



## **SECTION 15**

# **Minutes of Committees**

For the Ordinary Meeting of Council

27 May 2021

**Item 15.1 – Legal Committee Minutes - 15 April 2021**

**Item 15.2 – Legal Committee Minutes - 6 May 2021**

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## MINUTES

### CERTIFICATION OF CONFIRMATION OF LEGAL COMMITTEE MEETING MINUTES

15 April 2021

I, Cr Jai Wilson, hereby certify that the minutes from the Legal Committee Meeting held on 15 April 2021 pages (1) to (6) were confirmed at a meeting of the Legal Committee held on 6 May 2021.



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**Signature**

Cr Jai Wilson  
**Person presiding at Meeting**

**LEGAL COMMITTEE**

**MINUTES**

(REF: D2021/05522)

A Legal Committee meeting was held at the EMRC Administration Office, 1<sup>st</sup> Floor, 226 Great Eastern Highway, ASCOT WA 6104 and electronically on **Wednesday 15 April 2021**. The meeting commenced at **6:00pm**.

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## 1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Chairman declared the meeting open at 6:00pm and welcomed everyone to the meeting which was held within the EMRC Council Chambers and electronically.

### 1.1 ACKNOWLEDGEMENT OF COUNTRY

The Chairman acknowledged the traditional custodians of the land on which the meeting is held and paid respects to the elders, past present and future.

*Kaya Maaman, Kaya Yorga, Kaya Bridia  
 Ngalak kaartitj windji ngalak nynininy  
 Nagalak kaartitj nidja boodja baal Whadjuk Noongar Boodja ngalak nyininy  
 Koorah, Nitja yeyi, Boordahwan*

#### Translation

Greetings everyone

We all understand where we are meeting.

We know that we meet on the lands of the Whadjuk Noongar people

Always was, always will be.

## 2 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

The Chairman did a roll call with each Councillor and EMRC officer in attendance, seeking confirmation that they are individually in a safe and suitable place for those attending the meeting electronically.

#### **Legal Committee Member Attendance**

Cr Jai Wilson ( <i>electronically</i> )	EMRC Member	Town of Bassendean
Cr Dylan O'Connor ( <i>electronically</i> )	EMRC Member	City of Kalamunda
Cr Doug Jeans ( <i>electronically</i> )	EMRC Member	Shire of Mundaring
Cr Lorna Clarke ( <i>electronically</i> )	EMRC Member	City of Bayswater
Cr Mel Congerton	EMRC Member	City of Swan

#### **EMRC Officers**

Mr Marcus Geisler	Chief Executive Officer
Mr Hua Jer Liew	Chief Financial Officer
Ms Izabella Krzysko	Manager Procurement and Governance
Mrs Lee Loughnan	Personal Assistant to Chief Financial Officer (Minutes)
Mr David Schmidt	Manager Information Services

## 3 DISCLOSURE OF INTERESTS

Nil

## 4 ANNOUNCEMENTS BY THE CHAIRMAN OR PRESIDING MEMBER WITHOUT DISCUSSION

Nil

## 5 PETITIONS, DEPUTATIONS AND PRESENTATIONS

Nil



## **6 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

### **6.1 MINUTES OF LEGAL COMMITTEE MEETING HELD ON 10 FEBRUARY 2021**

That the Minutes of the Legal Committee meeting held on 10 February 2021 which have been distributed, be confirmed.

#### **LEGAL COMMITTEE RESOLUTION**

MOVED CR JEANS

SECONDED CR O'CONNOR

THAT THE MINUTES OF THE LEGAL COMMITTEE MEETING HELD ON 10 FEBRUARY 2021 WHICH HAVE BEEN DISTRIBUTED, BE CONFIRMED.

**CARRIED UNANIMOUSLY**

## **7 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil

## **8 QUESTIONS BY MEMBERS WITHOUT NOTICE**

Nil

## **9 ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETINGS MAY BE CLOSED TO THE PUBLIC**

NOTE: Section 5.23(2) of the *Local Government Act 1995*, details a number of matters upon which Council may discuss and make decisions without members of the public being present. These matters include: matters affecting employees; personal affairs of any person; contractual matters; legal advice; commercial-in-confidence matters; security matters; among others.

