
- 1.1.18 *Heavy Vehicle National Law (South Australia) Act 2013;*
- 1.1.19 *Land and Business (Sale and Conveyancing) Act 1994;*
- 1.1.20 *Landscape South Australia Act 2019;*
- 1.1.21 *Liquor Licensing Act 1997;*
- 1.1.22 *Local Government Act 1999;*
- 1.1.23 *Local Nuisance and Litter Control Act 2016;*
- 1.1.24 *Planning, Development and Infrastructure Act 2016;*
- 1.1.25 *Real Property Act 1886;*
- 1.1.26 *Roads (Opening & Closing) Act 1991;*
- 1.1.27 *Road Traffic Act 1961;*
- 1.1.28 *Safe Drinking Water Act 2011;*
- 1.1.29 *South Australian Public Health Act 2011;*
- 1.1.30 *State Records Act 1997;*
- 1.1.31 *Strata Titles Act 1988;*
- 1.1.32 *Supported Residential Facilities Act 1992;*
- 1.1.33 *Unclaimed Goods Act 1987;*
- 1.1.34 *Water Industry Act 2012;*
- 1.1.35 *Work Health and Safety Act 2012.*

- 1.2 Hereby revokes its previous delegations to the Council Assessment Panel under the *Development Act 1993* and the *Planning, Development and Infrastructure Act 2016*.

2. Delegations made under *Local Government Act 1999*

- 2.1 In exercise of the power contained in section 44(1) of the *Local Government Act 1999* the powers and functions under the following Acts and specified in the proposed Instruments of Delegation contained in the Appendix (of Attachment 1) identified below are hereby delegated this 24 October 2023 to the person occupying the office of Chief Executive Officer (and any person appointed to act in that position) subject to the conditions and/or limitations specified in each such proposed Instrument of Delegation and such powers and functions may be further delegated by the Chief Executive Officer to an officer or officers of the Council (including any person appointed to act in any such position) as the Chief Executive Officer sees fit subject to the conditions or limitations indicated in the proposed Instrument of Delegation under the respective Act and as set out below.

- 2.1.1 *Burial and Cremation Act 2013 (Appendix 2);*
 - 2.1.2 *Community Titles Act 1996 (Appendix 3);*
 - 2.1.3 *Criminal Procedure Act 1921 (Appendix 4);*
 - 2.1.4 *Disability Inclusion Act 2018 (Appendix 6);*
 - 2.1.5 *Dog and Cat Management Act 1995 (Appendix 7);*
 - 2.1.6 *Electricity Act 1996 (Appendix 8);*
 - 2.1.7 *Electronic Conveyancing National Law (South Australia) Act 2013 (Appendix 9);*
 - 2.1.8 *Environment Protection Act 1993 (Appendix 10);*
 - 2.1.9 *Environment, Resources and Development Court Act 1993 (Appendix 11);*
 - 2.1.10 *Expiation of Offences Act 1996 (Appendix 12);*
 - 2.1.11 *Fences Act 1975 (Appendix 13);*
 - 2.1.12 *Fines Enforcement and Debt Recovery Act 2017 (Appendix 14);*
 - 2.1.13 *Freedom of Information Act 1991 (Appendix 17);*
 - 2.1.14 *Land and Business (Sale and Conveyancing) Act 1994 (Appendix 19);*
 - 2.1.15 *Landscape South Australia Act 2019 (Appendix 20);*
 - 2.1.16 *Liquor Licensing Act 1997 (Appendix 21);*
 - 2.1.17 *Local Government Act 1999 (Appendix 22);*
 - 2.1.18 *Local Nuisance and Litter Control Act 2016 (Appendix 23);*
 - 2.1.19 *Real Property Act 1886 (Appendix 25);*
 - 2.1.20 *Roads (Opening & Closing) Act 1991 (Appendix 26);*
 - 2.1.21 *Road Traffic Act 1961 (Appendix 27);*
 - 2.1.22 *Safe Drinking Water Act (Appendix 28);*
 - 2.1.23 *South Australian Public Health Act 2011 (Appendix 29);*
 - 2.1.24 *State Records Act 1997 (Appendix 30);*
 - 2.1.25 *Strata Titles Act 1988 (Appendix 31);*
 - 2.1.26 *Supported Residential Facilities Act 1992 (Appendix 32);*
 - 2.1.27 *Unclaimed Goods Act 1987 (Appendix 33);*
 - 2.1.28 *Water Industry Act 2012 (Appendix 34);*
 - 2.1.29 *Work Health and Safety Act 2012 (Appendix 35);*
3. **Delegations made under *Local Government Act 1999* and the *Aged Care Act 1997* (Cth)**
- 3.1 In exercise of the power contained in section 44(1) of the *Local Government Act 1999* the powers and functions under the *Aged Care Act 1997* (Cth) contained in the proposed Instrument of Delegation (annexed to the Report and marked Appendix 1) are hereby delegated this 24 October 2023 to the person occupying the office the Chief Executive Officer (and to any person appointed to act in the position of Chief Executive Officer), as well as to the Alwyndor Management Committee (a committee established by the Council pursuant to section 41 of the *Local Government Act*

1999) and such powers and functions may be further delegated by the CEO to the person occupying the position of General Manager Alwyndor, and anyone who may, from time to time, be appointed to act in that position, as the Chief Executive Officer sees fit.

