



City of
Mount Gambier

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**I hereby give notice that a Wulanda Recreation and Convention Centre
Committee Meeting will be held on:**

Date: Tuesday, 13 July 2021

Time: 5.30 p.m.

**Location: Council Chamber
Civic Centre
10 Watson Terrace
Mount Gambier**

AGENDA

Wulanda Recreation and Convention Centre Committee Meeting 13 July 2021

**Sarah Philpott
Chief Executive Officer
9 July 2021**

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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 APOLOGY(IES)

That the apology(ies) from Cr Kate Amoroso and Cr Paul Jenner be received.

3 CONFIRMATION OF MINUTES

[Wulanda Recreation and Convention Centre Committee Meeting - 8 June 2021](#)

RECOMMENDATION

That the minutes of the Wulanda Recreation and Convention Centre Committee meeting held on 8 June 2021 be confirmed as an accurate record of the proceedings of the meeting.

4 QUESTIONS WITHOUT NOTICE



5 REPORTS

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

Committee:	Wulanda Recreation and Convention Centre Committee
Meeting Date:	13 July 2021
Report No.:	AR21/30397
CM9 Reference:	AF18/175
Author:	Michael McCarthy, Manager Governance and Property
Authoriser:	Barbara Cernovskis, Acting General Manager City Infrastructure
Summary:	The report presents information on financial delegations for the Wulanda Recreation and Convention Centre construction contract
Strategic Plan Reference:	Goal 5: Our Commitment

REPORT RECOMMENDATION

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.



TYPE OF REPORT

Corporate

BACKGROUND

In November 2019 Council considered a committee recommendation and resolved:

4. *That the delegations relating to financial variations be as follows:*
 - a) *Site Superintendent / Project Manager – an increase in budget up to \$10,000; including cumulative changes*
 - b) *Project Control Group – an increase in budget up to \$25,000; and*
 - c) *Regional Sport and Recreation Centre Committee – an increase in budget over \$25,000.*

Subsequently in December 2019 the Council rescinded this resolution and made a resolution in relation to delegations for financial variations associated with the Regional Sport and Recreation (now Wulanda Recreation and Convention) Centre Project.

The December 2019 decision is:

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 (now renamed Wulanda Recreation and Convention Centre Committee) – an increase in budget from \$50,001 up to \$100,000.*

In February 2020 in relation to the Project Control Group the Council resolved:

3. *Council reviews the level of authority granted to the CEO, General Managers, and the Project Control Group.*

Council has considered the matter of financial delegations associated with the Wulanda Recreation and Convention Centre Project since February 2020.

With the Wulanda Recreation and Convention Centre Project construction phase well under way, including variations as anticipated for a project of this scope and complexity, it is now timely to review the financial delegations for approving variations to enable them to be dealt with in a timely manner and avoid any contractual penalties that could arise through any delays in decision making.

Further, it has been noted that the delegations purportedly made to the Site Superintendent/Project Manager and Project Control Group are '*ultra vires*' (or beyond the power of the Council) with Council being limited by section 44 of the Local Government Act 1999 to make delegations only to:

- *a Council Committee (i.e. a committee formally established under section 41)*
- *a subsidiary of the Council (i.e. established under section 42 or section 43)*
- *an employee of the Council*
- *an employee of the Council for the time being occupying a particular office or position (e.g. the Chief Executive Officer)*
- *an Authorised Person (i.e. a person formally appointed under section 260)*

The Site Superintendent/Project Manager and Project Control Group do not fall within any of these categories. Accordingly, the delegations indicated in part a) and b) of the abovementioned December 2019 resolution (and the November Committee recommendation and November Council amendment) are invalid and of no effect.



The author is not aware of any financial decisions having been made in reliance of these purported delegations.

It is also apparent that the Chief Executive Officers delegated authority to address timing and financial variations not been explicitly endorsed by Council for application to the Wulanda Recreation and Convention Centre project and Badge construction contract.

This report is presented to address the outstanding action from the February 2020 resolution and rectify the invalid delegation resolutions, as well as to clarify the delegation of powers granted to the Chief Executive Officer to deal with matters associated with contracts and the expenditure of funds in accordance with Council's adopted budget and procurement policy provisions.

