

# TOWN OF COTTESLOE



## SPECIAL COUNCIL MEETING MINUTES

**SPECIAL MEETING OF COUNCIL  
HELD IN THE  
Council Chambers, Cottesloe Civic Centre  
109 Broome Street, Cottesloe  
6.00 PM, Wednesday 13 September 2017**

### **Purpose of Meeting:**

- For Council to consider the submissions received in relation to the recent public notice regarding an offer received from Indiana Pty Ltd.
- For Council to consider the intended appeal to the Supreme Court by the applicant seeking to redevelop 220 Marine Parade, against the decision of the State Administrative Tribunal in the matter.

**MAT HUMFREY**  
Chief Executive Officer

14 September 2017



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**1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS**

The Presiding Member declared the meeting open at 6.03PM

**2 DISCLAIMER**

The Presiding Member drew attention to the Town's Disclaimer and reminded those present that this meeting is being recorded.

**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil.

**4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

**4.2 PUBLIC QUESTIONS**

Nil.

**5 PUBLIC STATEMENT TIME**

Nil.

**6 ATTENDANCE****Present**

Cr Philip Angers  
Cr Helen Burke  
Cr Katrina Downes  
Cr Mark Rodda  
Cr Rob Thomas

**Officers Present**

Mr Mat Humfrey  
Mr Garry Bird  
Mr Andrew Jackson  
Mr Nick Woodhouse  
Ms Samantha Hornby

Chief Executive Officer  
Manager Corporate & Community Services  
Manager Development Services  
Manager Engineering Services  
Governance Coordinator

**6.1 APOLOGIES**

Mayor Jo Dawkins  
Cr Jay Birnbrauer  
Cr Sandra Boulter  
Cr Sally Pyvis

Officer Apologies

Nil.

**6.2 APPROVED LEAVE OF ABSENCE**

Nil.

**6.3 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

**7 DECLARATION OF INTERESTS**

Nil.

**8 PRESENTATIONS**

**8.1 PETITIONS**

Nil.

**8.2 PRESENTATIONS**

Nil.

**8.3 DEPUTATIONS**

Nil.

**9 REPORTS OF OFFICERS**

**9.1 INDIANA – FURTHER CONSIDERATION OF LESSEE’S OFFER**

**File Ref:** PUB/11  
**Attachments:** Indiana Report - August Ordinary Council Meeting  
Advertisement Calling For Submissions  
Redacted Submissions Received  
**Responsible Officer:** Mat Humfrey, Chief Executive Officer  
**Author:** Mat Humfrey, Chief Executive Officer  
**Proposed Meeting Date:** 13 September 2017  
**Author Disclosure of Interest:** Nil.

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**SUMMARY**

Council is being asked to consider the feedback received following the advertising of the offer present by the Lessee.

**BACKGROUND**

At the August Ordinary Council Meeting, Council resolved that Council;

Authorise the Chief Executive Officer to give local public notice of the offer received from Indiana Pty Ltd that;

- a. Sets the outcome of the market rent review at \$195,000;
- b. Sees care, control and management of the public toilets in the Indiana building return to the Town; and
- c. Submissions be sought for a period of 14 days after which a Special Council Meeting can be held to determine whether the offer is accepted.

Following the meeting, officers have arranged and implemented the local public notice required. The Town received 8 submissions which have been attached.

**STRATEGIC IMPLICATIONS**

The Town’s Corporate Business Plan refers to public facilities at the beach with the following;

Priority Area 3 – Enhancing beach access and the foreshore

Actions

- b. Renovate and improve public ablutions at Cottesloe Beach
- c. Provide universal access to all facilities at Cottesloe Beach

By progressing the subletting of these facilities back to the Town, the Town will then be in a position to renovate the facilities and ensure the universal access is provided for.

**POLICY IMPLICATIONS**

There are no perceived Policy Implications contained within the Officer’s Recommendation

**STATUTORY ENVIRONMENT**

As the two parts of the Lessee’s offer do not constitute a disposition of land, neither section 3.58 nor 3.59 of the Local Government Act 1995 apply to the officer’s recommendation.

**FINANCIAL IMPLICATIONS**

Agreeing to the level of rent offered by the Lessee will see the rent charged for Indiana increased by approximately \$50,000 per annum. However, this will not cover the full costs of cleaning and maintaining the toilets to the level the community expects. Based on current indications, the overall cost to the Town will be approximately \$30,000 to \$40,000 per annum.

There will also be a cost in the development of the recommended documentation of between \$5,000 and \$10,000. These costs can be met from existing operating budgets.

**STAFFING IMPLICATIONS**

There are no perceived staffing implications arising from the Officer's Recommendation.

**SUSTAINABILITY IMPLICATIONS**

While there are no direct sustainability implications contained within the Officer's Recommendation, it is likely the renovating and improving the toilet facilities will see an overall reduction in the water consumed by these facilities.

