

**MINUTES
OF THE SPECIAL MEETING OF COUNCIL MEETING OF THE CITY OF TEA TREE
GULLY HELD ON TUESDAY 31 OCTOBER 2023 AT 6.32PM IN THE COUNCIL
CHAMBERS, 571 MONTAGUE ROAD, MODBURY**

1. Opening and Welcome

The Mayor read the Opening Prayer and Acknowledgement of Country Statement.

Cr Unger entered the meeting at 6.33pm.

2. Attendance Record:

2.1 Present

Her Worship Mayor M Ryan, Crs T Sinclair, B Keane, R Unger (entered at 6.33pm), I Zagladov, D Wyld, K Drozdoff, M Champion, S Keane and K Foreman.

2.2 Apologies

Crs B Lawrenson, J Hawkvelt and L Jones.

2.3 Leave of Absence

Nil

2.4 Record of Officers in Attendance (physical or electronic)

Ryan McMahon	Chief Executive Officer
Justin Robbins	General Manager Strategy & Finance
Felicity Birch	General Manager City Operations
Kristyn Barnes	Governance Administration Officer
Adam Kelly	Manager Field Services
Eloise Penna	Manager Project & Contract Delivery
Jon Herd	Environmental Sustainability Coordinator

2.5 Record of Number of Persons in the Public Gallery - Physical Attendance

Nil

3. Public Forum - Nil

4. **Deputations** – Nil
5. **Presentations** - Nil
6. **Declaration of Conflict of Interests** - Nil
7. **Matters for Discussion** - Nil
8. **Notice(s) of Motion** - Nil
9. **Question(s) on Notice** - Nil
10. **Section 90(2) Local Government Act 1999 – Confidential Items**

10.1. Waste Processing Contract - Tender Outcome (D23/86895)

Recommendation for Moving into Camera

Moved Cr S Keane, Seconded Cr Foreman

1. That pursuant to Section 90(2) of the Local Government Act 1999, the Special Meeting of Council orders that the public (except staff on duty) be excluded from the meeting to enable discussion on the Waste Processing Contract - Tender Outcome.
2. That the Special Meeting of Council is satisfied that pursuant to section 90(3)(b), (d) and (k) of the Local Government Act 1999, the information be received, discussed or considered in relation to this item is:
 - information the disclosure of which 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 information the disclosure of which would, on balance, be contrary to the public interest; AND
 - 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, or to confer a commercial advantage on a third party; AND the disclosure of which would, on balance, be contrary to the public interest; AND

- tenders for the supply of goods, the provision of services or the carrying out of works.
 - o On the basis that release of this information has the ability to directly impact Council's ability to negotiate the best value for money for the community as well as impact the potential contractors ability to commercially negotiate contracts with third parties while the process is underway.

- 3. In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in the 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. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances. That Council is satisfied that the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter by the need to keep the discussion of this matter confidential because early release of this information has the ability to directly impact Council's ability to negotiate the best value for money for the community as well as impact the potential contractors ability to commercially negotiate contracts with third parties while the process is underway.

Carried Unanimously (292)

The following staff members on duty remained at the meeting for the following item:

Ryan McMahon, Justin Robbins, Felicity Birch, Adam Kelly, Eloise Penna, Jon Herd and Kristyn Barnes.

10.1 Waste Processing Contract - Tender Outcome (D23/86895)

Moved Cr Champion, Seconded Cr S Keane

That having considered the report entitled “Waste Processing Contract - Tender Outcome” and dated 31 October 2023 Council awards the contract for Receipt and Processing of Kerbside Collected Residual and Hard Waste:

- To Integrated Waste Services for the Landfill portion
- To Veolia for the Hard Waste portion

For an initial period of two (2) years with extension provision of up to four (4) years.

Carried Unanimously (293)

Retention of confidential documents:

Moved Cr S Keane, Seconded Cr Wyld

1. That having considered the agenda item titled “ Waste Processing Contract - Tender Outcome” and dated 31 October 2023 in confidence under section 90(2) & (3)(b), (d) and (k) and Section 91(7) of the Local Government Act 1999:
 - information the disclosure of which 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 information the disclosure of which would, on balance, be contrary to the public interest; AND
 - 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, or to confer a commercial advantage on a third party; AND the disclosure of which would, on balance, be contrary to the public interest; AND
 - tenders for the supply of goods, the provision of services or the carrying out of works

the Council pursuant to section 91(7) of the Act orders that the report, attachments and minutes relevant to this item be retained in confidence with the exception of those third parties impacted by or involved in negotiations and potential outcomes until:

- the contract is signed by both parties or a decision has been made not to enter into a contract or
 - Council resolves otherwise, whichever occurs first.
2. That Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91 (7) of

the Local Government Act 1999 subject to the Chief Executive Officer consulting with the Mayor and reporting to the Elected Members of the revocation.

Carried Unanimously (294)

10.2. Verge and Median Maintenance - Tender Outcome (D23/88277)

Recommendation for Moving into Camera

Moved Cr S Keane, Seconded Cr Champion

1. That pursuant to Section 90(2) of the Local Government Act, 1999 the Council orders that the public (except staff on duty) be excluded from the meeting to enable discussion on the Verge and Median Maintenance - Tender Outcome .
2. That the Council is satisfied that pursuant to section 90(3) k of the Local Government Act 1999, the information be received, discussed or considered in relation to this item is:
 - tenders for the provision of services or the carrying out of works, with discussion to occur on tender responses and evaluation for the contracted works which would be inappropriate to discuss prior to the awarding of the contract. .
3. In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in the 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. That the Council is satisfied that the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter by the need to keep the discussion of this matter confidential on the basis that it may prejudice Council's ability to be able to negotiate a cost effective outcome for the benefit of Council and the community.

Carried (295)

The following staff members on duty remained at the meeting for the following item:

Ryan McMahon, Justin Robbins, Felicity Birch, Adam Kelly, Eloise Penna, Jon Herd and Kristyn Barnes.

10.2 Verge and Median Maintenance - Tender Outcome (D23/88277)

Moved Cr Champion, Seconded Cr S Keane

That having considered the report titled “Verge and Median Maintenance – Tender Outcome” and dated 31 October 2023, Council support the additional budget allocation of \$85k to the verge and median cutting service to achieve the increased service level and maintenance of DIT median.

Carried Unanimously (296)

Retention of confidential documents:

Moved Cr S Keane, Seconded Cr Foreman

1. That having considered the agenda item titled “Verge and Median Maintenance - Tender Outcome ” and dated 31 October 2023 in confidence under section 90(2) & (3) (k) and Section 91(7) of the Local Government Act 1999:
 - tenders for the provision of services or the carrying out of works on the basis that:
 - o the information provides the tender responses and evaluation for the contracted works, which may prejudice Council’s ability to be able to negotiate a cost effective outcome for the benefit of Council and the community

the Council pursuant to section 91(7) of the Act orders that the report, attachments and minutes relevant to this item be retained in confidence with the exception of those third parties impacted by or involved in negotiations and potential outcomes until:

- the contract is signed by both parties or a decision has been made not to enter into a contract or
- Council resolves otherwise, whichever occurs first.

2. That Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91 (7) of the Local Government Act 1999 subject to the Chief Executive Officer consulting with the Mayor and reporting to the Elected Members of the revocation.

Carried Unanimously (297)

The Mayor declared the meeting closed at 6.43 pm.

Confirmed.....
Mayor