The following report items are covered in Section 14 of this agenda.

- 9.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH *LOCAL GOVERNMENT ACT 1995* s.5.23(2)(d)]

## **10 BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETING**

Nil

## **11 REPORTS OF EMPLOYEES**

Nil

## **12 REPORTS OF DELEGATES**

Nil



**13 NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE CHAIRMAN OR PRESIDING MEMBER OR BY DECISION OF MEETING**

In accordance with *EMRC Standing Orders Local Law 2013* Clause 4.1(2), no business is to be transacted at a meeting other than that given in the notice as the purpose of the meeting.

**14 CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**

**RECOMMENDATION (Closing meeting to the public)**

That with the exception of ....., the meeting be closed to members of the public in accordance with Section 5.23(2)(c) of the *Local Government Act 1995* for the purpose of dealing with matters of a confidential nature.

**LEGAL COMMITTEE RESOLUTION**

MOVED CR CONGERTON

SECONDED CR JEANS

THAT WITH THE EXCEPTION OF THE CHIEF EXECUTIVE OFFICER, CHIEF FINANCIAL OFFICER, MANAGER PROCUREMENT AND GOVERNANCE, MANAGER INFORMATION SERVICES AND PERSONAL ASSISTANT TO THE CHIEF FINANCIAL OFFICER THE MEETING BE CLOSED TO MEMBERS OF THE PUBLIC IN ACCORDANCE WITH SECTION 5.23 (2) OF THE *LOCAL GOVERNMENT ACT 1995* FOR THE PURPOSE OF DEALING WITH MATTERS OF A CONFIDENTIAL NATURE.

**CARRIED UNANIMOUSLY**

The doors of the meeting were closed at 6:04pm.

The Chief Executive Officer, Chief Financial Officer, Manager Procurement and Governance, Manager Information Services and Personal Assistant to the Chief Financial Officer remained in Council Chambers.

The Chairman did a roll call of Councillors and EMRC staff, who individually declared that they were located in a secure room, as this was an online meeting with a confidential item on the agenda.

**14.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH *LOCAL GOVERNMENT ACT 1995* s.5.23(2)(d)]**

**REFERENCE: D2021/05559**

This item is recommended to be confidential because it contains matters of a legal advice nature and is subject to legal professional privilege.

The Legal Committee considered the Confidential Item circulated with the Agenda under Separate Cover.



*Item 14.1 continued*

**RECOMMENDATION [Meeting re-opened to the public]**

That the meeting be re-opened, the members of the public be invited to return to the meeting and the recommendations passed behind closed doors be recorded.

**LEGAL COMMITTEE RESOLUTION**

MOVED CR JEANS

SECONDED CR O'CONNOR

THAT THE MEETING BE RE-OPENED, THE MEMBERS OF THE PUBLIC BE INVITED TO RETURN TO THE MEETING AND THE RECOMMENDATIONS PASSED BEHIND CLOSED DOORS BE RECORDED.

**CARRIED UNANIMOUSLY**

The doors were reopened at 6:18pm.

Recording of the resolutions passed behind closed doors namely:

**14.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 s.5.23(2)(d)]**

**REFERENCE: D2021/05559**

**LEGAL COMMITTEE RESOLUTION(S)**

MOVED CR CONGERTON

SECONDED CR JEANS

THAT

1. THE LEGAL COMMITTEE ENDORSES THE WITHOUT PREJUDICE PROPOSAL LETTER FORMING THE ATTACHMENT TO THIS REPORT AND AUTHORISES TO ISSUE THE LETTER, AS AMENDED IN RESPONSE TO THE LEGAL MATTER AS OUTLINED WITHIN THE CONFIDENTIAL REPORT.
2. THE REPORT AND ATTACHMENTS REMAIN CONFIDENTIAL AND BE CERTIFIED BY THE CHAIRMAN AND THE CEO.

**CARRIED UNANIMOUSLY**

**15 FUTURE MEETINGS OF THE LEGAL COMMITTEE**

Meetings of the Legal Committee are held as required.

