

**MINUTES OF CITY OF MOUNT GAMBIER  
ORDINARY COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT  
GAMBIER  
ON TUESDAY, 20 JULY 2021 AT 6.00 P.M.**

**VIRTUAL MEETING WAS AVAILABLE FOR LIVE STREAMING,  
<https://www.youtube.com/user/cityofmountgambier/live>**

**PRESENT VIA ELECTRONIC MEANS:** Mayor Lynette Martin (OAM), Cr Sonya Mezinac, Cr Kate Amoroso (entered at 6:03 pm), Cr Max Bruins, Cr Christian Greco, Cr Ben Hood, Cr Frank Morello (entered at 6:01 pm), Cr Steven Perryman

**OFFICERS IN ATTENDANCE:**

Chief Executive Officer	- Mrs S Philpott
General Manager Shared Services	- Mr D Barber
General Manager City Growth	- Mr T Coote
Acting General Manager City Infrastructure	- Ms B Cernovskis
Manager Governance and Property	- Mr M McCarthy
iServices Systems Administrator	- Mr A Myers
Executive Administration Officer	- Ms A Lavia

Cr Frank Morello entered the virtual meeting at 6:01 pm

## **1 ACKNOWLEDGEMENT OF COUNTRY**

**WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.**

## **2 APOLOGIES**

Nil

## **3 LEAVE OF ABSENCE**

Nil

## **4 CONFIRMATION OF COUNCIL MINUTES**

### **RESOLUTION 2021/182**

Moved: Cr Paul Jenner  
Seconded: Cr Ben Hood

That the minutes of the Ordinary Council meeting held on 15 June 2021, the Special Council meeting held on 21 June 2021 and the Special Council meeting held on 29 June 2021 be confirmed as an accurate record of the proceedings of the meeting.

**CARRIED**

## **5 MAYORAL REPORT**

Cr Kate Amoroso entered the virtual meeting at 6:03 pm



## 5.1 MAYORAL REPORT - JULY 2021

- Green Industries SA and KESAB Regional Forum
- Weekly LCLGA Mayor's Virtual Meeting
- Introductory Meeting James Morrison / Tim Coote
- Special Meeting of Council – Budget – Review of Written Submissions
- Elected Members Briefing – Rateable Commercial Properties – Occupancy
- Presentation of WHS Award to Council Employees
- Reconciliation Action Plan Community Reference Group Meeting
- UniSA Mount Gambier Campus Scholarship Awards and Grants Dinner
- Weekly LCLGA Mayor's Virtual Meeting
- MJ Dance Studio – Debutante Ball
- Radio Interview 5GTR-FM
- Meeting with Flinders University Rural and Remote Health, City of Mt Gambier, District Council of Grant
- Special Council Meeting – Adoption of Annual Budget
- Changeover Dinner Rotary Club of Mount Gambier West
- Mulga Street Primary School – French Day
- Grant High School – Young Change Agents Entrepreneurial Program Judging
- Economic and Environment Committee Meeting
- Elected Members Briefing – Presentation re SA Masters Games
- Introductory Meeting – Member for Mount Gambier and CEO
- Weekly LCLGA Mayor's Virtual Meeting
- Mount Gambier Eisteddfod Dance Division – Award Presentation
- Weekly LCLGA Mayor's Virtual Meeting
- With CEO, Meeting with Hon Zoe Bettison MP – Shadow Minister for Trade, Tourism and Multicultural Affairs
- Mayoral Business Breakfast
- Wulanda Recreation and Convention Centre Committee
- In Home Hospice Care Volunteer Graduation
- With CEO, meeting with Hon David Speirs MP Minister for Environment and Water
- Meeting re Mount Gambier Private Hospital
- Weekly LCLGA Mayor's Virtual Meeting
- Elected Members City of Mount Gambier Waste Sites Tour
- Elected Members Briefing – Draft LCLGA Business Plan 2021-2022

### **RESOLUTION 2021/183**

Moved: Mayor Lynette Martin

Seconded: Cr Max Bruins

That the Mayoral report made on 20 July 2021 be received.

