

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Agenda

Ordinary Meeting of Council

24 February 2021, 4.00pm

CRC Meeting Room, West Island

OUR VALUES

Service

Provide the best service we can.

We serve the community and each other.

Accountability

We take responsibility for our own actions.

We do what we say we will do.

Mistakes are an opportunity to learn.

Support

We support our team and our community.

Look for opportunities to help each other.

Respect

We respect and value others.

Our interactions are always respectful towards others.

Integrity

We will be honest and transparent with all our dealings.

Maintain confidentiality.

Trust each other.

Achievement

Being proactive and enabling the outcomes.

Be creative and think outside the square.

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1. OPENING/ANNOUNCEMENTS OF VISITORS

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4. PUBLIC QUESTION TIME

In accordance with *Section 5.24(1) (a) of the Local Government Act 1995*, time is allocated for questions to be raised by members of the public, as follows:

(1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.

(2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in sub regulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

Pursuant to *regulation 7(4) (a) of the Local Government (Administration) Regulations 1996*, questions from the public must relate to a matter affecting the local government.

In accordance with *Section 5.25 (1) (f) of the Local Government Act 1995* and the *Local Government (Administration) Regulations 1996 regulation 11(e)* a summary of each question raised by members of the public at the meeting and a summary of the response to the question will be included in the minutes of the meeting.

Where a question is taken on notice at the meeting, a summary of the response to the question will be included in the agenda for the following Council meeting.

5. LEAVE OF ABSENCE

The *Local Government Act 1995 (Section 2.25)* provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council. Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for leave of absence.

5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillor	Date of Leave	Approved by Council
NIL		

5.2 APPLICATION FOR LEAVE OF ABSENCE

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

7.1 Ordinary Council Meeting held on 9 December 2020 -Attachment 7.1

OFFICER'S RECOMMENDATION

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO *SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995*, RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING 9 DECEMBER 2020, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

7.2 Special Meeting of Council held on 3 February 2021 -Attachment 7.2

OFFICER'S RECOMMENDATION

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO *SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995*, RESOLVES THAT THE MINUTES OF THE SPECIAL MEETING OF COUNCIL MEETING 3 FEBRUARY 2021, AS PRESENTED IN ATTACHMENT 7.2 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

9. DECLARATION OF INTERESTS

Councillors are to complete a Disclosure of Interest Form for each item they are required to disclose an interest in. The Form should be given to the Presiding Member before the meeting commences. After the meeting, the Form is to be provided to the Governance and Risk Coordinator for inclusion in the Disclosures Register.

Name	Item No.	Interest	Nature

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

10.1.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 31 DECEMBER 2020

Report Information

Date: 18 February 2021
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.1.1 Statement of Financial Activity with accompanying notes 31 December 2020

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To inform Council of the financial position of the Shire at 31 December 2020 in compliance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Relevant Documents

Available for viewing at the meeting
Nil

Background

The reporting of monthly financial information is a requirement under section 6.4 of the Local Government Act 1995, and Regulation 34 of the Local Government (Financial Management) Regulations.

Comment

The Monthly Financial Report is prepared in accordance with the requirements of the Local Government Act 1995 and Local Government (Financial Management) Regulations.

A statement of Financial Activity with accompanying notes is attached for the period 1 July 2020 to 31 December 2020.

Policy and Legislative Implications

Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires all Local Governments to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure for the month in question.

Financial Management Regulation 34 also requires this statement to be accompanied by: -

- a. An explanation of the composition of the net current assets, less committal assets and restricted assets;
- b. An explanation of material variances; and
- c. Such supporting information that is relevant to the Local Government

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Variances are monitored and highlighted to Council on a monthly basis for corrective action.
Health & Safety	N/A	N/A	N/A
Reputation	The monthly financial statements are open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
Service Interruption	N/A	N/A	N/A
Compliance	The report is to be presented to Council within two months in order to comply with relevant legislation.	Low (3)	There are processes in place to ensure compliance with legislation.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A

Fraud	That the report is manipulated.	Low (3)	Interim and end of year audits.
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Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Conclusion

That the financial statements for the period 1 July 2020 to 31 December 2020 be received.

OFFICER'S RECOMMENDATION – ITEM NO 10.1.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2020 TO 31 DECEMBER 2020.

10.1.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 31 JANUARY 2021

Report Information

Date: 18 February 2021
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.1.2 Statement of Financial Activity with accompanying notes 31 January 2021

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To inform Council of the financial position of the Shire at 31 January 2021 in compliance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The reporting of monthly financial information is a requirement under section 6.4 of the Local Government Act 1995, and Regulation 34 of the Local Government (Financial Management) Regulations.

Comment

The Monthly Financial Report is prepared in accordance with the requirements of the Local Government Act 1995 and Local Government (Financial Management) Regulations.

A statement of Financial Activity with accompanying notes is attached for the period 1 July 2020 to 31 January 2021.

Policy and Legislative Implications

Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires all Local Governments to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure for the month in question.

Financial Management Regulation 34 also requires this statement to be accompanied by: -

- a. An explanation of the composition of the net current assets, less committal assets and restricted assets;
- b. An explanation of material variances; and
- c. Such supporting information that is relevant to the Local Government

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Variances are monitored and highlighted to Council on a monthly basis for corrective action.
Health & Safety	N/A	N/A	N/A
Reputation	The monthly financial statements are open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
Service Interruption	N/A	N/A	N/A
Compliance	The report is to be presented to Council within two months in order to comply with relevant legislation.	Low (3)	There are processes in place to ensure compliance with legislation.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	That the report is manipulated.	Low (3)	Interim and end of year audits.

Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Conclusion

That the financial statements for the period 1 July 2020 to 31 January 2021 be received.

OFFICER'S RECOMMENDATION – ITEM NO 10.1.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2020 TO 31 JANUARY 2021.

10.1.3 SCHEDULE OF ACCOUNTS PAID FOR PERIOD 1 JANUARY 2021 31 JANUARY 2021

Report Information

Date: 18 February 2021
 Location: Not applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.1.3 Schedule of Accounts paid

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To inform Council of funds disbursed for the period 1 January 2021 – 31 January 2021.

Relevant Documents

Available for viewing at the meeting

Nil

Background

A list of accounts paid between 1 January 2021 and 31 January 2021 is attached.

Comment

The schedule of accounts paid is submitted in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996.

Policy and Legislative Implications

Nil

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Variances are monitored and highlighted to Council on a monthly basis for corrective action.
Health & Safety	N/A	N/A	N/A
Reputation	The accounts paid report is open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
Service Interruption	N/A	N/A	N/A
Compliance	The report is to be presented to Council in order to comply with relevant legislation.	Low (3)	There are processes in place to ensure compliance with legislation.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	That the report is manipulated.	Low (3)	Interim and end of year audits along with sequence checks.

Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Conclusion

That Council receives the list stating all accounts paid for January 2021.

OFFICER'S RECOMMENDATION – ITEM NO 10.1.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO CREDITOR PAYMENTS FROM THE MUNICIPAL FUND FOR THE PERIOD 1 JANUARY 2021 TO 31 JANUARY 2021 INCLUSIVE OF CHEQUE 11627 AND EFT 7808 TO EFT 7843, VIVA ENERGY & DIRECT DEBIT SUPERANNUATION TOTALLING \$405,944.98.

10.1.4 SCHEDULE OF ACCOUNTS PAID FOR PERIOD 1 DECEMBER 2020 31 DECEMBER 2020

Report Information

Date: 18 February 2021
 Location: Not applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.1.4 Schedule of Accounts paid

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To inform Council of funds disbursed for the period 1 December 2020 – 31 December 2020.

Relevant Documents

Available for viewing at the meeting

Nil

Background

A list of accounts paid between 1 December 2020 and 31 December 2020 is attached.

Comment

The schedule of accounts paid is submitted in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996.

Policy and Legislative Implications

Nil

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Variances are monitored and highlighted to Council on a monthly basis for corrective action.
Health & Safety	N/A	N/A	N/A
Reputation	The accounts paid report is open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
Service Interruption	N/A	N/A	N/A
Compliance	The report is to be presented to Council in order to comply with relevant legislation.	Low (3)	There are processes in place to ensure compliance with legislation.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A

Fraud	That the report is manipulated.	Low (3)	Interim and end of year audits along with sequence checks.
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Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Conclusion

That Council receives the list stating all accounts paid for December 2020.

OFFICER'S RECOMMENDATION – ITEM NO 10.1.4

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO CREDITOR PAYMENTS FROM THE MUNICIPAL FUND FOR THE PERIOD 1 DECEMBER 2020 TO 31 DECEMBER 2020 INCLUSIVE OF CHEQUE 11621 to 11626 AND EFT 7710 TO EFT 7807, VIVA ENERGY, MASTER CARD & DIRECT DEBIT SUPERANNUATION TOTALLING \$703,890.85

10.2 LEASES

10.3 PLANNING/BUILDING

10.4 ADMINISTRATION

10.4.1 2020 COMPLIANCE AUDIT RETURN

Report Information

Date: 16 February 2021
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Governance and Risk Coordinator
 Island: Shire Wide
 Attachments: 10.4.1 - 2020 Compliance Audit Return

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>

<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>
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Report Purpose

To refer the Shire’s responses to the Department of Local Government 2020 Compliance Audit Return to Council for its consideration and adoption.

Relevant Documents

Minutes of the Audit Committee Meeting held on 17 February 2021 – Attachment 10.4.1

Available for viewing at the meeting

2019 Compliance Audit Return

Background

In accordance with *Regulation 14 of the Local Government (Audit) Regulations 1996* the Shire must carry out an annual audit of statutory compliance for the period 1 January to 31 December, in the form of Department of Local Government Compliance Audit Return.

The 2020 Compliance Audit Return focuses on those areas considered high risk.

The Audit Committee is required to review the completed CAR and report the results to Council, prior to CAR adoption by Council and submission to the Department of Local Government, Sport and Cultural Industries by 31 March 2021.

Comment

The 2020 CAR was completed in-house during January and February 2021.

The CAR highlighted five areas of non compliance as follows:

- Rules of Conduct Reg 11(1), (2) & (4): On one occasion a disclosure of interest was not made by a Councilor prior to or at a meeting and they subsequently participated in the decision making. The Council member realised after the meeting that they had an interest and reported it to the CEO. This matter was therefore referred to the CC and DLGSCI as required.
- Section 5.121(3): An up to date version of the register of the complaints is required to be published on the Shires official website. Shire officers have gathered examples of this from other local governments and will be uploading our register in the near future.
- Section 5.96A(1), (2), (3) & (4): This section sets out a list of information that is required to be published on the Shires website. All items on this list are available on

our website with the exception of a map of the district. An appropriate map is being sourced and will be uploaded to the website in the near future.

- Section 5.127: This section requires the Shire to prepare a report on the training completed by council members in the financial year and requires it to be published on the Shire website by 31 July of that year. The Shire's report on training by elected members was not published on the website until 26th October 2020 and therefore did not meet the required timeframe.
- Functions & General Reg 17: This regulation requires a tender register to be kept by the local government and sets out the information required to be recorded in the register, for the local government to make the register available for public viewing and to publish the register on the shire website. All elements of this regulation were complied with, with the exception of publishing the register on the shire website. The tender register will be uploaded to the website in the near future.

Policy and Legislative Implications

Under Regulation 14 of the Local Government (Audit) Regulations the Shire must undertake a Compliance Audit for the Period 1 January to 31 December each year and submit to the Director General of the WA Department of Local Government and the Assistant Secretary of the Federal department of Regional development by 31 March of the following year.

Regulation 14 of the Local Government (Audit) Regulations 1996 requires the Local Government's Audit Committee to review the Compliance Audit Report and report the results to the Council, prior to the Compliance Audit Report's adoption by Council and Submissions to the relevant departments.

Financial Implications

Nil

Strategic Implications

Corporate Business Plan 2020/21 -2023/24: Civic Leadership Objective 4 – Ensure efficient and effective management of the organisation and financial resource.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Nil		
Health & Safety	Nil		

Reputation	The CAR is a public document and open to public scrutiny.	Moderate (6)	Any areas of non-compliance to be actioned in a timely manner.
Service Interruption	Nil		N/A
Compliance	It is a Legislative requirement of council which must be adhered to.	Med (1)	A monthly Compliance Calendar assists the Shire to ensure Legislation is adhered to.
Property	Nil		
Environment	Nil	Nil	Nil
Fraud	As the CAR is a self assessment completed internally there is a risk that some answers are misstated.	Moderate (9)	The CAR is first reviewed by the Audit Committee before being brought to Council.

Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Conclusion

Further to the Audit and Governance Committee's endorsement, the completed 2020 Compliance Audit Return is attached for adoption by Council.