**16 DECLARATION OF CLOSURE OF MEETING**

There being no further business the meeting was closed at 6:18pm.





# **UNCONFIRMED MINUTES**

Legal Committee

**6 MAY 2021**

**LEGAL COMMITTEE**

**MINUTES**

(REF: D2021/07207)

A Legal Committee meeting was held electronically on **Thursday 6 May 2021**. The meeting commenced at 6:09pm.

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<b>3</b>	<b>DISCLOSURE OF INTERESTS</b>	<b>3</b>
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<b>5</b>	<b>PETITIONS, DEPUTATIONS AND PRESENTATIONS</b>	<b>3</b>
<b>6</b>	<b>CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS</b>	<b>4</b>
	<i>6.1 MINUTES OF THE LEGAL COMMITTEE MEETING HELD ON 10 FEBRUARY 2021 (Ref: D2021/05522)</i>	
<b>7</b>	<b>QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN</b>	<b>4</b>
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	<i>9.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 s.5.23(2)(d)]</i>	
<b>10</b>	<b>BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETING</b>	<b>4</b>
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	<i>14.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 s.5.23(2)(d)] (Ref: D2021/07208)</i>	
<b>15</b>	<b>FUTURE MEETINGS OF THE LEGAL COMMITTEE</b>	<b>6</b>
<b>16</b>	<b>DECLARATION OF CLOSURE OF MEETING</b>	<b>6</b>

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## 1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Chairman declared the meeting open at 6:09pm and welcomed everyone to the meeting which was held electronically.

### 1.1 ACKNOWLEDGEMENT OF COUNTRY

The Chairman acknowledged the traditional custodians of the land on which the meeting is held and paid respects to the elders, past present and future.

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#### Translation

Greetings everyone

We all understand where we are meeting.

We know that we meet on the lands of the Whadjuk Noongar people

Always was, always will be.

## 2 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

The Chairman did a roll call of each Councillor and EMRC officer in attendance, seeking confirmation that they were individually in a safe and suitable place as this meeting was being held electronically.

### Legal Committee Member Attendance

Cr Jai Wilson	EMRC Member	Town of Bassendean
Cr Dylan O'Connor	EMRC Member	City of Kalamunda
Cr Doug Jeans ( <i>arrived 6.12pm</i> )	EMRC Member	Shire of Mundaring
Cr Lorna Clarke	EMRC Member	City of Bayswater
Cr Mel Congerton	EMRC Member	City of Swan

### EMRC Officers

Mr Marcus Geisler	Chief Executive Officer
Mr Hua Jer Liew	Chief Financial Officer
Ms Izabella Krzysko	Manager Procurement and Governance
Mrs Lee Loughnan	Personal Assistant to Chief Financial Officer (Minutes)
Mr David Schmidt	Manager Information Services

## 3 DISCLOSURE OF INTERESTS

Nil

## 4 ANNOUNCEMENTS BY THE CHAIRMAN OR PRESIDING MEMBER WITHOUT DISCUSSION

Nil

## 5 PETITIONS, DEPUTATIONS AND PRESENTATIONS

Nil



## **6 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

### **6.1 MINUTES OF LEGAL COMMITTEE MEETING HELD ON 15 APRIL 2021**

That the Minutes of the Legal Committee meeting held on 15 April 2021 which have been distributed, be confirmed.

#### **LEGAL COMMITTEE RESOLUTION**

MOVED CR CONGERTON

SECONDED CR O'CONNOR

THAT THE MINUTES OF THE LEGAL COMMITTEE MEETING HELD ON 15 APRIL 2021 WHICH HAVE BEEN DISTRIBUTED, BE CONFIRMED.

**CARRIED UNANIMOUSLY**

## **7 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil

## **8 QUESTIONS BY MEMBERS WITHOUT NOTICE**

Nil

## **9 ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETINGS MAY BE CLOSED TO THE PUBLIC**

NOTE: Section 5.23(2) of the *Local Government Act 1995*, details a number of matters upon which Council may discuss and make decisions without members of the public being present. These matters include: matters affecting employees; personal affairs of any person; contractual matters; legal advice; commercial-in-confidence matters; security matters; among others.

