



# Town of Cottesloe

I hereby certify that the minutes of the Special Council meeting held  
on

**Tuesday, 30 May 2023**

were confirmed as a true and accurate record by Council resolution.

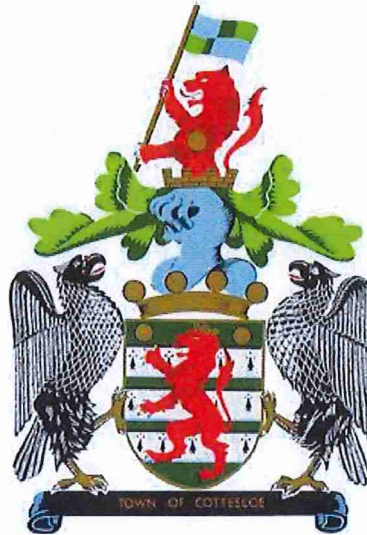
Signed:

Presiding Member

Date:

27/6/23

# TOWN OF COTTESLOE



## SPECIAL COUNCIL MEETING CONFIRMED MINUTES

SPECIAL COUNCIL MEETING  
HELD IN THE  
Council Chambers, Cottesloe Civic Centre  
109 Broome Street, Cottesloe  
6:00 pm Tuesday, 30 May 2023

A handwritten signature in black ink, appearing to read 'William Matthew Scott', is positioned above the printed name.

**WILLIAM MATTHEW SCOTT**  
Chief Executive Officer

1 June 2023

## DISCLAIMER

No responsibility whatsoever is implied or accepted by the Town for any act, omission, statement or intimation occurring during council meetings.

The Town of Cottesloe disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation occurring during council meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a council meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Town of Cottesloe during the course of any meeting is not intended to be and is not taken as notice of approval from the Town.

The Town of Cottesloe wishes to advise that any plans or documents contained within the agenda or minutes may be subject to copyright law provisions (*Copyright Act 1968*, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction.

Members of the public should note that no action should be taken on any application or item discussed at a council meeting prior to written advice on the resolution of Council being received.

Agenda and minutes are available on the Town's website [www.cottesloe.wa.gov.au](http://www.cottesloe.wa.gov.au)

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS .....	1
2	DISCLAIMER .....	1
3	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION .....	1
4	PUBLIC QUESTION TIME .....	1
	4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	1
	4.2 PUBLIC QUESTIONS .....	1
5	PUBLIC STATEMENT TIME.....	1
6	ATTENDANCE .....	1
	6.1 APOLOGIES .....	2
	6.2 APPROVED LEAVE OF ABSENCE.....	2
	6.3 APPLICATIONS FOR LEAVE OF ABSENCE .....	2
7	DECLARATION OF INTERESTS.....	2
8	PRESENTATIONS .....	2
	8.1 PETITIONS .....	2
	8.2 PRESENTATIONS.....	2
	8.3 DEPUTATIONS .....	2
9	REPORTS.....	3
	9.1 REPORTS OF OFFICERS.....	3
	DEVELOPMENT AND REGULATORY SERVICES.....	3
	9.1.1 LOT 20 (19) NAPOLEON STREET - SAT REVIEW OF A CONDITION PROVIDED IN A JDAP DECISION FOR A MIXED USE DEVELOPMENT	3
10	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	5
11	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:.....	5
	11.1 ELECTED MEMBERS .....	5
	11.2 OFFICERS.....	5
12	MEETING CLOSED TO PUBLIC.....	5
	12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED.....	5
	12.1.1 T02/2023 - SKATE PARK FACILITY - DESIGN AND CONSTRUCT - TENDER RECOMMENDATION	5

---

12.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC..... 7

13 MEETING CLOSURE ..... 7

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

The Presiding Member announced the meeting opened at 6:03 pm.

I would like to begin by acknowledging the Whadjuk Nyoongar people, Traditional Custodians of the land on which we meet today, and pay my respects to their Elders past and present. I extend that respect to Aboriginal and Torres Strait Islander peoples here today.

