

CITY OF WEST TORRENS



**Confidential Minutes**

**of**

**Report Items 21.1 and 21.2 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, 5 JULY 2022**  
**at 7.00pm**

**Terry Buss PSM**  
**Chief Executive Officer**

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## **21.2 Application for Ministerial Exemption to make Designated Decision during Caretaker Period**

### **Reason for Confidentiality**

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

- (b)(i) 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.
- (b)(ii) information the disclosure of which - would, on balance, be contrary to the public interest.
- (d)(i) 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.
- (d)(ii) commercial information of a confidential nature (not being a trade secret) the disclosure of which - would, on balance, be contrary to the public interest.
- (h) legal advice.

### **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 21.2 - Application for Ministerial Exemption to make Designated Decision during Caretaker Period, attachments and any associated documentation submitted by the Chief Executive Officer, specifically on the basis of the provisions of Section 90(3)(b)(i),(b)(ii),(d)(i),(d)(ii) and (h) because the information discussed and considered in relation to this agenda item is information, the disclosure of which could reasonably be expected to severely prejudice Council's ability to achieve the best possible outcome for the land under consideration and provide a commercial advantage to those with whom Council is in discussions with and would, on balance, be contrary to the public interest.
2. At the completion of the confidential session the meeting be re-opened to the public.

**8.45pm** the meeting moved into Confidence and the confidential session commenced.

### **PRESENT**

#### **Council Members:**

Mayor M Coxon (Presiding Member)

Councillors: E Papanikolaou, D Huggett, K McKay, D Mugavin, G Nitschke, S Pal, S Tsiaparis, G Vlahos, C O'Rielly, A McKay, B Reynolds

**Officers:**

Mr T Buss	(Chief Executive Officer)
Mr A Catinari	(Deputy Chief Executive Officer)
Ms P Koritsa	(General Manager Business and Community Services)
Mr P Della	(General Manager Corporate and Regulatory Services)

The purpose of this report was to seek an application or applications to be made to the Minister for Local Government, Hon Geoff Brock MP, for an exemption or exemptions, pursuant to section 91A (3) and (4) of the *Local Government (Elections) Act 1999* (Caretaker Provisions), if required in relations to the current discussions with the South Australian National Football League (SANFL) and the Adelaide Football Club (AFC) for the proposed Torrens Sports Precinct.

**RECOMMENDATION**

It is recommended that Council make application or applications to the Minister for Local Government, the form and content of which is to be determined by the Chief Executive Officer after consultation with Council's legal advisers and the Office of Local Government, for the purpose of obtaining an exemption or exemptions, pursuant to section 91A (3) and (4) of the *Local Government (Elections) Act 1999*, to enable the Council to make a designated decision or decisions in respect of the proposed Torrens Sports Precinct, being:

1. A decision to enter into an agreement for lease or licence in respect of land at Thebarton Oval with the Adelaide Football Club (AFC) being land that is part of a larger project that will be subject to development; and/or
2. A decision to enter into an agreement for lease or licence in respect of land at Kings Reserve that will be subject to compulsory acquisition by the SA Government for the Torrens-to-Darlington project but which is, including in part, to be returned to the Council at a later time; and/or
3. A decision to enter into a licence agreement which provides for the Adelaide Football Club to enter into the Thebarton Oval land for access and construction purposes; and/or
4. A binding agreement or understanding between the Council and the SA Government in relation to the return of the balance of land at Kings Reserve to the Council at completion of the Torrens-to-Darlington project; and/or
5. A contract, arrangement or understanding with the Adelaide Football Club in the nature of an associated Development Agreement;

Where the total value of each of the above elements either individually or collectively, exceeds the financial thresholds within the definition of 'designated decision' at section 91A (8) of the *Local Government (Elections) Act 1999* and hence, would otherwise be a decision which is unable to be made during the 'caretaker period'.

Prior to the consideration of Confidential Council Item 21.2 - Application for Ministerial Exemption to make Designated Decision during Caretaker Period, the Chief Executive Officer explained the process of the caretaker period in terms of making decisions, specifically in relation to the Adelaide Football Club and Torrens to Darlington Project.

**RESOLUTION**

Moved: Cr Kym McKay

Seconded: Cr Simon Tsiaparis

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 21.2 - Application for Ministerial Exemption to make Designated Decision during Caretaker Period, the Minutes arising, attachments and any associated documentation, having been considered by the Council in confidence under Section 90(3)(b)(i), (b)(ii), (d)(i), (d)(ii) and (h), 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 the information discussed and considered in relation to this agenda item is information, the disclosure of which could reasonably be expected to severely prejudice Council's ability to achieve the best possible outcome for the land under consideration and provide a commercial advantage to those with whom Council is in discussions with and would, on balance, be contrary to the public interest.
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 Graham Nitschke

Seconded: Cr Simon Tsiaparis

That the recommendations be adopted.

**CARRIED**

**8.49pm** the Confidential session closed and the meeting reopened to the public.