



# MINUTES

## Special Meeting of Council

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Monday, 5 November 2012, 6.00pm

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## **SPECIAL MEETING OF COUNCIL**

Minutes of the Special Meeting of Council  
held in the Council Chambers, Fremantle City Council  
on **5 November 2012** at 6.00 pm.

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### **DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

The Mayor, Mr Brad Pettitt declared the meeting open at 6.05 pm and welcomed members of the public to the meeting.

### **NYOONGAR ACKNOWLEDGEMENT STATEMENT**

"We acknowledge this land that we meet on today is part of the traditional lands of the Nyoongar people and that we respect their spiritual relationship with their country. We also acknowledge the Nyoongar people as the custodians of the greater Fremantle/Walyalup area and that their cultural and heritage beliefs are still important to the living Nyoongar people today."

### **IN ATTENDANCE**

Brad Pettitt	Mayor
Cr Doug Thompson	North Ward ( <i>entered 6.15 pm</i> )
Cr Rachel Pemberton	City Ward
Cr Tim Grey-Smith	City Ward
Cr Robert Fittock	North Ward
Cr Andrew Sullivan	South Ward
Cr Ingrid Waltham	East Ward
Cr Sam Wainwright	Hilton Ward
Cr Bill Massie	Hilton Ward
Cr David Hume	Beaconsfield Ward
Mr Graeme Mackenzie	Chief Executive Officer
Mr Glen Dougall	Director Corporate Services
Mr Philip St John	Director Planning and Development Services
Mr Peter Pikor	Director Technical Services
Mr David Shetliffe	Research Officer

*There were approximately no members of the public and no member/s of the press in attendance.*

### **APOLOGIES**

Cr Dave Coggin	East Ward
Cr Jon Strachan	South Ward

**LEAVE OF ABSENCE**

Cr Josh Wilson

Deputy Mayor / Beaconsfield Ward

**RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**PUBLIC QUESTION TIME**

Nil

**DISCLOSURES OF INTEREST BY MEMBERS**

Nil

**QUESTIONS OR PERSONAL EXPLANATIONS BY ELECTED MEMBERS**

Nil

**TABLED DOCUMENTS**

RSM Bird Cameron, Addendum to Financial Due Diligence of Sirona Capital (Dated - 5 November 2012)

**LATE ITEMS NOTED**

Nil

## **CONFIDENTIAL MATTERS**

**At 6.07 pm Mayor, Brad Pettitt moved that item number C1211-1 be closed to members of the public in accordance with Section 5.23(2) (e) of the Local Government Act.**

## **RESOLUTION FOR CONFIDENTIALITY**

**MOVED: Mayor, Brad Pettitt**

**That item C1211-1 be closed to members of the public in accordance with Section 5.23(2) (e) of the Local Government Act.1995.**

**SECONDED: Cr A Sullivan**

**CARRIED: 9/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr David Hume Cr Rachel Pemberton Cr Robert Fittock Cr Tim Grey-Smith Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Andrew Sullivan	

At 6.15 pm Cr Doug Thompson entered the meeting.

## **COUNCIL ITEMS**

### **C1211-1        KINGS SQUARE BUSINESS CASE REPORT - CONFIDENTIAL**

**DataWorks Reference:** 053/004  
**Disclosure of Interest:** Nil  
**Meeting Date:** Special Council Meeting, 5 November 2012  
**Previous Item:** C1110-5  
**Responsible Officer:** Glen Dougall, Director Corporate Services  
**Actioning Officer:** Glen Dougall, Director Corporate Services  
**Decision Making Authority:** Council  
**Agenda Attachments:** Kings Square Business Case – October 2012  
Due Diligence Report – Sirona Capital

## **REASON FOR CONFIDENTIALITY**

This report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the Local Government Act 1995 which permits the meeting to be closed to the public for business relating to the following:

- (e) a matter that if disclosed, would reveal -
  - (i) a trade secret;
  - (ii) information that has a commercial value to a person; or
  - (iii) information about the business, professional, commercial or financial affairs of a person

## **OFFICER'S RECOMMENDATION / COUNCIL DECISION**

**MOVED: Mayor, Brad Pettitt**

- 1. Council receive and accept the Kings Square Development Business Case (October 2012) report provided by Leedwell Strategic providing a positive Net Present Value and the capacity for the City to implement the project,**
- 2. Council receive and accept the RSM Bird Cameron Report on the due diligence of Sirona Capital proving the capacity for Sirona Capital to implement the project, and**
- 3. Approve the development of a draft Business Plan on the proposal for the Kings Square Project to present to council for consideration.**

**SECONDED: Cr D Hume**

**CARRIED: 10/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr David Hume Cr Rachel Pemberton Cr Robert Fittock Cr Tim Grey-Smith Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Andrew Sullivan Cr Doug Thompson	

**CLOSURE OF MEETING**

**THE MAYOR, B PETTITT DECLARED THE MEETING CLOSED AT 7.31 PM.**

## **SUMMARY GUIDE TO CITIZEN PARTICIPATION AND CONSULTATION**

The Council adopted a Community Engagement Policy in December 2010 to give effect to its commitment to involving citizens in its decision-making processes.

The City values community engagement and recognises the benefits that can flow to the quality of decision-making and the level of community satisfaction.

Effective community engagement requires total clarity so that Elected Members, Council officers and citizens fully understand their respective rights and responsibilities as well as the limits of their involvement in relation to any decision to be made by the City.