4. Delegations made under *Development Act 1993*

4.1 In exercise of the power contained in section 20 and 34(23) of the *Development Act 1993*, the powers and functions under the *Development Act 1993* and the Development Regulations 2008 contained in the proposed Instrument of Delegation (annexed to the Report and marked Appendix 5) are hereby delegated this 24 October 2023 to the person occupying the office of Chief Executive Officer (and any person appointed to act in that position), subject to the conditions or limitations indicated in the proposed Instrument of Delegation under the *Development Act 1993* and such powers and functions may be further delegated by the Chief Executive Officer to an officer or officers of the Council (including any person appointed to act in any such position) as the Chief Executive Officer sees fit.

4.2 In exercise of the power contained in section 20 and 34(23) of the *Development Act 1993*, the powers and functions under the *Development Act 1993* and the Development Regulations 2008 contained in the proposed Instrument of Delegation (marked Appendix 5) to the Regional Assessment Panel subject to the conditions or limitations contained in the proposed Instrument of Delegation under the *Development Act 1993*.

5. Delegations made under *Food Act 2001*

5.1 In exercise of the power contained in section 91 of the *Food Act 2001*, the powers and functions under the *Food Act 2001* contained in the proposed Instrument of Delegation (annexed to the Report and marked Appendix 16) are hereby delegated this 24 October 2023 to the person occupying the office of Chief Executive Officer (and any person appointed to act in that position, “the head of the enforcement agency” for the purposes of the *Food Act 2001*), subject to the conditions or limitations indicated in the proposed Instrument of Delegation under the *Food Act 2001* and such powers and functions may be further delegated by the Chief Executive Officer to an officer or officers of the Council (including any person appointed to act in any such position) as the Chief Executive Officer sees fit.

6. Delegations under *Heavy Vehicle National Law (South Australia) Act 2013*

6.1 In exercise of the powers contained in section 22B of the *Heavy Vehicle National Law (South Australia) Act 2013* the powers and functions under the *Heavy Vehicle National Law (South Australia) Act 2013* contained in the proposed Instrument of Delegation (annexed to the Report and marked Appendix 18) are hereby delegated this 24 October 2023 to the person occupying the office of Chief Executive Officer (and any person appointed to act in that position), subject to the conditions or limitations indicated in the proposed Instrument of Delegation under the *Heavy Vehicle National Law (South Australia) Act 2013* and such powers and functions may be further delegated by the Chief Executive Officer to an officer or officers of the Council (including any person appointed to act in any such position) as the Chief Executive Officer sees fit.

7. Delegations under *Fire and Emergency Services Act 2005* to a Fire Prevention Officer

7.1 In exercise of the power contained in section 93 of the *Fire and Emergency Services Act 2005* the powers and functions under the *Fire and Emergency Services Act 2005* contained in the proposed Instrument of Delegation (annexed to the Report and marked Appendix 15 and 15A) are hereby delegated this 24 October 2023 to the person appointed Fire Prevention Officer of the Council under the *Fire and Emergency Services Act 2005* subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the *Fire and Emergency Services Act 2005* and such powers and functions may be further delegated by the Fire Prevention Officer as the Fire Prevention Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the *Fire and Emergency Services Act 2005*.

8. Delegations made under *Planning, Development and Infrastructure Act 2016*

8.1 In exercise of the power contained in section 44 of the *Local Government Act 1999* and section 100 of the *Planning, Development and Infrastructure Act 2016*, the powers and functions under the *Planning, Development and Infrastructure Act 2016* contained in the proposed Instrument of Delegation (annexed to the Report and marked Appendix 24) are hereby delegated this 24 October 2023 to the person occupying the office of the Chief Executive Officer of the Council (the Delegate) and extend to any person appointed to act in the position of Chief Executive Officer and the Delegate is authorised to further

delegate these powers and functions in accordance with section 44 and section 101 of the *Local Government Act 1999* and section 100 of the *Planning, Development and Infrastructure Act 2016* as the Delegate sees fit, unless otherwise indicated within the Instrument of Delegation

- 8.2 In exercise of the power contained in section 44 of the *Local Government Act 1999* and section 100 of the *Planning, Development and Infrastructure Act 2016*, the powers and functions contained in the proposed Instrument of Delegation (marked Appendix 24) to the Council Assessment Panel subject to the conditions or limitations contained in the proposed Instrument of Delegation.