AUDIT COMMITTEE RECOMMENDATION – ITEM NO 10.4.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 14(3) OF THE LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996 RESOLVES TO:

- 1. ADOPT THE ATTACHED DEPARTMENT OF LOCAL GOVERNMENT COMPLIANCE AUDIT RETURN FOR THE PERIOD 1 JANUARY 2020 TO 31 DECEMBER 2020.**
- 2. THAT COUNCIL AUTHORISE THE CERTIFICATION TO BE JOINTLY COMPLETED BY THE SHIRE PRESIDENT AND CHIEF EXECUTIVE OFFICER IN ACCORDANCE WITH *REGULATION 15 OF THE LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996*.**

10.4.2 WEST ISLAND RECREATION PRECINCT CONCEPTS AND TENDER

Report Information

Date: 16 February 2021
 Location: Lot 170, West Island
 Applicant: The Shire of Cocos (Keeling) Island
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: A. Selvey, Chief Executive Officer
 Island: West Island
 Attachments: 10.4.2 West Island Recreation Precinct Concept Plans; Email from Director Territories Capital and Major Projects, Indian Ocean Territories Branch, Territories Division, Department of Infrastructure, Transport, Regional Development and Communications, Fulton Hogan Meeting notes

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To present the final concept design and associated cost estimates for the West Island Recreation Precinct to Council and to seek a Council resolution to proceed with calling for

tenders, noting that preliminary cost estimates indicate that costs may exceed current budget allocation and grant funding.

Relevant Documents

[Available for viewing at the meeting](#)

Background

In July 2020, the Australian Government announced funding for the Indian Ocean Territories (IOT) to support economic stimulus to alleviate the economic impact of Covid 19 in the IOT. The Shire received \$500,000 to supplement the \$500,000 it had already committed for residential housing on Home Island, allowing two new houses to be built; and \$1,155,000 for the upgrade and expansion of the Home Island Retail Centre for which the Shire had already committed \$550,000. These two projects are now underway.

A third opportunity presented itself, under the same funding program, to combine the Shire's \$250,000 of budgeted expenditure for an indoor gym on West Island with an additional \$300,000 of economic stimulus funding to provide a more holistic recreation precinct. The funding would also aim to address the Australian Government concerns with the use of the golf club "donga". This funding was to be provided to the Shire in two ways:

1. \$100,000 as an operational grant to the Shire towards the gym; and
2. \$200,000 in capital expenditure under a contract agreement for the Shire to provide facilities associated with the recreation precinct, e.g. toilets and club facilities.

Comment

With this concept funded to a value of \$550,000, the Shire sought preliminary concepts from several builders and after much discussion with builders and stakeholders, developed a set of concept designs with indicative costs - see attached. Note that actual costs cannot be confirmed unless and until we can confirm them via a tender process. Elements proposed in the concept, with indicative costs are as follows:

1. **Area one - Gym:** The estimated cost to design, supply and construct is an estimated \$300,000 which is \$50,000 more than the current budget allocation; noting a 10% (\$30,000) contingency has been included and that the indicative \$300,000 cost allows for a more expensive but longer lasting roofing material (i.e. aluminium). A saving of \$13,000 could be achieved if a cheaper material, (i.e. colourbond ultra is used instead of aluminium.) This would be a Shire Asset, wholly owned and managed by the Shire.

Should the contingency not be needed and colourbond is used instead of aluminium, it is feasible that this part of the project could be delivered for \$257,000, being \$7,000 over budget. (Note, this does not include gym equipment, which will need to be considered in the 2021/22 budget if the project proceeds.)

- 2. Area Two - Community Hub, consisting of cafeteria, ablutions and open function area:** The estimated cost of \$330-350k is approx. \$30,000 to \$50,000 more than budget. The current budget of \$300,000 consists of \$200,000 from Stimulus funding from Commonwealth procuring the Shire's services, plus a \$100, 000 Grant. The cost estimate includes a 10% contingency. This would be a Commonwealth asset which the Commonwealth would lease to the Shire with an ability for the Shire to sublease to a community group such as the Golf Club. Commonwealth has suggested that they would like the Shire to proceed with the tender to establish the exact and firm costs at which time they have committed to reviewing how they can fund any shortfall.
- 3. Decking between Gym and Community Hub:** currently included in the costs above (approx. \$20,000) but will only proceed if funding allows – could be added later if funding needs to be diverted to the Gym.
- 4. Area Three – Fulton Hogan Office:** Fulton Hogan advised that they are interested in an office in this precinct, with the office as a separate module. They have provided specifications for the office and asked the Shire to also cost constructing the office into a cyclone shelter. They have a budget they are working within and would only proceed if the cost is within their budget allocation. The proposal would be for the Shire to build and own the asset and lease it to Fulton Hogan for the duration of the runway project at a lease fee that would allow for full cost recovery. This would be firmly contracted prior to the Shire committing any funds to this element of the project. The community would benefit from this facility post the runway project as it would remain as a community asset after Fulton Hogan finished the runway project. If Fulton Hogan decide against constructing this office, or to constructing it at a later date, the rest of the project can still proceed. See attached notes from a meeting between the Shire and Fulton Hogan held on 27 January 2021.
- 5. Golf Club Donga:** This Commonwealth Asset is in a very prominent location in the middle of the settlement and needs some work. As part of the Commonwealth funding, the Commonwealth has included a requirement that the Shire carry out some basic painting and tidy up (removal of rusted lean-to etc). The Department has no other specific expectations around donga work scope) – See attached email from Harriet Spring dated 8 December 2020. It is also important to note that the Commonwealth Government has agreed it would lease the Donga to the Shire as a community storage facility, but that it would not be reasonable to include any asset responsibility for structural or asbestos issues etc for the Donga, the Shire would just

manage and supply consumables. See attached email from Harriet Spring, dated 8 December 2020.

Based on the above, the officer's recommendation to Council is to progress with calling for tenders as separable portions to allow the Council to proceed with one or more elements in accordance with cost versus budget and financial capacity to fund. It is also recommended that the tender considers design and supply only and to include construction as another separable portion. See below table which outlines the various separable portions.

Item	Description
1.	Design, materials and freight to Cocos Keeling Islands (CKI) for the Gym and undercover recreation area – marked as Area One on the concept.
1.a	Design, materials and freight to CKI for the Gym and undercover recreation area – marked as Area One on the concept, PLUS fully constructed as described in Part Three 3.2.2.
2.	Design, materials and freight to CKI for the Gym and undercover recreation area – marked as Area One on the concept PLUS the Community Hub, marked as Area Two on the concept.
2.a	Design, materials and freight to CKI for the Gym and undercover recreation area – marked as Area One on the concept PLUS the Community Hub, marked as Area Two on the concept, PLUS fully constructed as described in Part Three 3.2.2.
3.	Gym and undercover recreation area – marked as Area One on the concept PLUS the Community Hub– marked as Area Two on the concept PLUS Office – marked as Area Three on the concept being the entire development)
3.a	Gym and undercover recreation area – marked as Area One on the concept PLUS the Community Hub– marked as Area Two on the concept PLUS Office – marked as Area Three on the concept being the entire development) PLUS fully constructed as described in Part Three 3.2.2.
4.	Gym and undercover recreation area – marked as Area One on the concept PLUS the Community Hub– marked as Area Two on the concept PLUS Office – marked as Area Three on the concept being the entire development) with Area Three