PROPOSAL

In accordance with the power set out in regulation 21 of the Local Government (Procedures at Meetings) Regulations this report includes a Chief Executive Officer recommendation to revoke part of a previous resolution purporting to make financial delegations for the Wulanda Recreation and Convention Centre construction contract and to make new financial delegations that are consistent with Council's power of delegation under section 44 of the Local Government Act 1999.

Given the powers under the Local Government Act 1999 delegated to the Chief Executive Officer on 18 May 2021 for the purpose of entering into contracts and arrangements under section 36(1)(a)(i) and section 37(b) and the expenditure of funds under section 137, it is considered that the Chief Executive Officer has been delegated the authority to deal with both timing and budget variations associated with the Wulanda Recreation and Convention Centre project as long as they are in line with an endorsed budget, any relevant Council policy provisions, and any specific resolution regarding this project.

LEGAL IMPLICATIONS

As set out in the background of this report, section 44 of the Local Government Act 1999 sets out to whom Council may delegate its powers and functions under the Act. Council is limited by the provisions of this section and any other purported delegation is 'ultra vires', or beyond the power of the Council.

Council is not required to delegate any power or function, however it is administratively responsible and efficient to do so to enable other people/bodies (usually Council Officers) to perform the many functions and decision making required for the day to day administrative activities of Council.

A delegation is subject to any conditions or limitations determined by the Council, is revocable at will, and does not prevent the Council from acting in a matter (unless a duly authorised delegate has already exercised Council's power in the matter).

STRATEGIC PLAN

N/A

COUNCIL POLICY

Council's [Procurement, & Disposal of Land And Assets Policy P420](#) is relevant to the matter of financial and purchasing delegations for procurement and contracting, noting however that the Wulanda Recreation and Convention Centre construction is subject to a Council endorsed and executed contract and budget.

The purpose of making financial delegations for the construction project relates to variations within the context of the contract and Council budget.

ECONOMIC IMPLICATIONS

Council is aware of the budget and contractual obligations associated with the Wulanda Recreation and Convention Centre construction project, including the need for Council to provide timely response to the engaged contractors on matters that arise so not to cause unnecessary delay which could extend the construction completion date or penalties/benefits in favour of the contractor.



Accordingly, it is appropriate that Council strike a balance between oversight and control of such contractual matters that may involve variations, ensuring that delegations support the benefits/savings sought to be achieved.

ENVIRONMENTAL IMPLICATIONS

N/A

SOCIAL IMPLICATIONS

N/A

CULTURAL IMPLICATIONS

N/A

RESOURCE IMPLICATIONS

The extent of resource (or financial) implications in the exercise financial delegation for the Wulanda Recreation and Convention Centre construction contract will be limited by any conditions or limitations imposed by Council, the conditions of the construction contract and approved budget.

VALUE FOR MONEY

The value associated with granting delegation for financial decision making for the Wulanda Recreation and Convention Centre construction contract will be in potential time and monetary savings arising from responsive decision making that minimises avoidable delays and/or penalties.

RISK IMPLICATIONS

The main risks associated with granting (or not granting) delegation for financial decision making for the Wulanda Recreation and Convention Centre construction contract are identified as:

- timeliness of decision making on construction matters.
- potential for construction/completion delays and/or penalties arising from decision making.
- potential for financial decisions under delegation upon which Council does not agree.
- potential for outcomes determined under delegation upon which Council does not agree.

Council should consider and balance the risks (and benefits) associated with granting (or not granting) delegation and any conditions or limitations for financial decision making for Wulanda Recreation and Convention Centre construction contract.

EQUALITIES AND DIVERSITY IMPLICATIONS

N/A

ENGAGEMENT AND COMMUNICATION STRATEGY

N/A

IMPLEMENTATION STRATEGY

N/A

CONCLUSION AND RECOMMENDATION

This report includes recommendations to confirm delegations for contractual and financial decision making specifically relating to the Wulanda Recreation and Convention Centre project and associated contracts.

ATTACHMENTS

Nil



5.2 REVIEW OF CONFIDENTIALITY ORDERS – REPORT NO. AR21/40974

Committee: Wulanda Recreation and Convention Centre Committee

Meeting Date: 13 July 2021

Report No.: AR21/40974

CM9 Reference: AF18/175

Author: Michael McCarthy, Manager Governance and Property

Authoriser: Barbara Cernovskis, Acting General Manager City Infrastructure

Summary: This report presents confidentiality orders for review and proposed amendment.