**2 DISCLAIMER**

The Presiding Member drew attention to the Town’s Disclaimer.

**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

The Presiding Member announced that the meeting is being recorded, solely for the purpose of confirming the correctness of the Minutes.

**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**

**Elected Members**

- Mayor Lorraine Young
- Cr Helen Sadler
- Cr Craig Masarei
- Cr Melissa Harkins
- Cr Kirsty Barrett
- Cr Paul MacFarlane
- Cr Chilla Bulbeck
- Cr Richard Atkins

**Officers**

- |                          |   |
|--------------------------|---|
| Mr William Matthew Scott | Chief Executive Officer                   |
| Mr Shaun Kan             | Director Engineering Services             |
| Mr Ed Drewett            | Coordinator Statutory Planning            |
| Ms Jacquelyne Pilkington | Governance & Executive Office Coordinator |

**6.1 APOLOGIES**

Cr Brad Wylynko

**Officers Apologies**

Mr Shane Collie	Director Corporate and Community Services
Ms Freya Ayliffe	Director Development and Regulatory Services
Mr Wayne Zimmermann	Manager of Planning

**6.2 APPROVED LEAVE OF ABSENCE**

Nil

**6.3 APPLICATIONS FOR LEAVE OF ABSENCE**

SCM085/2023

Moved Mayor Young                      Seconded Cr Sadler

That Cr Masarei be granted a leave of absence from 21 June to 28 June 2023.

Carried 8/0

**7 DECLARATION OF INTERESTS**

Cr Masarei declared an IMPARTIALITY INTEREST in item 9.1.1 by virtue "I am a Cottesloe Representative for the Joint Development Assessment Panel"

Cr MacFarlane declared an IMPARTIALITY INTEREST in item 9.1.1 by virtue "I am a Cottesloe Representative for the Joint Development Assessment Panel"

**8 PRESENTATIONS****8.1 PETITIONS**

Nil

**8.2 PRESENTATIONS**

Nil

**8.3 DEPUTATIONS**

Nil

**9 REPORTS****9.1 REPORTS OF OFFICERS****DEVELOPMENT AND REGULATORY SERVICES****9.1.1 LOT 20 (19) NAPOLEON STREET - SAT REVIEW OF A CONDITION PROVIDED IN A JDAP DECISION FOR A MIXED USE DEVELOPMENT**

**Directorate:** Development and Regulatory Services  
**Author(s):** Ed Drewett, Coordinator Statutory Planning  
**Authoriser(s):** Freya Ayliffe, Director Development and Regulatory Services  
**File Reference:** D23/19764  
**Applicant(s):** Urbanista  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

A Responsible Authority Report (RAR) has been prepared following Orders by the State Administrative Tribunal (SAT) pursuant to S31 of the *State Administrative Tribunal Act 2004* for the respondent (DAP) to reconsider its decision to conditionally approve the mixed use development at 19 Napoleon Street, Cottesloe.

The RAR is to be submitted to the DAP on or before 1 June 2023.

**OFFICER RECOMMENDATION IN BRIEF**

That the DAP affirms its decision of 27 October 2022.

**BACKGROUND**

Please refer to attached RAR.

**OFFICER COMMENT**

The proposal has been considered against all the relevant legislative requirements of the Scheme, State and Local Planning Policies outlined in the Legislation and Policy section of the RAR report.

**ATTACHMENTS**

- 9.1.1(a) DAP-Responsible-Authority-Report-RAR-SAT-19 Napoleon Street [under separate cover]**
- 9.1.1(b) Napoleon 19-21 S31 Reconsideration Letter [under separate cover]**
- 9.1.1(c) Draft Payment in Lieu of Parking Plan [under separate cover]**



**CONSULTATION**

Please refer to attached RAR.

**STATUTORY IMPLICATION**

Please refer to attached RAR.

**POLICY IMPLICATIONS**

There are no perceived policy implications arising from the officer's recommendation.

**STRATEGIC IMPLICATIONS**

There are no perceived strategic implications arising from the officer's recommendation.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation.