**CARRIED**



## 6 REPORTS FROM COUNCILLORS

Cr Sonya Mezinec Exhibition Openings - Earth Canvas, Under the Canopy and Black Crow, Christmas Parade Advisory Committee

Cr Christian Greco Apollo Football Club 50<sup>th</sup> Anniversary

### RESOLUTION 2021/184

Moved: Cr Kate Amoroso

Seconded: Cr Ben Hood

That the reports made by Councillors on 20 July 2021 be received.

**CARRIED**

## 7 QUESTIONS WITH NOTICE

Nil

## 8 QUESTIONS WITHOUT NOTICE

Nil

## 9 PETITIONS

Nil

## 10 DEPUTATIONS

Nil

## 11 NOTICE OF MOTION TO RESCIND OR AMEND

Nil

## 12 ELECTED MEMBERS WORKSHOPS

### 12.1 ELECTED MEMBER WORKSHOPS FROM 12/06/2021 TO 16/07/2021

### RESOLUTION 2021/185

Moved: Cr Sonya Mezinec

Seconded: Cr Christian Greco

That the Record of Proceedings for the listed Workshops be received and noted.

**CARRIED**

## 13 ELECTED MEMBERS TRAINING AND DEVELOPMENT

Nil



## 14 COUNCIL ACTION ITEMS

### 14.1 COUNCIL ACTION ITEMS - 15/06/2021

#### **RESOLUTION 2021/186**

Moved: Cr Max Bruins  
Seconded: Cr Frank Morello

1. That Council Report No. AR21/42544 titled 'Council Action Items - 15/06/2021' as presented on 20 July 2021 be noted.

**CARRIED**

## 15 ECONOMIC AND ENVIRONMENT COMMITTEE MINUTES AND RECOMMENDATIONS

Nil

## 16 PEOPLE AND PLACE COMMITTEE MINUTES AND RECOMMENDATIONS

Nil

## 17 WULANDA AND RECREATION AND CONVENTION CENTRE COMMITTEE MINUTES AND RECOMMENDATIONS

### 17.1 MINUTES OF THE WULANDA RECREATION AND CONVENTION CENTRE COMMITTEE HELD ON 13 JULY 2021

#### **RESOLUTION 2021/187**

Moved: Cr Ben Hood  
Seconded: Cr Sonya Meziniec

That the Minutes of the Wulanda Recreation and Convention Centre Committee meeting held on 13 July 2021 as attached be noted.

**CARRIED**

### 17.2 REVIEW OF FINANCIAL DELEGATIONS FOR THE WULANDA RECREATION AND CONVENTION CENTRE CONSTRUCTION CONTRACT – REPORT NO. AR21/30397

#### **RESOLUTION 2021/188**

Moved: Cr Ben Hood  
Seconded: Cr Sonya Meziniec

1. That Wulanda Recreation and Convention Centre Committee Report No. AR21/30397 titled 'Review of Financial Delegations for the Wulanda Recreation and Convention Centre Construction Contract' as presented on 13 July 2021 be noted.
2. Pursuant to Regulation 21 of the Local Government (Procedures at Meetings) Regulations the Chief Executive Officer recommends that Part 4 only of Resolution 2019/409 dated 17 December 2019, namely:

*"4. That the delegations relating to financial variations be as follows:*

- a) Site Superintendent / Project Manager – an increase in budget up to \$25,000; including cumulative changes*
- b) Project Control Group – an increase in budget from \$25,001 up to \$50,000; and*
- c) Regional Sport and Recreation Centre Committee – an increase in budget from \$50,001 up to \$100,000."*

be revoked.

3. Council note the head delegations made to the Chief Executive Officer on 18 May 2021 pursuant to section 44 of the Local Government Act 1999 of various powers and functions including the powers under sections 36, 37 and 137 of the Local Government Act 1999, to enter into contracts and expend Council funds respectively in accordance with adopted budgets and policy provisions.
4. In accordance with the power in section 44(2)(a) of the Local Government Act 1999, Council delegates to the Wulanda Recreation and Convention Centre Committee the power under section 137 of the Local Government Act 1999 to expend Council funds to approve variations to the Wulanda Recreation and Convention Centre construction contract up to the value of \$150,000 per variation subject to expenditure being within the adopted project budget for the Wulanda Recreation and Convention Centre, with the Chief Executive Officer authorised to act immediately to give effect to any such committee decision.
5. That aggregate contract variations are to continue to be presented with monthly project updates to the Wulanda Recreation and Convention Centre Committee.

