

| |
|---|
| MINUTES OF A SPECIAL MEETING OF THE CLARENCE CITY COUNCIL HELD AT THE COUNCIL CHAMBERS, BLIGH STREET, ROSNY PARK, ON MONDAY 21 DECEMBER 2020 |
|---|

HOURL CALLED: 7.00pm

PRESENT: The meeting commenced at 7.00pm with the Mayor (Ald D C Chipman) in the Chair and with Aldermen:

B A Blomeley
H Chong
L Edmunds
D Ewington
R H James
W Kennedy
T Mulder
J Peers
S von Bertouch
J Walker
B Warren; present.

1. APOLOGIES Nil

ORDER OF BUSINESS Items 1 – 3

IN ATTENDANCE

General Manager
(Mr I Nelson)

Manager Governance
(Ms C Shea)

Manager Communication and Strategic Development
(Mr A Saddler)

Strategic Policy Officer
(Mrs T Doubleday)

Lawyer
(Mr W Young)

The Meeting closed at 7.54pm.

Prior to the commencement of the meeting, the Mayor made the following declaration:

“I acknowledge the Tasmanian Aboriginal Community as the traditional custodians of the land on which we meet today, and pay respect to elders, past and present”.

SPECIAL COUNCIL MEETING**MONDAY 21 DECEMBER 2020****TABLE OF CONTENTS**

| ITEM | SUBJECT | PAGE |
|-------------|--|-------------|
| 1. | ATTENDANCE AND APOLOGIES | 3 |
| 2. | DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE | 3 |
| 3. | CLOSED MEETING..... | 4 |
| 3.1 | LEGAL MATTER..... | 5 |

1. ATTENDANCE AND APOLOGIES

Refer to cover page.

2. DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE

(File No)

In accordance with Regulation 8 of the Local Government (Meeting Procedures) Regulations 2015 and Council's adopted Code of Conduct, the Mayor requests Aldermen to indicate whether they have, or are likely to have a pecuniary interest (any pecuniary benefits or pecuniary detriment) or conflict of interest in the item on the Agenda.

INTEREST DECLARED: **NIL**

3. CLOSED MEETING

Regulation 15 of the Local Government (Meetings Procedures) Regulations 2015 provides that Council may consider certain sensitive matters in Closed Meeting.

The following matter was listed in the Closed Meeting section of the Council Agenda in accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015.

3.1 LEGAL MATTER

In accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015 the reports in the Closed Meeting section of the Council Agenda were dealt with on the grounds that the detail covered in the reports relates to:

- information provided to the council on the condition it is kept confidential.

The content of reports and details of the Council decisions in respect to items listed in “Closed Meeting” are to be kept “confidential” and are not to be communicated, reproduced or published unless authorised by the Council.

| | | |
|------------------|--|--|
| Decision: | PROCEDURAL MOTION MOVED Ald von Bertouch SECONDED Ald Ewington | |
| | <p>“That the Meeting be closed to the public to consider Regulation 15 matters, and that members of the public be required to leave the meeting room”.</p> <p>The MOTION was put and LOST</p> | |
| | FOR Ald Chipman Ald Blomeley Ald Chong Ald Ewington Ald von Bertouch Ald Walker | AGAINST Ald Edmunds Ald James Ald Kennedy Ald Mulder Ald Peers Ald Warren |

3.1 KANGAROO BAY HOTEL AND HOSPITALITY SCHOOL SITE**EXECUTIVE SUMMARY****PURPOSE**

To grant a further extension of time to Chambroad Overseas Investment Australia Pty Ltd to achieve substantial commencement of the Kangaroo Bay Hotel and Hospitality School Site development, in accordance with the Sale and Development Agreement between the parties.

RELATION TO EXISTING POLICY/PLANS

Clarence City Council Strategic Plan 2016 – 2026 is relevant.

LEGISLATIVE REQUIREMENTS

This report has been listed in the Closed Meeting section of the Council Agenda in accordance with Regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015* (Tas) as the detail covered in the report relates to information provided to the Council on the condition it is kept confidential.

CONSULTATION

Not applicable.

FINANCIAL IMPLICATIONS

There are no financial implications at this time. Should an alternative recommendation be adopted, there may be significant financial implications for council.

RECOMMENDATION:

That Council:

- A. Notes the written request for an extension of time by Chambroad Overseas Investment Australia Pty Ltd (Chambroad), dated 7 October 2020, including the proposed measures to monitor the project and provide updated information to Council on a regular six-monthly basis during the extension period.
- B. Acknowledges the challenges and circumstances that have confronted Chambroad and the University of Tasmania (UTAS) as a consequence of the global COVID-19 pandemic, and that the non-compliance with the agreed time limit for substantial commencement arises for reasons not within the reasonable control of Chambroad.
- C. Authorises the General Manager to write to Chambroad to offer an extension of time in accordance with the terms of the Sale and Development Agreement, subject to the following conditions:
 - a. That the time for substantial commencement be no later than 13 October 2022.

