



MINUTES OF SPECIAL MEETING OF COUNCIL

Purpose:

For Council to:

- 1. Receive Legal Advice**
 - 2. Consider Apple Fun Park Revitalisation Project Tender Submissions**
-

Held on

Wednesday 20 January 2021

Commencing at 3.00 pm

Shire of Donnybrook Balingup Council Chamber

Ben Rose
Chief Executive Officer

21 January 2021

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**SHIRE OF DONNYBROOK BALINGUP
SPECIAL COUNCIL MEETING MINUTES**

Wednesday 20 January 2021 at 3.00pm

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Shire President – Acknowledgment of Country

The Shire President acknowledged the traditional custodians of the land, the Wardandi People of the Noongar Nation, paying respects to Elders, past, present and emerging.

The Shire Present declared the meeting open at 3.08pm.

Shire President - Public Notification of Recording of Meetings

The Shire President advised that the meeting is being digitally recorded to assist with minute taking in accordance with Council Policy 1.25. The Shire President further stated the following:

If you do not give permission for your participation to be recorded, please indicate this at the meeting. Members are reminded that no other visual or audio recording of this meeting by any other means is allowed without the permission of the Chairperson.

2 ATTENDANCE

COUNCILLORS	STAFF
Cr Brian Piesse (President)	Ben Rose – Chief Executive Officer
Cr Jackie Massey (Deputy President)	Paul Breman – Executive Manager Corporate and Community
Cr Shane Atherton	Damien Morgan – Acting Executive Manager Operations
Cr Anita Lindemann	Shawn Lombard – Principal Project Manager
Cr Chaz Newman	Jaimee Earl – Minute Taker
Cr Shane Sercombe	
Cr Chris Smith	

PUBLIC GALLERY

Nil.

2.1 APOLOGIES

Cr Mitchell and Cr Wringe were apologies to the meeting.

2.2 APPROVED LEAVE OF ABSENCE

Nil.

2.3 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

Nil.

4 DECLARATION OF INTEREST

Division 6: Sub-Division 1 of the *Local Government Act 1995*. Care should be taken by all Councillors to ensure that a financial/impartiality interest is declared and that they refrain from voting on any matter, which is considered to come within the ambit of the Act.

Ben Rose declared a financial and impartiality interest in item 7.1.1 'Confidential – Legal Advice' and left the Chamber for the duration of the item.

Paul Breman, Executive Manager Corporate and Community declared an impartiality interest in item 7.1.1 'Confidential – Legal Advice'.

Cr Piesse declared an impartiality interest in item 7.1.1 'Confidential – Legal Advice'.

Cr Sercombe declared an impartiality interest in item 7.1.1 'Confidential – Legal Advice'.

Cr Smith declared a financial interest in item 7.1.2 as his business may be involved in the projector as a sub contractor. Cr Smith left the Chamber for the duration of the item and did not vote on the matter.

5 PUBLIC QUESTION TIME

Nil.

6 REPORTS OF OFFICERS

Nil.

7 MEETING CLOSED TO THE PUBLIC

7.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

The following confidential reports and recommendations have been distributed separately and are not for circulation:

7.1.1 CONFIDENTIAL – LEGAL ADVICE

This report is confidential in accordance with Section 5.23(2) of the *Local Government Act 1995*, which permits the meeting to be closed to the public.

- (a) *a matter affecting an employee or employees.*
- (d) *legal advice obtained, or which may be obtained by the local government and which relates to a matter to be discussed at the meeting.*

7.1.2 CONFIDENTIAL – RFT 05/1920 DESIGN AND CONSTRUCT – APPLE FUN PARK REVITALISATION PROJECT

This report is confidential in accordance with Section 5.23(2) of the *Local Government Act 1995*, which permits the meeting to be closed to the public.

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting*

EXECUTIVE RECOMMENDATION

That the meeting be closed in accordance with section 5.23(2) of the *Local Government Act 1995* to discuss the following confidential items:

7.1.1 CONFIDENTIAL – LEGAL ADVICE

7.1.2 CONFIDENTIAL – RFT 05/1920 DESIGN AND CONSTRUCT – APPLE FUN PARK REVITALISATION PROJECT

COUNCIL RESOLUTION 1/21

Moved Cr Massey Seconded Cr Lindemann

That the meeting be closed in accordance with section 5.23(2) of the *Local Government Act 1995* to discuss the following confidential items:

- 7.1.1 CONFIDENTIAL – LEGAL ADVICE**
- 7.1.2 CONFIDENTIAL – RFT 05/1920 DESIGN AND CONSTRUCT – APPLE FUN PARK REVITALISATION PROJECT**

CARRIED 6/1

The meeting was closed to the public at 3.16pm.

Ben Rose, Chief Executive Officer, Damien Morgan, Acting Executive Manager Operations and Shawn Lombard, Manager Principal Project Manager left the Chamber at 3.16pm. Paul Breman, Executive Manager Corporate and Community and Jaimee Earl, Minute Taker remained in the Chamber with Councillors.

COUNCIL RESOLUTION 4/21

Moved Cr Massey Seconded Cr Lindemann

That the meeting be re-opened to the public.

CARRIED 6/0

The meeting was re-opened to the public at 4.18pm.

Cr Smith returned to the Chamber at 4.18pm

7.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

RESOLUTION 2/21

That Council endorses the recommendations outlined in the Confidential Report.

RESOLUTION 3/21

That Council:

- 1. Pursuant to RFT05/1920 Design & Construct – Apple Fun Park Revitalisation, accept the tender from the Preferred Contractor, subject to minor variations to be negotiated in accordance with regulation 20 of the Local Government (Functions and General) Regulations 1996 (FG Regulations).*
- 2. Delegates authority to the Chief Executive Officer to negotiate and agree with the Preferred Contractor minor variations in accordance with regulation 20 of the FG Regulations, subject to there being sufficient funds available within the 2020-21 budget and the variation being limited to no more than 10% of the contract value.*
- 3. Subject to resolutions 1 and 2, authorise the Chief Executive Officer to enter into a contract with the Preferred Contractor to deliver the works as set out in RFT05/1920 Design & Construct – Apple Fun Park Revitalisation.*
- 4. Instructs the Chief Executive Officer to publish the Council Resolution in the Minutes of the 20 January 2021 Special Council Meeting.*

6 CLOSURE

The Shire President advised that the next Ordinary Council Meeting will be held on Wednesday 24 February 2021 commencing at 5.00pm.

The Shire President closed the meeting at 4.19pm.