**CARRIED**

### 17.3 REVIEW OF CONFIDENTIALITY ORDERS – REPORT NO. AR21/40974

#### RESOLUTION 2021/189

Moved: Cr Ben Hood  
Seconded: Cr Max Bruins

1. That Wulanda Recreation and Convention Centre Committee Report No. AR21/40974 titled 'Review of Confidentiality Orders' as presented on 13 July 2021 be noted.
2. That the duration of the following confidentiality orders be amended:

Meeting Date	Item	S90(3) grounds	Element kept Confidential	Order Duration	Proposed Duration
16/02/21	ITEM 27.2 PROJECT CONTROL GROUP (PCG) PROGRESS REPORT - AS AT 01/02/2021 – REPORT NO. AR21/6521	(b), (d) & (k)	report, attachments, discussion, resolution/s and minutes	the item be reviewed 12 months after successful execution of the contract.	that the item be reviewed 12 months after successful completion of the Badge construction contract for the Wulanda Recreation and Convention Centre.
16/3/21	ITEM 27.2 PROJECT CONTROL GROUP (PCG) PROGRESS REPORT - AS AT 01/03/2021 - REPORT NO. AR21/11450	(b), (d) & (k)	report, attachments, discussion, resolution/s and minutes	that the item be reviewed 12 months after successful execution of the contract.	that the item be reviewed 12 months after successful completion of the Badge construction contract for the Wulanda Recreation and Convention Centre.
23/03/21	ITEM 4.1 WULANDA RECREATION AND CONVENTION CENTRE FUNDING – REPORT NO. AR21/17395	(b), (d) & (k)	report, attachments, discussion, resolution/s and minutes	that the item be reviewed 12 months after successful execution of the contract.	that the item be reviewed 12 months after successful completion of the Badge construction contract for the Wulanda Recreation and Convention Centre.

**CARRIED**

**18 COUNCIL ASSESSMENT PANEL MINUTES**

**18.1 MINUTES OF THE COUNCIL ASSESSMENT PANEL HELD ON 1 JULY 2021**

**RESOLUTION 2021/190**

Moved: Cr Paul Jenner  
Seconded: Cr Christian Greco

That the Minutes of the Council Assessment Panel meeting held on 1 July 2021 as previously circulated be noted.

**CARRIED**

**19 JUNIOR SPORTS ASSISTANCE (SECTION 41) COMMITTEE MINUTES AND RECOMMENDATIONS**

Nil

**20 AUDIT COMMITTEE MINUTES AND RECOMMENDATIONS**

Nil

**21 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE MINUTES AND RECOMMENDATIONS**

Nil

**22 CHIEF EXECUTIVE OFFICER SELECTION PANEL COMMITTEE MINUTES AND RECOMMENDATIONS**

Nil

**23 BUILDING FIRE SAFETY COMMITTEE MINUTES**

**23.1 MINUTES OF THE BUILDING FIRE SAFETY COMMITTEE HELD ON 1 JULY 2021**

**RESOLUTION 2021/191**

Moved: Cr Paul Jenner  
Seconded: Cr Christian Greco

That the Minutes of the Building Fire Safety Committee meeting held on 1 July 2021 as previously circulated be noted.

**CARRIED**



## 24 COUNCIL REPORTS

### 24.1 CO-DEDICATION OF BLUE LAKE

#### RESOLUTION 2021/192

Moved: Cr Sonya Mezinec

Seconded: Cr Max Bruins

1. That Council Report No. AR21/27432 titled 'Co-Dedication of Blue Lake' as presented on 20 July 2021 be noted.
2. That the administration progress and report back to Council on:
  - (a) liaison with SA Water to draft an agreement to guide each organisations use, activities and stakeholder communication protocols associated with the Blue Lake land parcel.
  - (b) preparation of a draft Community Land Management Plan for the Blue Lake land parcel (noting the Blue Lake is part of the State Heritage Crater Lakes precinct)
  - (c) consideration of the most appropriate mechanisms for coordination and community engagement.

