



MINUTES

of

SPECIAL COUNCIL MEETING

Pursuant to the provisions of section 84 (1) of the
Local Government Act 1999

held

**WALKERVILLE CIVIC CENTRE
COUNCIL CHAMBERS
66 WALKERVILLE TERRACE GILBERTON**

On

MONDAY 28 SEPTEMBER 2020 AT 7PM

MINUTES
28 September 2020

The meeting was declared open at 7pm

1. ATTENDANCE RECORD

1.1 Present

Mayor Elizabeth Fricker
Cr Rob Ashby AM
Cr MaryLou Bishop
Cr Norm Coleman OAM
Cr Stephen Furlan
Cr Jennifer Joshi
Cr Conrad Wilkins
Cr James Williams

Staff in Attendance

Chief Executive Officer, Kiki Cristol
Group Manager Assets & Infrastructure, Ben Clark
Group Manager Customer Experience, Danielle Garvey
Group Manager Planning, Environment and Regulatory Services, Andreea Caddy
Group Manager Corporate Services, Monique Palmer
Communications Officer, Sarah Spencer
Business Analyst (Property & Contracts), Scott Reardon
Council Secretariat, Vanessa Davidson

1.2 Apologies

Cr James Nenke

1.3 Not Present / Leave of Absence

Councillor Rob Ashby – Leave of absence was approved for the period 5 October to 25 October 2020 on 21 September 2020.

2. DECLARATIONS OF INTEREST (material, actual, perceived)

Nil.

3. REPORTS REQUIRING DECISION OF COUNCIL

Nil.

4 REPORTS PRESENTED FOR INFORMATION

Nil.

5. CONFIDENTIAL ITEMS

5.1 Ryad Hill Pty Ltd Application for Rent Relief

Recommendation (Public)

Moved: Cr Bishop

Seconded: Cr Ashby

CNC137/20-21

Pursuant to s90(3)(b)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except the Chief Executive Officer Kiki Cristol, Group Manager Asset & Infrastructure Ben Clark, Group Manager Planning, Environment & Regulatory Services Andreea Caddy, Group Manager Corporate Services Monique Palmer, Group Manager Customer Experience Danielle Garvey, Manager Business Analyst (Property & Contracts) Scott Reardon, Communications Officer, Sarah Spencer and Council Secretariat Vanessa Davidson be excluded from attendance at the meeting for Agenda Item 19.1 Ryad Hill Pty Ltd Application for Rent Relief.

The Council is satisfied that, pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item 19.1, is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council may propose to conduct business and would therefore prejudice the commercial position of the Council.

CARRIED

The time being 7.01pm the meeting moved into confidence.

Motion

Moved: Cr Coleman

Seconded: Cr Bishop

CNC138/20-21

That Standing Orders be suspended for a period of 20 minutes in order for a full and frank discussion of the subject matter under consideration to be held.

CARRIED

Moved: Cr Williams

Seconded: Cr Bishop

CNC139/20-21

That Standing Orders be further suspended for a period of seven (7) minutes in order for the discussion to be finalised.

CARRIED

The Presiding Member declared Standing Orders resumed at 7.30pm

Recommendation (Confidential)