	designed as an overflow cyclone shelter compliant to the standards required for a cyclone shelter i.e. Cyclone Shelter to Wind Region C, in accordance with the Building Code of Australia and AS/NZS 1170.2
4.a	Gym and undercover recreation area – marked as Area One on the concept PLUS the Community Hub– marked as Area Two on the concept PLUS Office – marked as Area Three on the concept being the entire development) with Area Three designed as an overflow cyclone shelter compliant to the standards required for a cyclone shelter i.e. Cyclone Shelter to Wind Region C, in accordance with the Building Code of Australia and AS/NZS 1170.2; PLUS fully constructed as described in Part Three 3.2.2.
5.	Design, materials and freight to CKI for the Gym and undercover recreation area – marked as Area One on the concept, PLUS Office – marked as Area Three on the concept.
5.a	Design, materials and freight to CKI for the Gym and undercover recreation area – marked as Area One on the concept, PLUS, Office – marked as Area Three on the concept PLUS fully constructed as described in Part Three 3.2.2.
6.	Design, materials and freight to CKI for the Gym and undercover recreation area – marked as Area One on the concept, PLUS Office – marked as Area Three on the concept with Area Three designed as an overflow cyclone shelter compliant to the standards required for a cyclone shelter i.e. Cyclone Shelter to Wind Region C, in accordance with the Building Code of Australia and AS/NZS 1170.2
6.a	Design, materials and freight to CKI for the Gym and undercover recreation area – marked as Area One on the concept PLUS Office – marked as Area Three on the concept being the entire development) with Area Three designed as an overflow cyclone shelter compliant to the standards required for a cyclone shelter i.e. Cyclone Shelter to Wind Region C, in accordance with the Building Code of Australia and AS/NZS 1170.2; PLUS fully constructed as described in Part Three 3.2.2.

Should tenders result a portion, or indeed the whole concept, being unaffordable by the Shire and/or the Commonwealth, Council has the capacity to reject all tenders.

While Council has delegated authority to the CEO to call tenders (Delegation 2.1.7), a condition of the delegation is that the CEO can only call a tender where there is an adopted budget allocation for the proposed goods or services. In this case, the adopted budget includes the \$250,00 for the gym and, based on preliminary estimates, officers expect the cost will exceed the budget. Additionally, the current budget, which was adopted in July 2020, does not include the project funded under the economic stimulus (i.e. the Community Hub) nor the office for Fulton Hogan. Therefore, the CEO felt it was necessary to obtain Council's endorsement prior to proceeding with the tender.

Policy and Legislative Implications

S.3.18 of the Local Government Act (WA)(CKI) 1995

Financial Implications

The cost of advertising the tender is anticipated to be approximately \$700 which can be accommodated within the current budget for advertising. The administrative staff time required for the development of the tender and the coordination and evaluation of the tenders can also be accommodated within the current budget.

A detailed analysis of the financial implications of the construction can be undertaken once tenders are received and assessed and after further discussions with the Department and Fulton Hogan to determine their financial contributions.

Strategic Implications

Strategic Community Plan:

Social Objective: *Provide community facilities and promote social interaction.*

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	1. The project exceeds the Shire's capacity for co-funding.	High (12)	1.The tender process will allow exact costs to be established and for Council

	2.The Commonwealth declines to contribute additional funds when the tender prices are known.		to then consider if one or more elements of the project can be accommodated within the financial capacity of the Shire. 2.The tender will be in separable portions so Council can choose to proceed with none, one or more portions once price and Commonwealth co-contributions are confirmed.
Health & Safety	N/A		
Reputation	A Gym on West Island has long been a community aspiration and no progress could reflect poorly on the Shire.	Moderate (6)	Proceeding with the tender will allow exact costs to be ascertained and communicated if outside shire's capacity to fund.
Service Interruption	N/A		
Compliance	The tender process in not compliant	High (12)	The Shire is seeking advice from WALGA and the Shire of Dandaragan on the tender documents and will closely monitor the tender process to ensure compliance.
Property	Another asset in the Shire property portfolio adds to asset management costs	Moderate (9)	The tender will include a requirement for high quality and hard-wearing materials to prolong asset life and reduce maintenance.
Environment	N/A		
Fraud	N/A		

Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Voting Requirements

Simple majority required as the officer's recommendation does not include a commitment to the Shire contribution, only to proceeding with the tender process.

Conclusion

The officer's recommendation to proceed with the tender is based on the cost estimate being within a reasonable and manageable variance of the allocated budget. It will also allow for exact costs to be ascertained and brought before Council for a final decision.

OFFICER'S RECOMMENDATION – ITEM NO 10.4.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO S3.18 OF THE *LOCAL GOVERNMENT ACT (WA) (CKI) 1995* RESOLVES TO:

1. PROCEED WITH THE TENDER FOR THE WEST ISLAND GYM, COMMUNITY HUB AND OFFICE FOR LEASE TO FULTON HOGAN AS SEPERABLE PORTIONS;
2. NOTE THAT THE CEO, UNDER DELEGATED AUTHORITY (DELEGATION 2.1.7) WILL DETERMINE THE CRITERIA FOR ASSESSING TENDERS, EVALUATE TENDERS BY WRITTEN EVALUATION, AND RECOMMEND TO COUNCIL WHICH IS THE MOST ADVANTAGEOUS, NOTING THAT COUNCIL MAY RESOLVE TO CHOSE AN ALTERNATIVE TENDER TO ONE RECOMMENDED, OR TO REJECT ALL TENDERS.
3. CONSIDER ANY BUDGET IMPACTS AT THE TIME THAT AWARDDING A TENDER IS BEING CONSIDERED.

10.4.3 BUILDING BETTER REGIONS FUND APPLICATION – OLD WORKSHOP TOKOH

Report Information

Date: 16 February 2021
 Location: N/A
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: A. Selvey, Chief Executive Officer
 Island: Home Island
 Attachments: 10.4.3 Old Workshop / Tokoh BBRF Business Case
 10.4.3 Application Partners
 10.4.3 Concept Plans

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To present information, including a draft Business Case, on the proposal to restore and redevelop the Old Workshop / Tokoh on the waterfront on Home Island and to seek a Council resolution to proceed with the Building Better Regions Fund (BBRF) application.

