

CITY OF WEST TORRENS



Confidential Minutes

of

Report Item 21.1 of the Council Meeting

of the

CITY OF WEST TORRENS

held in the Council Chambers, Civic Centre
165 Sir Donald Bradman Drive, Hilton

on

**TUESDAY, 6 AUGUST 2019
at 7.00pm**

**Angelo Catinari
Chief Executive Officer (Acting)**

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Released

21 CONFIDENTIAL

21.1 Amazone Tower Legal Advice

Reason for Confidentiality

The Council is satisfied that, pursuant to Section 90(3)(h) and (i) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this agenda item is:

- (h) legal advice.
- (i) 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.

Council resolved that:

1. Pursuant to Section 90(2) of the *Local Government Act 1999*, Council orders, that the public, with the exception of the Chief Executive Officer, members of the Executive and Management Teams in attendance at the meeting, and meeting secretariat staff, be excluded from attendance at so much of the meeting as is necessary to receive, discuss and consider in confidence, information contained within the confidential report Item 21.1 Amazone Tower Legal Advice, attachments and any associated documentation submitted by the Chief Executive Officer, specifically on the basis of the provisions of Section 90(3)(h) and (i) because of the threat of litigation and the Council's consideration of related legal advice.
2. At the completion of the confidential session the meeting be re-opened to the public.

8.42pm Cr Cindy O'Rielley returned to the meeting.

8.43pm the meeting moved into Confidence and the Confidential session commenced.

PRESENT:

Council Members:

Mayor M Coxon (Presiding Member)

Councillors: J Woodward, E Papanikolaou, D Huggett, K McKay, D Mugavin, G Nitschke, S Pal, S Tsiaparis, G Vlahos, C O'Rielley, D Wilton, A McKay, J Wood

Officers:

Mr T Buss	(Chief Executive Officer)
Mr A Catinari	(General Manager Urban Services)
Ms P Koritsa	(General Manager Business and Community Services)
Mr B Ross	(General Manager Corporate and Regulatory)
Mr J Ielasi	(Manager City Assets)
Mr D Ottanelli	(Manager City Property)
Mr P Richardson	(Manager City Operations)

This report provided legal advice to Council in relation to the threat of litigation by WRP Legal & Advisory, lawyers acting on behalf of Kevin and Kath Benson seeking removal and relocation of the Amazone Tower from the Jubilee Park playground, Glandore.

RECOMMENDATION

It is recommended that:

1. Council notes the legal advice provided by Kelledy Jones Lawyers in relation to the threat of litigation against Council by WRP Legal & Advisory acting on behalf of Kevin and Kath Benson relative to their request to remove and relocate the Amazone Tower from Jubilee Park, Glandore.
2. Council instructs Kelledy Jones Lawyers to write to WRP Legal and Advisory to:
 - a. Advise that an appeal under the Development Act will be incompetent and is unlikely to be accepted by the ERD Court. In the event that an appeal is commenced, the Council will apply to have it dismissed with costs; and
 - b. Seek confirmation as to whether additional privacy treatments to the Tower would assist in alleviating the Benson's concerns in respect of overlooking and loss of privacy.
3. Council not consider any further possible remedial actions in respect of the Benson's concerns with the Tower until a response is received relative to point 2 above.

RESOLUTION

Moved: Cr John Woodward

Seconded: Cr Daniel Huggett

That the recommendation be adopted.

CARRIED

FURTHER

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the Item 21.1 Amazone Tower Legal Advice the Minutes arising, attachments and any associated documentation, having been considered by the Council in confidence under Section 90(3)(h) and (i), be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting, on the basis that of the threat of litigation and the Council's consideration of related legal advice.
2. Council delegates the power of review, but not the extension, of the confidential order to the Chief Executive Officer on a monthly basis in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

RESOLUTION

Moved: Cr Dominic Mugavin

Seconded: Cr John Woodward

That the recommendations be adopted.

CARRIED

8.51pm the Confidential session closed and the meeting reopened to the public.