**CARRIED**

### 24.2 ELECTED MEMBER ATTENDANCE RECORDS

#### RESOLUTION 2021/193

Moved: Cr Max Bruins

Seconded: Cr Christian Greco

1. That Council Report No. AR21/38405 titled 'Elected Member Attendance Records' as presented on 20 July 2021 be noted.

**CARRIED**

### 24.3 PUBLIC ROAD DECLARATION - LOT 397 LAWRENCE STREET

#### RESOLUTION 2021/194

Moved: Cr Sonya Mezinec

Seconded: Cr Max Bruins

1. That Council Report No. AR21/38504 titled 'Public Road Declaration - Lot 397 Lawrence Street' as presented on 20 July 2021 be noted.
2. To declare Allotment 397 in Filed Plan 194199 contained in Certificate of Title Volume 5731 Folio 717 as public road pursuant to Section 208 of the Local Government Act 1999.
3. That the Chief Executive Officer be authorised to publish a notice in the Government Gazette as required by Section 208(4) of the Local Government Act 1999 to declare the road to be public road.

**CARRIED**



#### **24.4 STATUTES AMENDMENT (LOCAL GOVERNMENT REVIEW) ACT 2021**

##### **RESOLUTION 2021/195**

Moved: Cr Sonya Meziniec  
Seconded: Cr Max Bruins

1. That Council Report No. AR21/39261 titled 'Statutes Amendment (Local Government Review) Act 2021' as presented on 20 July 2021 be noted.
2. That Council note that resource implications including any human resourcing associated with the legislative amendments will become clearer as implementation plans progress. A further report will be presented when further clarity can be provided once commencement dates of amended provisions are known, any regulations drafted and finalised, and the Office of Local Government and Local Government Association have released further transition support resources.

**CARRIED**

Cr Christian Greco left the virtual meeting at 6:53 pm

Cr Christian Greco returned to virtual the meeting at 6:54 pm

Chief Executive Officer, Mrs Sarah Philpott, declared a conflict of interest and left the virtual meeting for Item 24.5 - Chief Executive Officer Performance Review Committee.

#### **24.5 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE**

##### **MOTION**

Moved: Cr Christian Greco  
Seconded: Cr Sonya Meziniec

1. That Council Report No. AR21/43738 titled 'Chief Executive Officer Performance Review Committee' as presented on 20 July 2021 be noted.
2. That the amended Terms of Reference for the Chief Executive Officer Performance Review Committee be adopted as attached to Council Report No. AR21/43738.

The Mayor sought the approval of at least two-thirds of the members present at the meeting to suspend meeting procedures:

Purpose of the Suspension: to discuss nominations for the membership of the Chief Executive Officer Performance Review Committee.

Carried by more than two-thirds of the members present at the meeting.

Meeting Procedures were suspended at 7:06 pm.

The Mayor determined that the period of suspension should be brought to an end;

Carried by more than two-thirds of the members present at the meeting.

The Period of Suspension came to an end and Meeting Procedures resumed at 7:08 pm.





**RESOLUTION 2021/196**

Moved: Cr Christian Greco

Seconded: Cr Sonya Mezinec

1. That Council Report No. AR21/43738 titled 'Chief Executive Officer Performance Review Committee' as presented on 20 July 2021 be noted.
2. That the amended Terms of Reference for the Chief Executive Officer Performance Review Committee be adopted as attached to Council Report No. AR21/43738.

**CARRIED**

Mrs Sarah Philpott returned to the virtual meeting.

Pursuant to Section 74 of the Local Government Act 1999, Mayor Lynette Martin disclosed a material conflict of interest in Item 24.6:

*"I am a member of the governing body of the LCLGA noting that I am Council's representative".*

In accordance with Section 74 of the Local Government Act 1999 Mayor Lynette Martin did not participate in the meeting for Item 24.6.