Relevant Documents

Available for viewing at the meeting

Background

At the Ordinary Meeting of Council on 9 December 2020, Council resolved as follows:

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO S3.18 OF THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995 RESOLVES TO:

- 1. SUPPORT THE SHIRE'S BUILDING BETTER REGIONS FUND APPLICATION FOR THE PROVISION OF WATER SERVICE TO LOTS 223 AND 224 (TRANNIES TOURISM DEVELOPMENT LOTS) SUBJECT TO THE MATTER BEING PRESENTED TO COUNCIL WITH A FULL FINANCIAL ANALYSIS PRIOR TO AN AGREEMENT BEING SIGNED IF THE APPLICATION IS SUCCESSFUL.***
- 2. SUPPORT THE SHIRE'S BUILDING BETTER REGIONS FUND APPLICATION FOR THE TOKOH HOME ISLAND HERITAGE WATERFRONT BUILDING REFURBISHMENT SUBJECT TO THE MATTER BEING PRESENTED TO COUNCIL WITH A FULL FINANCIAL ANALYSIS PRIOR TO AN AGREEMENT BEING SIGNED IF THE APPLICATION IS SUCCESSFUL.***

The above resolution, based on the officer's recommendation, was to support the BBRF applications without the matter being presented again before the applications were submitted as, at that stage, it was expected that the round would close prior to the February Council meeting. However, when the round opened and dates were announced, the closing date of 3 March 2021 made it possible to bring further details before Council again prior to submitting an application.

Comment

Following the December Council meeting, investigation and information gathering for both projects commenced in detail. An update on both applications is provided below.

1. Water Service to Lots 223 and 224 (Trannies Tourism Development Lots)

Lots 223 and 224 have been identified in the Shire's Planning Scheme for future tourism resort development. The Lots are not serviced (water, power or sewerage). Several proponents have investigated development of that site over the years (Pulu Cocos Resort Pty Ltd 1999, G. Short 2017, Hender Group 2017/18) along with several other informal enquiries; however, none have progressed to development. The officer's view is that this is due, in part to the high cost and risks associated with servicing the lots.

This project was identified in the Shire's Corporate Business Plan (CBP) but, mindful of the high cost involved, the CBP identifies only the development of cost estimates, not actually installing the infrastructure. The cost for the water servicing to the Trannies Blocks was estimated at \$2,132,536. Watercorp advised that an assumption, that was not listed in their initial cost estimate provided to the Shire, was based on both services (water and sewerage) being done together resulting in some savings with common trenching. Therefore, instead of \$2,132 million initially suggested, the cost for the water servicing as a stand-alone project with individual trenching is now estimated to be \$2,736,835. (NB: As reported in the Agenda for the Ordinary Meeting of Council on 9 December 2020, both water and sewerage together was about \$4.4million hence the preference to do only one.)

Another assumption in the cost estimate was that desalination plant proposed by Fulton Hogan for the runway upgrade could be used for this project. Investigation into this option suggests that the Fulton Hogan desalination plant will not be available for about two years. BBRF applications require shovel ready projects able to be delivered in a shorter timeframe.

Shire officers have also consulted with senior staff at the Department of Infrastructure, Transport, Regional Development and Communications, who have advised that the Commonwealth is currently investigating a desalination plant at the north of West Island which would service the Trannies Blocks.

Based on these various issues, the officer's recommendation is that an application for the water serving to the Trannies Blocks is not viable and should not be progressed. Therefore, the officer's recommendation includes that Council revokes their resolution of 9 December 2020 regarding a BBRF application for this project.

2. **The Tokoh - Home Island Heritage Waterfront Building Refurbishment**

This heritage waterfront building is a two-storey structure constructed of both brick and steel framed structure with a concrete slab on ground, steel and timber framed first floors and predominately a timber framed roof with some steel members. The building is listed under the Federal Heritage Database. The Shire's CBP lists the following:

"S2.1.7.6 – Investigate options to restore and repurpose the heritage listed Tokoh".

In response to this CBP action, in late 2019 the Shire engaged a Heritage architect and Structural engineer to carry out a building condition assessment and develop concepts

for possible repurposing. To assist with the concepts, the architect proposed the building could house a Visitor Centre, Museum, Café, CRC, Gallery, Business Incubator and associated ablutions. The report from the architect and engineer was received in June 2020. The report states the following.

“In principle, this magnificent Heritage Listed building is worthy of renovation and restoration, as it reflects a significant chapter in the history of the Islands. The northern and southern portions of the building are structurally reasonably sound, but the roof over the middle portion requires replacement. With the proposed uses on the upper level some structural reinforcement will also be required to the floors to meet Code requirements for the anticipated loads.”

However, the full restoration was estimated at \$4.787million dollars which would have required an approx. \$1.2million co-contribution from the Shire. This, in the professional view of Shire officers, was beyond this Council’s financial capacity. Therefore, following the Council resolution on 9 December 2021, the Shire engaged an architect to reverse engineer the plans to fit within a \$2million dollar budget, with a focus on the visitor centre/museum to be consistent with the focus of the BBRF round criteria. This \$2million project will result in the Shire’s co-contribution for the BBRF application being \$500,000.

One of the criteria against which applications are assessed is to secure at least three partners willing to contribute at least \$1000 each. See attached showing the response of the agencies and organisations approached.

The attached draft Business Case, while still a work in progress, provides Council with the detailed information about the project; summary below:

Economic Benefit: These include attracting and supporting tourism to Home Island and an increase in tourism business / employment opportunities.

Social Benefit: Contributes to persevering a unique and important part of the Islands’ and national heritage. Offers volunteering and training opportunities; provides a desirable and accessible community space for community gathering.

Cost Benefit Analysis: The cost benefit analysis suggests that present benefit is \$3.005million against a present cost of \$1.136million which equates to benefit cost ratio of 1.61 – meaning that for every dollar spent, \$1.61 of benefits are returned to the community. See page 43 of the attached Business Case for further analysis of this.

Strategic Alignment: Evidence of how this project aligns with Shire and Commonwealth plans and strategies.

Based on this analysis, the officer's recommendation is that Council supports an application for BBRF funding of \$1.5million for the refurbishment and redevelopment of the Old Workshop / Tokoh and include a Shire commitment of \$500,000 to give a total project cost of \$2million. It should be noted that the Shire's \$500,000 contribution will not be needed until the 2021/22 financial year which would allow Council to consider the appropriate budget allocation during the setting of the 2021/22 budget should this application be successful. See below for further information about the financial implications.

Policy and Legislative Implications

S.3.18 of the Local Government Act (WA)(CKI) 1995

R. 10 of the Local Government (Administration) Regulations 1996

Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

(2) If a decision is made at a council or committee meeting, any decision to revoke or change the decision must be made by an absolute majority.

Financial Implications

Should the Shire be successful in its application for BBRF funding it will receive \$1,500,000 from the grant and be required to contribute \$500,00 of its own funds towards the project. It is proposed that the building reserve be used to fund \$250,000 of this contribution with the remaining allocation of \$250,000 being factored into the 2021/22 municipal budget. At the beginning of the current financial year the building reserve had a balance of \$770,396 and is budgeted to have a closing balance of \$504, 737. This proposal will be presented for formal consideration by Council during the 2021/22 budget setting process.