**VOTING REQUIREMENT**

Simple Majority

SCM086/2023

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Sadler

Seconded Cr Bulbeck

THAT Council supports the Responsible Authority Recommendation in the attached RAR.

Carried 8/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Atkins

Against: Nil

**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****11.2 OFFICERS****12 MEETING CLOSED TO PUBLIC****12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

SCM087/2023

**MOTION FOR BEHIND CLOSED DOORS**

Moved Mayor Young                      Seconded Cr MacFarlane

That, in accordance with Section 5.23(2)(c), Council discuss the confidential reports behind closed doors.

Carried 8/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Atkins

Against: Nil

*The public and members of the media were requested to leave the meeting at 6:23 pm*

**12.1.1 T02/2023 - SKATE PARK FACILITY - DESIGN AND CONSTRUCT - TENDER RECOMMENDATION**

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (c) as it contains information relating to 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.

**OFFICER RECOMMENDATION**

THAT Council:

1. REJECTS all tenders received;
2. NOTES that the insurance requirements within the Request for Tender Documentation will be amended as per the advice provided by Local Government Insurance Scheme (LGIS) providers; and
3. Subject to points one and two above, NOTES that the tender will be re-advertised.

SCM088/2023

**COUNCILLOR ALTERNATIVE MOTION**

Moved Cr Barrett

Seconded Cr Masarei

THAT Council:

1. **AUTHORISES** the Chief Executive Officer to award the Skate Park Facility Design and Construct Tender to Tenderer B, Alternative offer, for a contract value of \$743,498.83 excluding GST, with works to begin as soon as possible and completed within the timeframe outlined in the Tender response; and
2. **AUTHORISE** the Mayor, Elected Members and the Town's Administration to disclose the identity of the successful Tenderer and the preferred Tenderer is Phase 3 Landscape Construction Pty Ltd.

Carried 8/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Atkins

Against: Nil

**Rationale**

- The Probity Auditor has confirmed that it is open to Council to accept any of the tenders, consistent with our statutory obligations. Proceeding with one of the tenders is an acceptable and viable option for the Town.
- Both Tenderer's have clearly demonstrated their high capabilities for undertaking the works.
- Tenderer B has provided us with a conforming response, which exceeds budget, and an alternative response in line with the RFT requirements so it is compliant, as confirmed by the Probity Auditor.
- Tenderer B's Alternative tender offer will deliver the approved scope within the Lotterywest Grant value.
- Both Tenderers provided \$20m Public Liability cover, with only Tenderer B providing costing for the higher Insurance requirement, in its compliant tender (which exceeded the Lotterywest Grant value).
- LGIS have advised that \$20m Public Liability Insurance is sufficient cover for these types of works and appears consistent with Market expectations.
- Tenderer B's Alternative offer demonstrates better value for money than their conforming offer.
- The Town's Panel evaluating the Tenders have determined Tenderer B as the preferred Contractor.
- Rejecting all Tenders and going back out to the market has clear risks that there are price increases and no Tenders will be received within the Lotterywest Grant value.
- There is also the impact to timeframes and to the perception by a significant number in the Community who have been pushing for a Skate park to be built for many years, who will be frustrated by a further and unnecessary delay.

- For these reasons the best course is to proceed with tenderer B's alternative offer.

SCM089/2023

**MOTION FOR RETURN FROM BEHIND CLOSED DOORS**

Moved Mayor Young                      Seconded Cr MacFarlane

In accordance with Section 5.23 that the meeting be re-opened to members of the public and media, and motions passed behind closed doors be read out if there are any public present.

Carried 8/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Atkins

Against: Nil

*The public and members of the media returned to the meeting at 6:40 pm.*

**12.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC**

**12.1.1 T02/2023 - SKATE PARK FACILITY - DESIGN AND CONSTRUCT - TENDER RECOMMENDATION**

The resolution for item 12.1.1 was read aloud.

**13 MEETING CLOSURE**

The Presiding Member announced the closure of the meeting at 6:42 pm.