Mayor Lynette Martin left the virtual meeting at 7:10 pm

The Deputy Mayor Christian Greco took the chair for Item 24.6.

**24.6 LIMESTONE COAST LOCAL GOVERNMENT ASSOCIATION BUSINESS PLAN  
2021/2022**

**RESOLUTION 2021/197**

Moved: Cr Christian Greco

Seconded: Cr Ben Hood

1. That Council Report No. AR21/43817 titled 'Limestone Coast Local Government Association Business Plan 2021/2022' as presented on 20 July 2021 be noted.
2. That Council support the Limestone Coast Local Government Association (LCLGA) Budget and Business Plan for the 2021/2022 financial year, noting further work to be undertaken by Council on priority areas identified in the LCLGA Business Plan.

**CARRIED**

Mayor Lynette Martin returned to the virtual meeting at 7:18 pm and resumed the chair for the remainder of the meeting.



## 24.7 INTERNAL REVIEW OF COUNCIL ACTIONS 2020/2021

### RESOLUTION 2021/198

Moved: Cr Max Bruins  
Seconded: Cr Frank Morello

1. That Council Report No. AR21/27433 titled 'Internal Review of Council Actions 2020/2021' as presented on 20 July 2021 be noted.
2. That the background and discussion material contained in Council Report No. AR20/27433 relating to Section 270 of the Local Government Act 1999 be included in Council's 2020/2021 Annual Report.

**CARRIED**

## 25 MOTIONS WITH NOTICE

Nil

## 26 MOTIONS WITHOUT NOTICE

Nil

## 27 CONFIDENTIAL ITEMS OF COMMITTEES

### 27.1 CONFIDENTIAL ITEMS OF THE WULANDA RECREATION AND CONVENTION CENTRE COMMITTEE HELD ON 13 JULY 2021

### 27.2 PROJECT CONTROL GROUP (PCG) PROGRESS REPORT #8 - AS AT 06/07/2021 – REPORT NO. AR21/42663

### RESOLUTION 2021/199

Moved: Cr Frank Morello  
Seconded: Cr Sonya Meziniec

#### CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Mayor L Martin, Councillors S Meziniec, K Amoroso, M Bruins, C Greco, B Hood, P Jenner, F Morello and S Perryman and Council Officers S Philpott, D Barber, T Coote, B Cernovskis, M McCarthy, A Myers and A Lavia be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 27.2 AR21/42663 Project Control Group (PCG) Progress Report #8 - As at 06/07/2021.

The Council is satisfied that, pursuant to section 90(3) (b) and (d) of the Act, the information to be received, discussed or considered in relation to the Agenda 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 business; or
  - proposing to conduct business; or



- to prejudice the commercial position of the Council

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

- 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

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

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 because the disclosure of information associated with this report could reasonably be expected to prejudice the commercial position of the third party as the present matter relates to the signed contracts between Council, BADGE, Turner and Townsend, Design Inc and Rider Levett Bucknall for the construction of the Wulanda Recreation and Convention Centre. The disclosure of this information at this time is considered on balance to be contrary to the public's interest as it would unreasonably expose the sensitive interest of the third party.

**CARRIED**

The livestream concluded.

#### **RESOLUTION 2021/200**

Moved: Cr Max Bruins  
Seconded: Cr Frank Morello

#### **CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 6.1 AR21/42663 Project Control Group (PCG) Progress Report #8 - As at 06/07/2021 and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (b) and (d) be kept confidential and not available for public inspection until 12 months after completion of the project.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

**CARRIED**



**27.3 DESIGN SERVICES - CONSTRUCTION AND DEFECTS LIABILITY PERIOD –  
REPORT NO. AR21/43266**

**RESOLUTION 2021/201**

Moved: Cr Max Bruins

Seconded: Cr Sonya Mezinec

**CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Mayor L Martin, Councillors S Mezinec, K Amoroso, M Bruins, C Greco, B Hood, P Jenner, F Morello and S Perryman and Council Officers S Philpott, D Barber, T Coote, B Cernovskis, M McCarthy, A Myers and A Lavia be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 27.3 AR21/43266 Design Services - Construction and Defects Liability Period.