- b. That the Mayor and General Manager be briefed on progress immediately following each six-monthly review meeting, or at any other time that a critical decision related to the site or project is to be made, with an update report to be provided for tabling in open council by the Mayor at the following meeting of Council.
 - c. Prior to any decision to commence works at the site, the General Manager must be notified in writing. Chambroad is to provide council access, via an independent probity auditor appointed by the General Manager, to the following executed agreements which will provide evidence that key agreements are in place to support a reasonable conclusion that Chambroad will be able to complete the project. The key agreements are:
 - i. The agreements with UTAS (or another educational partner) in respect to the collaboration and rental of the education and related facilities;
 - ii. The agreement with a hotel operator in respect to the management agreement of the five-star hotel facility; and
 - iii. The head contract with the principal construction contractor for construction of the buildings and other onsite facilities as approved by the relevant development permit, to the practical completion stage. If there is more than one head construction contract, then each contract shall be provided.
 - d. Upon completion of the requirements set out at Recommendation C(c) above, the General Manager will issue Chambroad a certificate that confirms Council is satisfied that Chambroad can reasonably complete the project.
 - e. That Chambroad provides acknowledgment that the extension of time and conditions set out above do not alter the buy-back provisions contained in the Sale and Development Agreement, which will become active from the 14 October 2022 if substantial commencement has not occurred.
 - f. That Chambroad provides acknowledgment accepting Council's offered extension including the conditions contained within this Recommendation C.
- D. Authorises the General Manager to take all reasonable steps to conclude the arrangements set out at Recommendation C above.
- E. Acknowledges Chambroad's offer to make the site available on a temporary basis for community use prior to development commencing.
- F. Authorises the General Manager to communicate this decision publicly via the release of Minutes of the Meeting following the conclusion of the arrangements set out at Recommendation C and D above.

/ Refer to Page 7 for Decision on this Item...

KANGAROO BAY HOTEL AND HOSPITALITY SCHOOL SITE /contd...

| | |
|------------------|---|
| Decision: | MOVED Ald von Bertouch SECONDED Ald Ewington |
| | “That Council: |
| | A. Notes the written request for an extension of time by Chambroad Overseas Investment Australia Pty Ltd (Chambroad), dated 7 October 2020, including the proposed measures to monitor the project and provide updated information to Council on a regular six-monthly basis during the extension period. |
| | B. Acknowledges the challenges and circumstances that have confronted Chambroad and the University of Tasmania (UTAS) as a consequence of the global COVID-19 pandemic, and that the non-compliance with the agreed time limit for substantial commencement arises for reasons not within the reasonable control of Chambroad. |
| | C. Authorises the General Manager to write to Chambroad to offer an extension of time in accordance with the terms of the Sale and Development Agreement, subject to the following conditions: |
| | a. That the time for substantial commencement be no later than 13 October 2022. |
| | b. That the Mayor and General Manager be briefed on progress immediately following each six-monthly review meeting, or at any other time that a critical decision related to the site or project is to be made, with an update report to be provided for tabling in open council by the Mayor at the following meeting of Council. |
| | c. Prior to any decision to commence works at the site, the General Manager must be notified in writing. Chambroad is to provide council access, via an independent probity auditor appointed by the General Manager, to the following executed agreements which will provide evidence that key agreements are in place to support a reasonable conclusion that Chambroad will be able to complete the project. The key agreements are: |
| | i. The agreements with UTAS (or another educational partner) in respect to the collaboration and rental of the education and related facilities; |

/ Decision contd on Page 8...

KANGAROO BAY HOTEL AND HOSPITALITY SCHOOL SITE /Decision contd...

- ii. The agreement with a hotel operator in respect to the management agreement of the five-star hotel facility; and
 - iii. The head contract with the principal construction contractor for construction of the buildings and other onsite facilities as approved by the relevant development permit, to the practical completion stage. If there is more than one head construction contract, then each contract shall be provided.
 - d. Upon completion of the requirements set out at Recommendation C(c) above, the General Manager will issue Chambroad a certificate that confirms Council is satisfied that Chambroad can reasonably complete the project.
 - e. That Chambroad provides acknowledgment that the extension of time and conditions set out above do not alter the buy-back provisions contained in the Sale and Development Agreement, which will become active from the 14 October 2022 if substantial commencement has not occurred.
 - f. That Chambroad provides acknowledgment accepting Council's offered extension including the conditions contained within this Recommendation C.
- D. Authorises the General Manager to take all reasonable steps to conclude the arrangements set out at Recommendation C above.
- E. Acknowledges Chambroad's offer to make the site available on a temporary basis for community use prior to development commencing.
- F. Authorises the Mayor and General Manager to communicate this decision publicly following provision of advice to Chambroad Australia."

CARRIED**FOR**

Ald Chipman
 Ald Blomeley
 Ald Chong
 Ald Ewington
 Ald Mulder
 Ald von Bertouch
 Ald Walker

AGAINST

Ald James
 Ald Kennedy
 Ald Peers
 Ald Warren
 Ald Edmunds (abstained)

The Meeting Closed at 7.54pm