The following report items are covered in Section 14 of this agenda.

- 9.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH *LOCAL GOVERNMENT ACT 1995* s.5.23(2)(d)]

## **10 BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETING**

Nil

## **11 REPORTS OF EMPLOYEES**

Nil

## **12 REPORTS OF DELEGATES**

Nil



**13 NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE CHAIRMAN OR PRESIDING MEMBER OR BY DECISION OF MEETING**

In accordance with *EMRC Standing Orders Local Law 2013* Clause 4.1(2), no business is to be transacted at a meeting other than that given in the notice as the purpose of the meeting.

**14 CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**

**RECOMMENDATION (Closing meeting to the public)**

That with the exception of ....., the meeting be closed to members of the public in accordance with Section 5.23(2)(c) of the *Local Government Act 1995* for the purpose of dealing with matters of a confidential nature.

**LEGAL COMMITTEE RESOLUTION**

MOVED CR CONGERTON

SECONDED CR CLARKE

THAT WITH THE EXCEPTION OF THE CHIEF EXECUTIVE OFFICER, CHIEF FINANCIAL OFFICER, MANAGER PROCUREMENT AND GOVERNANCE, MANAGER INFORMATION SERVICES AND PERSONAL ASSISTANT TO THE CHIEF FINANCIAL OFFICER THE MEETING BE CLOSED TO MEMBERS OF THE PUBLIC IN ACCORDANCE WITH SECTION 5.23 (2) OF THE *LOCAL GOVERNMENT ACT 1995* FOR THE PURPOSE OF DEALING WITH MATTERS OF A CONFIDENTIAL NATURE.

**CARRIED UNANIMOUSLY**

The doors of the meeting were closed at 6:12pm.

The Chief Executive Officer, Chief Financial Officer, Manager Procurement and Governance, Manager Information Services and Personal Assistant to the Chief Financial Officer remained online.

**14.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH *LOCAL GOVERNMENT ACT 1995* s.5.23(2)(d)]**

**REFERENCE: D2021/07208**

This item is recommended to be confidential because it contains matters of a legal advice nature and is subject to legal professional privilege.

The Legal Committee considered the Confidential Item circulated with the Agenda under Separate Cover.



*Item 14.1 continued*

**RECOMMENDATION [Meeting re-opened to the public]**

That the meeting be re-opened, the members of the public be invited to return to the meeting and the recommendations passed behind closed doors be recorded.

**LEGAL COMMITTEE RESOLUTION**

MOVED CR CLARKE

SECONDED CR O'CONNOR

THAT THE MEETING BE RE-OPENED, THE MEMBERS OF THE PUBLIC BE INVITED TO RETURN TO THE MEETING AND THE RECOMMENDATIONS PASSED BEHIND CLOSED DOORS BE RECORDED.

**CARRIED UNANIMOUSLY**

The doors were reopened at 6:31pm.

Recording of the resolutions passed behind closed doors namely:

**14.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 s.5.23(2)(d)]**

**REFERENCE: D2021/07208**

**LEGAL COMMITTEE RESOLUTION(S)**

MOVED CR CONGERTON

SECONDED CR CLARKE

THAT

1. THE LEGAL COMMITTEE ENDORSES THE WITHOUT PREJUDICE RESPONSE LETTER FORMING ATTACHMENT 2 TO THIS REPORT AND AUTHORISES THE ISSUANCE OF THE LETTER, AS AMENDED IN RESPONSE TO THE LEGAL MATTER AS OUTLINED WITHIN THE CONFIDENTIAL REPORT.
2. THE REPORT AND ATTACHMENTS REMAIN CONFIDENTIAL AND BE CERTIFIED BY THE CHAIRMAN AND THE CEO.

**CARRIED UNANIMOUSLY**

**15 FUTURE MEETINGS OF THE LEGAL COMMITTEE**

Meetings of the Legal Committee are held as required.

**16 DECLARATION OF CLOSURE OF MEETING**

There being no further business the meeting was closed at 6:31pm.