The Council is satisfied that, pursuant to section 90(3) (b), (d), (g) and (h) of the Act, the information to be received, discussed or considered in relation to the Agenda 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 business; or
  - proposing to conduct business; or
  - to prejudice the commercial position of the Council

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

- 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

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

- information concerning 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,
  - breach any duty of confidence, or
  - breach any other legal obligation or duty
- legal advice



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 because the information to be discussed is to include contractual terms, conditions, rates and budget the disclosure of which could reasonably prejudice the commercial position of Council and disclose commercial information of the proponent and breach an existing Confidentiality Order that remains in operation in relation to the information being considered, as well as legal advice relating to the matter.

**CARRIED**

### **RESOLUTION 2021/202**

Moved: Cr Sonya Meziniec  
Seconded: Cr Ben Hood

#### **CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 6.2 AR21/43266 Design Services - Construction and Defects Liability Period and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (b), (d), (g) and (h) be kept confidential and not available for public inspection until services under a contract associated with the matter have been completed, with the name of the contractor and contract value only to be released following consideration by Council.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

**CARRIED**

## **28 NEW CONFIDENTIAL ITEMS**

### **28.1 LEGAL ADVICE – REPORT NO. AR21/39325**

#### **RESOLUTION 2021/203**

Moved: Cr Max Bruins  
Seconded: Cr Ben Hood

#### **CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Mayor L Martin, Councillors S Meziniec, K Amoroso, M Bruins, C Greco, B Hood, P Jenner, F Morello and S Perryman and Council Officers S Philpott, D Barber, T Coote, B Cernovskis, M McCarthy, A Myers and A Lavia be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 28.1 AR21/39325 Legal Advice.

The Council is satisfied that, pursuant to section 90(3) (g), (h), (i) and (j) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information concerning 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,

- breach any duty of confidence, or
- breach any other legal obligation or duty
- legal advice
- 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
- information the disclosure of which would divulge information provided on a confidential basis by or to:
  - a Minister of the Crown, or
  - another Public Authority or official (not being an employee or a person engaged by the Council) that would on balance be contrary to the public interest

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 because the information to be considered includes, primarily, legal advice that is subject to legal and common privilege and relates to litigation that it is reasonably considered will take place and that involved information of a confidential nature conveyed by a public authority.

**CARRIED**

Cr Steven Perryman left the virtual meeting at 7:33 pm and did not return.

Cr Christian Greco left the virtual meeting at 7:36 pm and did not return.

#### **RESOLUTION 2021/204**

Moved: Cr Max Bruins  
Seconded: Cr Paul Jenner

#### **CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 28.1 AR21/39325 Legal Advice and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (g), (h), (i) and (j) be kept confidential and not available for public inspection until further Order of Council, to be reviewed at least once in every year..
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

**CARRIED**



**28.2 STRATEGIC PROPERTY MANAGEMENT - LAND VALUATIONS – REPORT NO. AR21/38766**

**RESOLUTION 2021/205**

Moved: Cr Max Bruins

Seconded: Cr Ben Hood

**CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Mayor L Martin, Councillors S Meziniec, K Amoroso, M Bruins, B Hood, P Jenner and F Morello and Council Officers S Philpott, D Barber, T Coote, B Cernovskis, M McCarthy, A Myers and A Lavia be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 28.2 AR21/38766 Strategic Property Management - Land Valuations.

The Council is satisfied that, pursuant to section 90(3) (b) and (d) of the Act, the information to be received, discussed or considered in relation to the Agenda 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 business; or
  - proposing to conduct business; or
  - to prejudice the commercial position of the Council
- 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

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 because the information to be considered includes property valuation information the disclosure of which could reasonably be considered would prejudice the commercial position of Council in the event of a potential land disposal and/or advantage a third party with whom Council proposed to enter into a contractual arrangement.