Strategic Plan Reference:

- Goal 1: Our People
- Goal 2: Our Location
- Goal 3: Our Diverse Economy
- Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage
- Goal 5: Our Commitment

REPORT RECOMMENDATION

- That Wulanda Recreation and Convention Centre Committee Report No. AR21/40974 titled 'Review of Confidentiality Orders' as presented on 13 July 2021 be noted.
- 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.



TYPE OF REPORT

Legislative

BACKGROUND

At the Ordinary and Special Council Meetings held in February and March 2021 Council considered three confidential agenda items relating to the Wulanda Recreation and Convention Centre. The section 91(7) confidentiality orders to retain these matters in confidence were made with the following duration:

“the item be reviewed 12 months after successful execution of the contract.”

The contract referenced in these confidentiality orders is the Badge construction contract for the Wulanda Recreation and Convention Centre that was signed on 14 August 2020.

Several similar confidentiality orders made during 2020 were updated during a periodic review of confidentiality orders at the 18 May 2021 Council meeting. As the May 2021 report only reviewed orders made up until December 2020 it did not include the orders made in February and March 2021.

With the 12 month anniversary of the execution of the Badge construction contract in August the review anticipated by these confidentiality orders is now presented for consideration.

PROPOSAL

Similar to the previously amended confidentiality orders, it is presumed that the intention when the items were presented in February and March 2021 was that they be reviewed 12 months after the successful ‘completion’ of the Wulanda Recreation and Convention Centre construction project contract which is expected in 2022, rather than 12 months after the ‘execution’ of the contract which falls in August 2021 mid-way during the contract.

The confidentiality provisions of the Local Government Act 1999 (“the Act”) require that a section 91(7) order that operates for a period exceeding 12 months must be reviewed at least once in every year, thus capturing a review within 12 months of either the execution or completion of the contract.

This report proposes 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.

The proposed duration will require a further order of Council to trigger release, with a review occurring at least every 12 months in accordance with section 91(9) of the Act.

Further, head delegations made to the Chief Executive Officer include the power under section 91(9)(c) of the Act to revoke, but not review or extend, a confidentiality order under delegation.



Accordingly, the Chief Executive Officer may determine at any time prior to formal Council review or further order to release some or all elements of the agenda item that have been kept confidential, as necessity warrants from time to time.

LEGAL IMPLICATIONS

The confidentiality orders made in February and March 2021 as presented provide that they be reviewed 12 months after the successful execution of the (Badge) contract.

Whilst not technically required to be reviewed until after 14 August 2021 in consideration of the recommendation to amend the duration for a review after completion, rather than execution, of the relevant contract the review is now presented.

STRATEGIC PLAN

N/A

COUNCIL POLICY

The use of the confidentiality provisions in the Act is administered in accordance with [Council Policy C410 Conduct of Meetings](#).

ECONOMIC IMPLICATIONS

N/A

ENVIRONMENTAL IMPLICATIONS

N/A

SOCIAL IMPLICATIONS

N/A

CULTURAL IMPLICATIONS

N/A

RESOURCE IMPLICATIONS

N/A

VALUE FOR MONEY

N/A

RISK IMPLICATIONS

N/A

EQUALITIES AND DIVERSITY IMPLICATIONS

N/A

ENGAGEMENT AND COMMUNICATION STRATEGY

N/A

IMPLEMENTATION STRATEGY

N/A

CONCLUSION AND RECOMMENDATION

This report proposes the duration of the presented confidentiality orders be amended:

ATTACHMENTS

Nil



6 CONFIDENTIAL ITEMS

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

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Wulanda Recreation and Convention Centre Committee orders that all members of the public, except Mayor L Martin Councillors B Hood, M Bruins, C Greco, S Meziniec and F Morello and Council Officers S Philpott, D Barber, T Coote, G Davison, M McCarthy and S Wilson be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 6.1 AR21/42663 Project Control Group (PCG) Progress Report #8 - As at 06/07/2021.

The Wulanda Recreation and Convention Centre Committee 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 Wulanda Recreation and Convention Centre Committee 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.

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*.

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

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Wulanda Recreation and Convention Centre Committee orders that all members of the public, except Mayor L Martin Councillors B Hood, M Bruins, C Greco, S Mezinac and F Morello and Council Officers S Philpott, D Barber, T Coote, G Davison, M McCarthy and S Wilson be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 6.2 AR21/43266 Design Services - Construction and Defects Liability Period.