**CONSULTATION**

At its last meeting, Council resolved to call for public submissions on this issue. A total of 8 submissions were received. Seven of the submissions were generally supportive (both questions) with one submission that didn't clearly state support or objection to the questions at hand.

**STAFF COMMENT**

Overall, the response to the proposal has largely been positive, with people encouraged that the maintenance issues with the toilets may finally be able to be put to rest.

Given no objections were received, officers are now seeking authority to expend the required funds to have the required documentation drawn up by the Town's solicitors for Council's consideration. It is expected that there will be two separate documents, the first being the Deed of Extension which will settle the rent review process and one being a sub-lease, returning the toilets to the Town's care and control.

**VOTING**

Simple Majority.

**OFFICER RECOMMENDATION**

That Council AUTHORISE the Chief Executive Officer to have the required documentation drawn up by the Town's solicitors to set in place the offer presented by the Lessee of Indiana.



**COUNCILLOR MOTION**

**Moved Cr Rodda, seconded Cr Downes**

**That Council:**

- 1. AUTHORISE the Chief Executive Officer to have the required documentation drawn up by the Town's solicitors to set in place the offer presented by the Lessee of Indiana, and;**
- 2. Obtain an independent legal opinion on the suitability and enforceability of the legal documentation drawn up;**

**Both for the consideration of Council.**

**CARRIED 5/0**

**10 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:**

**11.1 ELECTED MEMBERS**

Nil.

**11.2 OFFICERS**

Nil.

**12 MEETING CLOSED TO PUBLIC**

**12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

**PROCEDURAL MOTION**

Moved Cr Angers, seconded Cr Rodda

That the meeting be closed to the public to address the remaining confidential item.

**CARRIED 5/0**

*The meeting was closed at 6.15 PM and all members of the public and media representatives left the room.*

**PROCEDURAL MOTION**

Moved Cr Downes, seconded Cr Rodda

That Council suspend standing orders.

**CARRIED 5/0**

**12.1.1 220 MARINE PARADE PROPOSED REDEVELOPMENT – SUPREME COURT APPEAL – STATUS REPORT – CONFIDENTIAL**

**File Ref:** 3408  
**Attachments:** CONFIDENTIAL  
CONFIDENTIAL  
CONFIDENTIAL  
**Responsible Officer:** Mat Humfrey, Chief Executive Officer  
**Author:** Andrew Jackson, Manager Development Services  
**Proposed Meeting Date:** 13 September 2017  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

This report recommends that Council note the information contained in the confidential officer report in relation to a legal briefing regarding 220 Marine Parade Proposed Redevelopment – Supreme Court Appeal – Status Report.

**BACKGROUND**

Refer to the confidential report.

**STRATEGIC IMPLICATIONS**

Refer to the confidential report.

**POLICY IMPLICATIONS**

Refer to the confidential report.

**STATUTORY ENVIRONMENT****Local Government Act 1995****5.23 Meeting Generally Open to the Public**

(2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

(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; and

**FINANCIAL IMPLICATIONS**

Refer to the confidential report.

**STAFFING IMPLICATIONS**

Refer to the confidential report.

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**SUSTAINABILITY IMPLICATIONS**

Refer to the confidential report.

**CONSULTATION**

Refer to the confidential report.

**STAFF COMMENT**

As the content of the report contains information that meets the conditions set in the Local Government Act 1995 s5.23(2)(d), it is recommend that the meeting be closed to the general public while considering this item.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION**

**Moved Cr Rodda, seconded Cr Downes**

**That Council notes the advice contained in this report and resolves to:**

- 1. Not apply to become a joinder to the Supreme Court appeal relating to 220 Marine Parade, and instruct the Town's solicitor to attend to any formalities in that respect.**
- 2. Instruct the Town's officers and solicitor (in consultation with the State Solicitor's Office) to maintain a watching brief on the Supreme Court appeal and to update Council as required.**
- 3. Await any further without-prejudice approach from the applicant on an alternative proposal before giving consideration to such.**

**CARRIED 5/0**

**PROCEDURAL MOTION**

**Moved Cr Rodda, seconded Cr Thomas**

**That the meeting be reopened.**

**CARRIED 5/0**

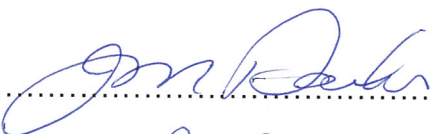
*The meeting was reopened at 6.38 PM and all members of the public and media representatives returned to the room.*

**13 MEETING CLOSURE**

The Presiding Member declared the meeting closed at 6.39 PM

CONFIRMED MINUTES OF 13 SEPTEMBER 2017 SPECIAL COUNCIL MEETING  
PAGES 1 – 10 INCLUSIVE.

PRESIDING MEMBER:  
POSITION:

  
.....

DATE: 26 / 9 / 2017