The public interest in the non-disclosure of this information is in ensuring best value is obtained for the property in the event that it is declared surplus and placed on the market for sale.

**CARRIED**

Cr Kate Amoroso left the virtual meeting at 7:42 pm and did not return.



**RESOLUTION 2021/206**

Moved: Cr Max Bruins  
Seconded: Cr Paul Jenner

**CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 28.2 AR21/38766 Strategic Property Management - Land Valuations and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (b) and (d) be kept confidential and not available for public inspection until a contract has been settled for each of the subject properties, to be reviewed every 12 months.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

**CARRIED**

**28.3 COVID-19 TOURISM TENANCIES – REPORT NO. AR21/41157**

**RESOLUTION 2021/207**

Moved: Cr Max Bruins  
Seconded: Cr Sonya Meziniec

**CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Mayor L Martin, Councillors S Meziniec, M Bruins, B Hood, P Jenner and F Morello Council Officers S Philpott, D Barber, T Coote, B Cernovskis, M McCarthy, A Myers and A Lavia be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 28.3 AR21/41157 COVID-19 Tourism Tenancies.

The Council is satisfied that, pursuant to section 90(3) (a), (b) and (d) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)
- information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is
  - conducting business; or
  - proposing to conduct business; or
  - to prejudice the commercial position of the Council
- 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





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 because the information to be discussed includes contractual and financial information relating to Council's tourism tenancies including tenants personal information, the disclosure of which would be inappropriate and could reasonably prejudice the commercial position of Council, confer commercial advantage on Council's tenants and reveal commercial information regarding tenants contractual arrangements.

**CARRIED**

**RESOLUTION 2021/208**

Moved: Cr Max Bruins  
Seconded: Cr Ben Hood

**CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 28.3 AR21/41157 COVID-19 Tourism Tenancies and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (a), (b) and (d) be kept confidential and not available for public inspection until 1 year after each listed tourism tenants current arrangements have expired or been replaced, or 1 year after the end of the COVID19 health emergency, whichever is the later.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

**CARRIED**

Pursuant to Section 75A of the Local Government Act 1999, Cr Max Bruins disclosed a perceived conflict of interest in Item 28.4:

*“as members of my extended family own a significant part of the business that has been identified as the preferred supplier”.*

Cr Max Bruins informed the meeting of the manner in which they *intend to deal with the perceived conflict of interest in Item 28.4 as follows:*

*- I will leave the chamber (or virtual equivalent) and will not vote on this item”*

In accordance with Section 75A of the Local Government Act 1999 Cr Max Bruins left the virtual meeting for Item 28.4.

Cr Max Bruins left the virtual meeting at 7:56 pm and did not return.



**28.4 TENDER AF21/209 SUPPLY AND DELIVERY OF PREMIXED CONCRETE – REPORT NO. AR21/43214**

**RESOLUTION 2021/209**

Moved: Cr Sonya Mezinec

Seconded: Cr Ben Hood

**CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Mayor L Martin, Councillors S Mezinec, B Hood, P Jenner and F Morello and Council Officers S Philpott, D Barber, T Coote, B Cernovskis, M McCarthy, A Myers and A Lavia be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 28.4 AR21/43214 Tender AF21/209 Supply and Delivery of Premixed Concrete.

The Council is satisfied that, pursuant to section 90(3) (k) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- tenders for the:
  - supply of goods, or
  - the provision of services, or
  - the carrying out of works

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 because this item relates to the discussion and recommendation of commercial arrangements for the supply and delivery of pre-mixed concrete.

**CARRIED**

**RESOLUTION 2021/210**

Moved: Cr Ben Hood

Seconded: Cr Frank Morello

**CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 28.4 AR21/43214 Tender AF21/209 Supply and Delivery of Premixed Concrete and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (k) be kept confidential and not available for public inspection until final execution of the signed contract, at which only time the successful provider and contract value will be released.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

**CARRIED**



**29 MEETING CLOSE**

**The Meeting closed at 7:59 pm.**

**The minutes of this meeting were confirmed at the Ordinary Council Meeting held on 17 August 2021.**

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**PRESIDING MEMBER**