As this project would involve the renewal of an existing asset the expenditure on this project would positively contribute to the Shire's Asset Sustainability Ratio which has been highlighted in the 2019/20 audit report as being below the Department of Local Government standard.

The concept shows a commercial tenancy which is anticipated to be leased at market value providing an additional revenue stream to the land trust.

Strategic Implications

Strategic Community Plan:

Economic Development: *Economic stability and improved potential for economic development and diversity for the islands.*

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	The project exceeds the Shire's capacity for co-funding.	High (12)	Council can consider the financial impact, both capital and ongoing as part of the 2021/22 budget process to ensure it has the financial capacity to progress with the project.
Health & Safety	N/A		
Reputation	The deteriorated state of the invaluable heritage listed Tokoh reflects badly on the shire's reputation for managing its assets.	Moderate (6)	The structural engineer's assessment, the architects report and this proposed grant application are demonstrated efforts by the Shire to manage this asset.
Service Interruption	N/A		
Compliance	N/A		
Property	The deteriorated state of the invaluable heritage listed Tokoh reflects badly on the shire's reputation for managing its assets. There is a risk this building could deteriorate beyond repair.	High (16)	The structural engineer's assessment, the architects report and this proposed grant application are demonstrated efforts by the Shire to manage this asset.
Environment	N/A		

Fraud	N/A		
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Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Voting Requirements

Part One: 1/3 Majority, inclusive of mover.

Part Two: Absolute Majority

Part Three: Simple Majority required as the recommendation does not include a commitment to the Shire contribution; only to consider the contribution during the 2021/22 budget process if the Shire's application is successful.

Conclusion

Based on a detailed analysis of both projects initially considered, the officer's recommendation is to proceed with only one application, i.e. for the refurbishment of the Old Workshop / Tokoh. The business case for this project demonstrates a clear benefit to the community and the required co-contribution of \$500,000 is within the financial capacity of the Shire. Should Council elect to not progress an application at this stage, it is not known when another opportunity for such a significant co-contribution would be available. Without significant co-funding, the officer would suggest, that the Shire would not have the financial capacity to restore this building to this standard in the foreseeable future.

OFFICER'S RECOMMENDATION – ITEM NO 10.4.3

PART ONE:

THAT COUNCIL, BY 1/3 MAJORITY INCLUSIVE OF THE MOVER, PURSUANT TO R.10(1)(b) OF THE LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996 RESOLVES TO GIVE NOTICE OF A MOTION TO REVOKE PART ONE OF THE DECISION OF COUNCIL MADE AT THE ORDINARY MEETING OF COUNCIL HELD ON 9 DECEMBER 2020, BEING TO "SUPPORT THE SHIRE'S BUILDING BETTER REGIONS FUND APPLICATION FOR THE PROVISION OF WATER SERVICE TO LOTS 223 AND 224 (TRANNIES TOURISM DEVELOPMENT LOTS) SUBJECT TO THE MATTER BEING PRESENTED TO COUNCIL WITH A FULL FINANCIAL ANALYSIS PRIOR TO AN AGREEMENT BEING SIGNED IF THE APPLICATION IS SUCCESSFUL."

PART TWO:

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO R.10(2) OF *THE LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996* RESOLVES TO REVOKE PART ONE OF THE DECISION OF COUNCIL MADE AT THE ORDINARY MEETING OF COUNCIL HELD ON 9 DECEMBER 2020, BEING TO “SUPPORT THE SHIRE’S BUILDING BETTER REGIONS FUND APPLICATION FOR THE PROVISION OF WATER SERVICE TO LOTS 223 AND 224 (TRANNIES TOURISM DEVELOPMENT LOTS) SUBJECT TO THE MATTER BEING PRESENTED TO COUNCIL WITH A FULL FINANCIAL ANALYSIS PRIOR TO AN AGREEMENT BEING SIGNED IF THE APPLICATION IS SUCCESSFUL.”

PART THREE:

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO S3.18 OF THE *LOCAL GOVERNMENT ACT (WA) (CKI) 1995* RESOLVES TO SUPPORT THE SHIRE’S BUILDING BETTER REGIONS FUND APPLICATION FOR THE HOME ISLAND OLD WORKSHOP / TOKOH BUILDING REFURBISHMENT AS PER THE ATTCHED PLANS AND CONSIDER THE CO-CONTRIBUTION OF \$500,000 REQUIRED BY THE SHIRE DURING THE 2021/22 BUDGET PROCESS.

10.5 MINUTES TO BE RECEIVED

10.5.1 MINUTES FROM AUDIT AND GOVERNANCE COMMITTEE MEETING TO BE RECEIVED

Report Information

Date: 16 February 2021
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Governance and Risk Coordinator
 Island: Shire Wide
 Attachments: 10.5.2 Audit and Governance Committee Meeting Minutes
 (Unconfirmed) 17 February 2021

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Summary

The report formally presents the (unconfirmed) minutes of Audit and Governance Committee of Council from the previous meeting.

Background

The Shire has established the Audit and Governance Committee as a Committee of Council. The Audit and Governance Committee does not have any delegated authority; therefore, any recommendations requiring a Council decision that result from this Committee meeting must be brought before Council. This will be done via agenda items to Council.

Comment

The attached minutes are the unconfirmed minutes of the meeting of Audit and Governance Committee of Council held on the 17 February 2021.

Consultation

N/A

Financial Implications

The Officer's recommendation for Council to receive the minutes of Committee meetings carries no financial commitment for Council. Should any recommendation require a financial commitment or have any implication outside the CEO's delegated authority, the matter will be referred to Council as a specific agenda item.

Risk Implications

Nil

Policy Implications

Nil

Statutory Implications

Administration regulation 11 sets out the content that the minutes of council or committee meetings must contain, including:

- the names of members present at the meeting;
- details of each motion moved, the mover and the outcome of the motion;
- details of each decision made at the meeting; and
 - written reasons for each decision made at a meeting that is significantly different from the committee's or council employee's recommendation.

Section 5.22(2) and (3) of the Act requires that the minutes of a council or committee meeting are to go to the next meeting of the council or committee for confirmation and signing by the person presiding to certify the confirmation.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 – *Outcome 4.1.2 Continue to improve organisational planning.*

Voting Requirements

Simple majority

Conclusion

That the minutes of the Audit and Governance Committee meeting held on the 17 February 2021 be received.

OFFICER'S RECOMMENDATION – ITEM NO 10.5.1

THAT COUNCIL, BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO RECEIVE THE MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING HELD ON 17 FEBRUARY 2021.

