

Confidential Minutes of the Ordinary Meeting of Council of the City of Holdfast Bay held in the Council Chamber, Glenelg Town Hall, Moseley Square, Glenelg, on Tuesday 11 June 2019.

17. ITEMS IN CONFIDENCE

Conflict of Interest

Councillor Clancy declared an actual conflict of interest for item 17.1 Application for New Lease – Rimhart Nominees Pty Ltd (Report No: 205/19). The nature of the actual conflict of interest (pursuant to Section 74 of the *Local Government Act 1999*) is that she is on the Council Assessment Panel.

Councillor Clancy dealt with her actual conflict of interest by leaving at the chamber at 7.50pm.

17.1 Application for New Lease – Rimhart Nominees Pty Ltd (Report No: 205/19)

Motion – Exclusion of the Public – Section 90(3)(b & d) Order C120619/1511

- 1. That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 205/19 Application for New Lease Agreement – Rimhart Nominees Pty Ltd in confidence.**
- 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 205/19 Application for New Lease Agreement – Rimhart Nominees Pty Ltd in confidence on the following grounds:**
 - b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is**
 - conducting business; or**
 - would prejudice the commercial position of the Council**
 - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected**
 - to prejudice the commercial position of the person who supplied the information, or**
 - to confer a commercial advantage on a third party.**

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

- 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.**

Moved Councillor Lonie, Seconded Councillor Smedley

Carried Unanimously

On 26 September 2006 Council endorsed a lease agreement for Rimhart Nominees Pty Ltd (*the operator of the Beach House amusement complex – referred to as the “Lessee/Applicant”*) over a portion of Colley Reserve South immediately to the east of the Beach House amusement complex forecourt for the purpose of installing a Ferris Wheel amusement ride. The lease commenced on 1 September 2008 for an initial term of five (5) years, with two subsequent consecutive five (5) year renewal terms (each respectively commencing 1 September 2013 and 1 September 2018). On 28 May 2013 Council resolved to support the first lease renewal (Resolution C280513/941).

On 22 May 2018 prior to the expiration of the lease, the Lessee advised of their intention to renew the lease for the second five (5) year lease renewal period. However, at its meeting 10 July 2018 Council resolved (C100718/1216) to refuse the lease renewal on the basis that the Lessee had not fulfilled their obligations under the terms of the lease. Subsequently the Ferris Wheel was progressively dismantled and removed, with only the concrete foundations, some minor fencing and some anchor bolts still remaining.

Rimhart Nominees P/L has now approached Administration seeking to again enter into a lease agreement over a larger area of land (approximately 225m²) of Colley Reserve South to the east of the Beach House forecourt in order to erect a two storey, shipping container based café/kiosk/conference space. This report outlines the Applicant’s proposal, as well as relevant discussion points to assist Council in their determination on this matter.

The report further recommends that Council indicate its willingness to receive from the Applicant a formal request for landlord’s approval and subject to the design incorporating toilets and disability access such that if the application were to proceed to Development Assessment it would stand a good chance of approval.

Motion

- 1. That Council provides in-principle support for the proposed development and requests the proponent (Rimhart Nominees Pty Ltd):**

- a. modify the proposed design to take account of Development Plan and Building Code requirements including parking provision; provision of toilets and disability access arrangements;
- b. discuss the proposal with Council's Planning and Development Team; and
- c. resubmit the proposal for consideration of Landholder's Consent.

Adjournment

C120619/1512

That Item 17.1 Application for New Lease – Rimhart Nominees Pty Ltd (Report No: 205/19) be adjourned until a report is brought back to Council including further information regarding:

- The height/scale of development
- Specific location of the stormwater
- Sewerage
- Power/supply
- Ventilation system in kitchen
- Water
- Disability access to both levels
- Why majority of major underground infrastructure is on council land and not on land controlled by owner/Beachouse
- Detailed business case outlining profit forecast including revenue/expenditure for the next five years and
- Details as to methodology for assessing/calculating rent.

Moved Councillor Bouchee, Seconded Councillor Smedley

Carried

No Councillor spoke to the motion.

Motion

C120619/1513

RETAIN IN CONFIDENCE - Section 91(7) Order

That having considered Agenda Item: 17.1 Application for New Lease – Rimhart Nominees Pty Ltd (Report 205/19) – in confidence under section 90(2) and (3)(b & d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that report, discussion, attachments and minutes be retained in confidence for a period of 12 months or until a formal Development Application is lodged by the Applicant.

Moved Councillor Lindop, Seconded Councillor Lonie

Carried Unanimously**CONFIRMED****Tuesday 25 June 2019****MAYOR**