Moved: Cr Bishop

Seconded: Cr Williams

1. That Council receives and notes the letter (dated 15 September 2020) submitted by Ryad Hill Pty Ltd, seeking a waiver of all fees payable under the Management/Lease Agreement between 1 April 2020 and 30 November 2020, with the exception of the offered compensatory amount of \$69,758.96 (incl. GST);
2. That in response, Council agrees to **waive** the previously deferred amounts for the period of 1 April 2020 and 30 September 2020 (only) totalling \$237,814.62 (plus GST), subject to:
 - a. the Park Manager paying all amounts due to Council for October and November 2020, totalling \$79,271.54 (plus GST), bringing the total amounts paid by the Park Manager to Council during the final year of the Agreement to \$251,954.64 (which equates to 51% of the total rental amounts due);
 - b. the Park Manager relinquishing to Council any/all Park Manager owned minor plant, assets, equipment, furniture, fittings and fixtures (i.e. television, kitchen equipment, mattresses, bedding, furniture, hot water unit etc.) presently located within Council owned cabin assets within the Park;
 - c. that, unless otherwise approved, at their cost the lessee adheres to yielding up all obligations outlined in the Head Agreement dated 20 February 2001, the Deed of Variation dated 23 November 2005 and the Deed of Assignment dated 16 March 2007;
 - d. that Administration be authorised to negotiate an amount between \$69,758.96 (+GST) and \$79,271.54 (+GST) in the event that the lessee does not accept the amount of \$79,271.54 (+GST).
3. That the aforementioned be legally recorded via Deed of Release, which must be mutually executed in full by both Ryad Hill Pty Ltd and Council prior to the expiration of the current Agreement; and
4. That the Mayor and Chief Executive Officer be authorised to execute any/all relevant and ancillary documents pertaining to the proposed Deed of Release between the Ryad Hill Pty Ltd and Council including affixing of the common seal of Council.

Amendment

Moved: Cr Ashby

Seconded Cr Coleman

CNC140/20-21

That Council accepts the offer of Ryad Hill Pty Ltd as it stands.

LOST

The Amendment being LOST, the Motion was put.

Motion (Confidential)

Moved: Cr Bishop

Seconded: Cr Williams

CNC141/20-21

1. That Council receives and notes the letter (dated 15 September 2020) submitted by Ryad Hill Pty Ltd, seeking a waiver of all fees payable under the Management/Lease Agreement between 1 April 2020 and 30 November 2020, with the exception of the offered compensatory amount of \$69,758.96 (incl. GST);
2. That in response, Council agrees to **waive** the previously deferred amounts for the period of 1 April 2020 and 30 September 2020 (only) totalling \$237,814.62 (plus GST), subject to:
 - a. the Park Manager paying all amounts due to Council for October and November 2020, totalling \$79,271.54 (plus GST), bringing the total amounts paid by the Park Manager to Council during the final year of the Agreement to \$251,954.64 (which equates to 51% of the total rental amounts due);
 - b. the Park Manager relinquishing to Council any/all Park Manager owned minor plant, assets, equipment, furniture, fittings and fixtures (i.e. television, kitchen equipment, mattresses, bedding, furniture, hot water unit etc.) presently located within Council owned cabin assets within the Park;
 - c. that, unless otherwise approved, at their cost the lessee adheres to yielding up all obligations outlined in the Head Agreement dated 20 February 2001, the Deed of Variation dated 23 November 2005 and the Deed of Assignment dated 16 March 2007;
 - d. that Administration be authorised to negotiate an amount between \$69,758.96 (+GST) and \$79,271.54 (+GST) in the event that the lessee does not accept the amount of \$79,271.54 (+GST).
3. That the aforementioned be legally recorded via Deed of Release, which must be mutually executed in full by both Ryad Hill Pty Ltd and Council prior to the expiration of the current Agreement; and
4. That the Mayor and Chief Executive Officer be authorised to execute any/all relevant and ancillary documents pertaining to the proposed Deed of Release between the Ryad Hill Pty Ltd and Council including affixing of the common seal of Council.

CARRIED

Recommendation (Public)

Pursuant to s.91(7)

Moved: Cr Furlan

Seconded: Cr Joshi

CNC142/20-21

That having considered Agenda Item 19.1 Ryad Hill Pty Ltd Application for Rent Relief in confidence under section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, minutes and attachments relevant

to this Agenda Item be retained in confidence for a period of 12 months or the matter has been finalised, excepting that Council authorises the release of the minutes to substantive party / parties to enable enactment of the resolution and that pursuant to Section 91(9)(c) of the *Local Government Act 1999* the Council delegates to the Chief Executive Officer the review and power to revoke this Order

and

That Council resolves to end its confidential deliberations pursuant to Section 90(2) of the *Local Government Act 1999* and re-admit the public.

CARRIED

The meeting moved out of confidence at 7.41pm

4. CLOSURE

The meeting was declared closed at 7.41pm

Released