10.5.2 MINUTES FROM EXTERNAL PKNPCMC COMMITTEE MEETINGS TO BE RECEIVED AND APPOINTMENT OF A SHIRE NOMINATED COMMUNITY REPRESENTATIVE

Report Information

Date: 16 February 2021
 Location: Not applicable
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref: Not applicable
 Disclosure of Interest: Nil
 Reporting Officer: Governance and Risk Coordinator
 Island: Not applicable
 Attachments: 10.5.3 Minutes of external committees 1. PKNPCMC

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

The report formally presents the minutes of external committee from previous month.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Shire has an official Council representative on the following committees which are external to the Shire (i.e. established and managed by an external agency).

1. The Pulu Keeling National Park Community Management Committee (PKNPCMC)
2. The IOT Regional Development Organisation (IOTRDO)
3. Cocos Keeling Islands Tourism Association (CKITA)
4. Indian Ocean Group Training Association (IOGTA)
5. Kimberley Zone

To ensure that Council is kept informed of the activities of these external committees in which it has an interest, the minutes from all external committees will be presented for Council to receive as soon as they are available from the secretariat of the group.

It should be noted that by receiving the minutes Council is not being asked to endorse a decision of the external committee, nor can it be implied that Council is committing resources in support of a recommendation by the external committee. Should a decision or resource allocation be required from Council on a specific matter, a separate agenda item will be prepared for Council consideration.

Council's representatives on the various external committees will be able to answer any questions arising from the minutes.

Comment

The attached minutes are the minutes of the following external committees:

1. PKNPCMC Committee held on the 24 June 2020 and 19 August 2020. Cr Jamil Ibram is the Council appointed Elected Member representative on this Committee.

In addition to the Councillor representative on the PKNPCMC Committee, under the Terms of Reference for this Committee, the Shire will nominate for their vacancies, and Parks Australia for theirs, through an Expression of Interest (EOI) in the Atoll. In late last year Parks Australia advertised an EOI and had one response.

As a result, the PKNPCMC considered suitable members and directly approached Thomas Battcher (Shire Parks and Gardens Officer), Wak Udin, Nek Neng, Lanif Yakin (Visitors Centre

Senior Support Officer) and Larissa Powell (CKI School - self-nomination) to invite them to nominate. As a result, Larissa Powell was appointed as the Parks Australia representative. The Shire now has the option of running another Eol or of appointing one of the nominees as the Shire's community representative (not to be confused with the position held by the Elected Member representative). The officer's recommendation is that the Shire supports the nomination from Thomas Battcher given his interest, experience and current formal studies in the area of horticulture.

Policy and Legislative Implications

Nil

Financial Implications

The Officer's recommendation carries no financial commitment for Council.

Strategic Implications

Strategic Community Plan - Key Result Area: *Civic Leadership*

OFFICER RECOMMENDATION – ITEM NO 10.5.2

THAT COUNCIL BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF *THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995* RESOLVES TO:

- 1. RECEIVE THE MINUTES OF THE PKNPCMC COMMITTEE MEETING HELD ON THE 24 JUNE 2020 AND 19 AUGUST 2020; AND**
- 2. ENDORSE THOMAS BATTACHER AS THE SHIRE'S COMMUNITY REPRESENTATIVE ON THE PKNPCMC COMMITTEE DUE TO MR BATTCHER'S INTEREST, SKILLS AND FORMAL STUDY IN THE FIELD OF HORTICULTURE.**

- 11. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 12. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL**
- 13. MATTERS BEHIND CLOSED DOORS**
- 14. MATTERS RELATING TO THE LAND TRUSTS**



MATTERS RELATING TO THE LAND TRUST 1979 AND LAND TRUST 1984

The Australian Government transferred ownership of portions of land on the Cocos (Keeling) Islands, under two separate deeds, to the Territory's local government being the Cocos (Keeling) Islands Council. On 1 July 1992 the Territories Law Reform Act came into effect by which the Commonwealth Government applied Western Australian laws to the Cocos (Keeling) Islands. The Local Government (Transition) Ordinance 1992 established the Shire of the Cocos (Keeling) Islands by absorbing the Cocos (Keeling) Islands Council. By this arrangement, the body corporate called the Shire of Cocos (Keeling) Islands became the Trustee for both Land Trusts. Decisions relating to the Trust are made by Council as the decision-making arm of the body corporate.

The 1979 Deed: The 1979 Trust Deed applies to all of the land above the high-water mark on Home Island, except Lot 13, Lot 14 and Pulu Gangsa (Cemetery Island). The Deed states that the land is to be held 'upon trust for the benefit, advancement and wellbeing of the community formed by the Kampong residents.' No other terms were expressed in the Deed. 'Kampong residents' were described in the 1979 Trust Deed as 'the residents from time to time of the Kampong area'.

The 1984 Deed: The 1984 Trust Deed applies to all parcels of land situated and being above high-water mark within the Cocos (Keeling) Islands, including North Keeling Island, but not including parcels of land as described in the First Schedule of the 1984 Trust Deed. This transferred land was to be held by the Council (and later, by its successor, the Shire) 'upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council.'

14.1 TRUSTS ADMINISTRATION

14.2 TRUSTS LEASES

14.2.1 APPLICATION TO RENEW LEASE FOR LOT 243 HOME ISLAND - SHAMROKS SUPERMARKET

Report Information

Date: 17 February 2021
 Location: Lot 243 Home Island – Shamroks Supermarket
 Applicant: Mohamad Hisham Macrae & Siti Rokayyah Yaserie
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Leasing Officer
 Island: Home Island
 Attachments: 14.2.1 Application letter to lease

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To present the request and supporting documentation from Shamroks Enterprises Pty Ltd to renew the lease for Lot 243 Home Island to Council for consideration. It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 243) is held in Trust. Council, in making any decision in relation to the Trusts, must give due consideration of the purpose of the Trusts that is “the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders” and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to consider matters relating to Land held in Trust.

Relevant Documents

[Available for viewing at the meeting](#)

Background

Mohamad Hisham Macrae and Siti Rokayyah Yaserie trading as Shamroks Enterprises Pty Ltd took over the lease for Lot 243 Home Island in 2012 into the second year of a five (5) years with a five (5) year option lease.

The Shire wrote to the lessees advising them that the lease had expired and to seek their intentions moving forward. They have subsequently submitted their request on 15 October 2020 to enter into a new lease agreement

Comment

Shamroks Enterprises is the largest retail business on Home Island supplying a wide range of products ranging from personal goods, general groceries, frozen goods, homewares as well as the fortnightly supply of fresh products that are always in demand. They have invested in refurbishing and improvements to the premises to create a more effective service. Shamroks employs 12 full and part time casual employees and has proven to be a successful small business that generates positive economic outcomes for the Community as per the Trust requirements.

A revaluation has been sought from a registered independent valuer which will determine the annual lease fee to be charged, noting the fee would be subject to annual CPI review. In addition to this Shire rates would also be raised on the area if this lease is approved.

The proponent has requested a five (5) year with a further five (5) year option lease.