The Wulanda Recreation and Convention Centre Committee 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
- 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
- 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 Wulanda Recreation and Convention Centre Committee 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.

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*.

7 MEETING CLOSE



**MINUTES OF CITY OF MOUNT GAMBIER
WULANDA RECREATION AND CONVENTION CENTRE COMMITTEE MEETING
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT
GAMBIER
ON TUESDAY, 8 JUNE 2021 AT 5.30 P.M.**

PRESENT: Mayor Lynette Martin (OAM), Cr Ben Hood (Presiding Member), Cr Max Bruins,
Cr Christian Greco, Cr Paul Jenner, Cr Sonya Meziniec, Cr Frank Morello

OFFICERS IN ATTENDANCE: Acting Chief Executive Officer - Ms B Cernovskis
General Manager Shared Services - Mr D Barber
General Manager City Growth - Mr T Coote
Executive Administrator Community Wellbeing - Ms A Lavia

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 APOLOGY(IES)

COMMITTEE RESOLUTION

Moved: Cr Christian Greco

Seconded: Cr Frank Morello

That the apology from Cr Kate Amoroso be received.

CARRIED

3 CONFIRMATION OF MINUTES

COMMITTEE RESOLUTION

Moved: Cr Sonya Meziniec

Seconded: Mayor Lynette Martin

That the minutes of the Wulanda Recreation and Convention Centre Committee meeting held on 11 May 2021 be confirmed as an accurate record of the proceedings of the meeting.

CARRIED

4 QUESTIONS WITHOUT NOTICE

Nil



5 CONFIDENTIAL ITEMS

5.1 PROJECT CONTROL GROUP (PCG) PROGRESS REPORT - AS AT 01/06/2021 – REPORT NO. AR21/32471

COMMITTEE RESOLUTION

Moved: Cr Frank Morello

Seconded: Cr Max Bruins

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Wulanda Recreation and Convention Centre Committee orders that all members of the public, except Mayor L Martin, Councillors B Hood, M Bruins, C Greco, P Jenner, S Meziniec and F Morello and Council Officers B Cernovskis, D Barber, T Coote and A Lavia be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 5.1 AR21/32471 Project Control Group (PCG) Progress Report - As at 01/06/2021.

The Wulanda Recreation and Convention Centre Committee 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 Wulanda Recreation and Convention Centre Committee 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



COMMITTEE RESOLUTION

Moved: Cr Sonya Meziniec
Seconded: Mayor Lynette Martin

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 5.1 AR21/32471 Project Control Group (PCG) Progress Report - As at 01/06/2021 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

5.2 REQUEST FOR EXPRESSIONS OF INTEREST - AF20/515 MANAGEMENT AND OPERATION OF MOUNT GAMBIER COMMUNITY AND RECREATION HUB - REPORT NO. AR21/34712

COMMITTEE RESOLUTION

Moved: Cr Sonya Meziniec
Seconded: Cr Frank Morello

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Wulanda Recreation and Convention Centre Committee orders that all members of the public, except Mayor L Martin, Councillors B Hood, M Bruins, C Greco, P Jenner, S Meziniec and F Morello and Council Officers B Cernovskis, D Barber, T Coote and A Lavia be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 5.2 AR21/34712 Request for Expressions of Interest - AF20/515 Management and Operation of Mount Gambier Community and Recreation Hub.

The Wulanda Recreation and Convention Centre Committee is satisfied that, pursuant to section 90(3) (b) and (k) 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
- tenders for the:
 - supply of goods, or



- the provision of services, or
- the carrying out of works

The Wulanda Recreation and Convention Centre Committee 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 matter relates to the tender for the management and operation of the Wulanda Recreation and Convention Centre and contains information the consideration of which in a public forum would prejudice the commercial position of the Council and confer advantage on third party participants.

CARRIED

COMMITTEE RESOLUTION

Moved: Cr Max Bruins
Seconded: Cr Sonya Meziniec

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 5.2 AR21/34712 Request for Expressions of Interest - AF20/515 Management and Operation of Mount Gambier Community and Recreation Hub 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 (k) be kept confidential and not available for public inspection until a further order of Council to release.
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

6 MEETING CLOSE

The Meeting closed at 6:36 pm.

The minutes of this meeting were confirmed at the Wulanda Recreation and Convention Centre Committee held on 13 July 2021.

.....
PRESIDING MEMBER