9. Authorisations and Sub delegation under the *Road Traffic Act 1961*

- 9.1 In accordance with the Instrument of General Approval and Delegation to Council dated 22 August 2013 from the Minister for Transport and Infrastructure (the attached Instrument) the Council authorises the following person(s) pursuant to Clause A.7 of the Instrument to endorse Traffic Impact Statements for the purposes of Clause A of the Instrument provided that such person(s) shall take into account the matters specified in Clause A.7 of the Instrument in respect of Traffic Impact Statements:

James Mitchell - Manager Engineering
Rhys Skipper - Traffic and Transport Lead
Bao Vo - Technical Officer Traffic

- 9.2 In accordance with Clause A.7 of the Instrument, the Council is of the opinion that the following person(s) is/are experienced traffic engineering practitioner(s) for the purposes of preparing a Traffic Impact Statement as required by Clause A.7 of the Instrument:

James Mitchell - Manager Engineering
Rhys Skipper - Traffic and Transport Lead
Bao Vo - Technical Officer Traffic

- 9.3 In exercise of the power contained in, and in accordance with, Clause G.1 of the Instrument, the power contained in section 33(1) of the *Road Traffic Act 1961* and delegated to the Council pursuant to Clause G of the Instrument and contained in the proposed Instrument of Subdelegation (annexed to the Report and marked Appendix 26) is hereby sub-delegated this 24 October 2023 to the person occupying the office of Chief Executive Officer of the Council and such powers and functions may be further delegated by the Chief Executive Officer to an officer or officers of the Council (including any person appointed to act in any such position) as the Chief Executive Officer sees fit subject to:

- (i) the conditions contained in the Instrument; and
- (ii) any conditions contained in this Resolution or in the Instrument of Subdelegation; and
- (iii) the creation of a separate instrument in writing reflecting such subdelegation under the Instrument and this Resolution.

9.4 In accordance with Clause E.2 of the Instrument, the Council is of the opinion that the following person(s) has (have) an appropriate level of knowledge and expertise in the preparation of Traffic Management Plans:
James Mitchell - Manager Engineering
Rhys Skipper - Traffic and Transport Lead
Bao Vo - Technical Officer Traffic

10. **Delegations under *Safe Drinking Water Act 2011***

10.1 In exercise of the power contained in section 43 of the *Safe Drinking Water Act 2011* the powers and functions of the Council as a relevant authority under the *Safe Drinking Water Act 2011* contained in the proposed Instrument of Delegation (annexed to the Report and marked Appendix 28) are hereby delegated this 24 October 2023 to the person occupying the office of Chief Executive Officer (including any person appointed to act in any such position) and such powers and functions may be further delegated by the Chief Executive Officer to an officer or officers of the Council (including any person appointed to act in any such position) as the Chief Executive Officer sees fit.

11. **Delegations under *Supported Residential Facilities Act 1992***

11.1 In exercise of the power contained in section 9 of the *Supported Residential Facilities Act 1992*, the powers and functions under the *Supported Residential Facilities Act 1992* contained in the proposed Instrument of Delegation (annexed to the Report and marked Appendix 32) are hereby delegated this 24 October 2023 to the person occupying the office of Chief Executive Officer (and any person appointed to act in that position), subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the *Supported Residential Facilities Act 1992* and such powers and functions may be further delegated by the Chief Executive Officer to an officer or officers of the Council (including any person appointed to act in any such position) as the Chief Executive Officer sees fit.

Moved Councillor Lonie, Seconded Councillor O'Donohue **Carried Unanimously**

15.12 **Prescribed Officer Declaration** (Report No: 359/23)

Section 111 of the *Local Government Act 1999* (the Act) invites councils to declare which officers will be bound by this part of the Act, which deals with the declaration of interests. These officers are known as 'prescribed officers'. Presently, there are five prescribed officers within Council – the Chief Executive Officer and four General Managers.

The Act does not provide guidance on who councils should declare as prescribed officers. An examination of other councils' practices and an evaluation of principles by which prescribed officers might be decided has resulted in a recommendation to maintain the status quo.

Motion

C241023/7594

That pursuant to section 111(b) of the *Local Government Act 1999* (the Act), Council declares that General Managers (including new positions with that title, as appointed from time to time) are subject to the operation of Part 4, Division 1, Subdivision 2 (Register of Interests) of the Act, effective from the date of this resolution.

Moved Councillor Lonie, Seconded Councillor Kane

Carried Unanimously

16. **RESOLUTIONS SUBJECT TO FORMAL MOTIONS - Nil**

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

18. **ITEMS IN CONFIDENCE**

18.1 **Claim Against Council** (Report No: 354/23)

Motion - Exclusion of the Public – Section 90(3)(h) and (i) Order 241023/7594

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: 354/23 Claim Against Council 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: 354/23 Claim Against Council on the following grounds:**
 - h. **pursuant to section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is legal advice that is strictly confidential and subject to Legal Professional Privilege, and**
 - i. **pursuant to section 90(3)(i) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information relating to actual litigation.**

Moved Councillor Lonie, Seconded Councillor Smedley **Carried Unanimously**

RETAIN IN CONFIDENCE – Section 91(7) Order

241023/7595

That having considered Agenda Item 18.1 354/23 Claim Against Council in confidence under section 90(2) and (3)(h & i) 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 until further notice and the Chief Executive Officer is authorised to release the documents when the matter is concluded, giving due consideration to any relevant legal considerations, and that this order be reviewed every 12 months.

Moved Councillor Lonie, Seconded Councillor Bradshaw **Carried Unanimously**

CLOSURE

The Meeting closed at 8.13 pm.

CONFIRMED 14 November 2023

MAYOR