<b>How consultative processes work at the City of Fremantle</b>	
<b>The City's decision makers</b>	1. The Council, comprised of Elected Members, makes policy, budgetary and key strategic decisions while the CEO, sometimes via on-delegation to other City officers, makes operational decisions.
<b>Various participation opportunities</b>	2. The City provides opportunities for participation in the decision-making process by citizens via its council appointed working groups, its community precinct system, and targeted community engagement processes in relation to specific issues or decisions.
<b>Objective processes also used</b>	3. The City also seeks to understand the needs and views of the community via scientific and objective processes such as its bi-ennial community survey.
<b>All decisions are made by Council or the CEO</b>	4. These opportunities afforded to citizens to participate in the decision-making process do not include the capacity to make the decision. Decisions are ultimately always made by Council or the CEO (or his/her delegated nominee).
<b>Precinct focus is primarily local, but also city-wide</b>	5. The community precinct system establishes units of geographic community of interest, but provides for input in relation to individual geographic areas as well as on city-wide issues.
<b>All input is of equal value</b>	6. No source of advice or input is more valuable or given more weight by the decision-makers than any other. The relevance and rationality of the advice counts in influencing the views of decision-makers.
<b>Decisions will not necessarily reflect the majority view received</b>	7. Local Government in WA is a representative democracy. Elected Members and the CEO are charged under the Local Government Act with the responsibility to make decisions based on fact and the merits of the issue without fear or favour and are accountable for their actions and decisions under law. Elected Members are accountable to the people via periodic elections. As it is a representative democracy, decisions may not be made in favour of the majority view expressed via consultative processes. Decisions must also be made in accordance with any statute that applies or within the parameters



**How consultative processes work at the City of Fremantle**

		of budgetary considerations. All consultations will clearly outline from the outset any constraints or limitations associated with the issue.
<b>Decisions made for the overall good of Fremantle</b>	8.	The Local Government Act requires decision-makers to make decisions in the interests of “the good government of the district”. This means that decision-makers must exercise their judgment about the best interests of Fremantle as a whole as well as about the interests of the immediately affected neighbourhood. This responsibility from time to time puts decision-makers at odds with the expressed views of citizens from the local neighbourhood who may understandably take a narrower view of considerations at hand.
<b>Diversity of view on most issues</b>	9.	The City is wary of claiming to speak for the ‘community’ and wary of those who claim to do so. The City recognises how difficult it is to understand what such a diverse community with such a variety of stakeholders thinks about an issue. The City recognises that, on most significant issues, diverse views exist that need to be respected and taken into account by the decision-makers.
<b>City officers must be impartial</b>	10.	City officers are charged with the responsibility of being objective, non-political and unbiased. It is the responsibility of the management of the City to ensure that this is the case. It is also recognised that City officers can find themselves unfairly accused of bias or incompetence by protagonists on certain issues and in these cases it is the responsibility of the City’s management to defend those City officers.
<b>City officers must follow policy and procedures</b>	11.	The City’s community engagement policy identifies nine principles that apply to all community engagement processes, including a commitment to be clear, transparent, responsive, inclusive, accountable and timely. City officers are responsible for ensuring that the policy and any other relevant procedure is fully complied with so that citizens are not deprived of their rights to be heard.

<b>How consultative processes work at the City of Fremantle</b>	
<b>Community engagement processes have cut-off dates that will be adhered to.</b>	12. As City officers have the responsibility to provide objective, professional advice to decision-makers, they are entitled to an appropriate period of time and resource base to undertake the analysis required and to prepare reports. As a consequence, community engagement processes need to have defined and rigorously observed cut-off dates, after which date officers will not include 'late' input in their analysis. In such circumstances, the existence of 'late' input will be made known to decision-makers. In most cases where community input is involved, the Council is the decision-maker and this affords community members the opportunity to make input after the cut-off date via personal representations to individual Elected Members and via presentations to Committee and Council Meetings.
<b>Citizens need to check for any changes to decision making arrangements made</b>	13. The City will take initial responsibility for making citizens aware of expected time-frames and decision making processes, including dates of Standing Committee and Council Meetings if relevant. However, as these details can change, it is the citizens responsibility to check for any changes by visiting the City's website, checking the Fremantle News in the Fremantle Gazette or inquiring at the Customer Service Centre by phone, email or in-person.
<b>Citizens are entitled to know how their input has been assessed</b>	14. In reporting to decision-makers, City officers will in all cases produce a community engagement outcomes report that summarises comment and recommends whether it should be taken on board, with reasons.
<b>Reasons for decisions must be transparent</b>	15. Decision-makers must provide the reasons for their decisions.
<b>Decisions posted on the City's website</b>	16. Decisions of the City need to be transparent and easily accessed. For reasons of cost, citizens making input on an issue will not be individually notified of the outcome, but can access the decision at the City's website under 'community engagement' or at the City Library or Service and Information Centre.

## **Issues that Council May Treat as Confidential**

Section 5.23 of the new Local Government Act 1995, Meetings generally open to the public, states:

1. Subject to subsection (2), the following are to be open to members of the public -
  - a) all council meetings; and
  - b) all meetings of any committee to which a local government power or duty has been delegated.
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:
  - a) a matter affecting an employee or employees;
  - b) the personal affairs of any person;
  - c) 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;
  - 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;
  - e) a matter that if disclosed, would reveal –
    - i) a trade secret;
    - ii) information that has a commercial value to a person; or
    - iii) information about the business, professional, commercial or financial affairs of a person.Where the trade secret or information is held by, or is about, a person other than the local government.
  - f) a matter that if disclosed, could be reasonably expected to -
    - i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
    - ii) endanger the security of the local government's property; or
    - iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.
  - g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
  - h) such other matters as may be prescribed.
3. A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.