Milestones have not been requested as there is no change proposed for the current business use and output, however the lease will stipulate that the lease purpose continues to be met.

As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 243) is Land held in Trust under the 1984 Land Trust Deed; therefore Council, is required to have due consideration of the purpose of the Trust, that is “upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council.”

Policy and Legislative Implications

Section 3.58 of the *Local Government Act (WA) (CKI)* 1995 as amended.

Financial Implications

The applicant has committed to paying the market value. An updated valuation has been requested. The current annual lease fee is \$16,654.00 and it is likely the valuation will be of a similar amount; therefore, it is unlikely to have any impact on the adopted budget.

Strategic Implications

Strategic Community Plan: Key Result Area 4 – Civic Leadership

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for a key stakeholder who provides a valued community service.	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Service Interruption	Without a lease, a valuable community service could be disrupted.	Moderate (6)	This item is being progressed as quickly as possible, while still

			observing legislative requirements.
Compliance	The process for leasing does not comply with legislation.	Low (3)	The process outlined in this report is consistent with legislative requirements.
Property	The property is being used other than what it has been intended for.	Low (3)	Property inspection to be conducted annually.
Environment	N/A	N/A	N/A
Fraud	N/A	N/A	N/A

Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Voting Requirements

Simple majority

Conclusion

The request for a new lease if presented to the Trustee for consideration and the officer's recommendation is that the request is approved as it continues to provide an important service to the community.

OFFICER'S RECOMMENDATION – ITEM NO 14.2.1

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1984 LAND TRUST DEED, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995 RESOLVES:

- 1. TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY LEASE OF LOT 243 TO SHAMROKS ENTERPRISES PTY LTD AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:**

- a. THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$250;
 - b. THE LEASE OF PROPERTY WILL BE FOR “AS IS WHERE IS” BASIS;
 - c. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING;
 - d. THE LEASE TERM BEING FOR 5 YEARS WITH 5 YEAR OPTION;
2. THE PURPOSE OF THE LEASE IS TO CONTINUE OPERATION OF THE SUPERMARKET.
 3. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CEO IS AUTHORISED TO ENTER INTO THE LEASE AS PER THE SHIRE’S STANDARD COMMERCIAL LEASE TEMPLATE AND WITH THE CONDITIONS AS OUTLINED ABOVE;
 4. THAT IF OBJECTIONS ARE RECEIVED, TO CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;
 5. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL BE UNDERTAKEN;
 6. TO ADVISE THE PROSPECTIVE LESSEE THAT, SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL.

14.2.2 APPLICATION TO RENEW LEASE FOR LOT 18 – KELAPA PULU

Report Information

Date: 17 February 2021
 Location: Lot 18 – Kelapa Pulu
 Applicant: Sharizan Saharil & Saharil Amat
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Leasing Officer
 Island: Home Island
 Attachments: 14.2.2 Application letter to lease

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To present the request and supporting documentation from Mr Saharil and Mr Amat to renew the lease for Part Lot 18 Home Island to Council for consideration. It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the 1979 Land Trust as the Land (Lot 18) is held in Trust. Council, in making any decision in relation to the Trust, must give due consideration of the purpose of the Trust that is “for the benefit, advancement and wellbeing of the community formed by the Kampong residents” and ensure their decision-

making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to consider matters relating to Land held in Trust.

Relevant Documents

Available for viewing at the meeting

Background

The applicants Mr Saharil and Mr Amat took over management and operation of the retail outlet located on part Lot 18 known as Kelapa Gading, now renamed and trading as Kelapa Pulu.

Since taking over the management in the last two years there has been extensive expansion in the product range, from only provision of sale of electrical goods and homewares to sale of general groceries, boating hardware, frozen goods, toys, work wear that is in high demand as well as the fortnightly supply of fresh products.

The Shire wrote to the lessees advising them that the lease had expired and to seek their intentions moving forward. They have advised the Shire of their intent to enter into a new lease agreement with the Shire and subsequently submitted their request on 24 November 2020. See attachment 14.2.2.

Comment

Kelapa Pulu currently employs casual staff as well as employing independent locals to assist in collection of the fortnightly Toll Freighter Cargo. This is a positive economic outcome for the Community as per the Trust requirements.

A revaluation will be sought from a registered independent valuer which will determine the annual lease fee to be charged, noting the fee would be subject to annual CPI review. In addition to this Shire rates would also be raised on the area if this lease is approved.

The proponents have requested a ten (10) year with a further five (5) year option. However, to be consistent with other leases of similar commercial tenancies, the officer's recommendation is for a five (5) years with a five (5) year option lease. This has been discussed with the proponents Mr Amat on 12 February 2021 who has agreed to this proposal.

Milestones have not been requested as there is no change proposed for the current business use and output, however the lease will stipulate that the lease purpose continues to be met.

As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Part Lot 18) is Land held in Trust under the 1979 Land Trust Deed; therefore Council, is required to have due consideration of the purpose of the Trust, that is “upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council.”

Policy and Legislative Implications

Section 3.58 of the *Local Government Act (WA) (CKI)* 1995 as amended.

Financial Implications

The applicant has committed to paying the market value. The current lease fee is \$4,420.00 and it is likely the valuation will be of a similar amount; therefore, it is unlikely to have any impact on the adopted budget.

Strategic Implications

Strategic Community Plan: Key Result Area 1– Economic: Outcome 1.1. Encourage economic stability for the Islands.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for a key stakeholder who provides a good community service.	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Service Interruption	Without a lease, a valuable community service could be disrupted.	Moderate (6)	This item is being progressed as quickly as possible, while still observing legislative requirements.

Compliance	The process for leasing does not comply with legislation.	Low (3)	The process outlined in this report is consistent with legislative requirements.
Property	The property is being used other than what it has been intended for.	Low (3)	Property inspection to be conducted annually.
Environment	N/A	N/A	N/A
Fraud	N/A	N/A	N/A

Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Voting Requirements

Simple majority

Conclusion

The request for a new lease if presented to the Trust for consideration and the officer's recommendation is that the request is approved as it continues to provide an important service to the community.

OFFICER'S RECOMMENDATION – ITEM NO 14.2.2

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1979 LAND TRUST DEED, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995 RESOLVES:

- 1. TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY LEASE OF PART LOT 18 TO MR SAHARIL AND MR AMAT AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:**
 - a. THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$250;**
 - b. THE LEASE OF PROPERTY WILL BE FOR "AS IS WHERE IS" BASIS;**

14.2.3 APPLICATION TO RENEW LEASE FOR LOT 231 PUMP HOUSE AND TANKS

Report Information

Date: 17February 2021
 Location: Lot 231 Home Island – Pump House/Tanks
 Applicant: Water Corporation
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Leasing Officer
 Island: Home Island
 Attachments: 14.2.3 Application letter to lease

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To present the request and supporting documentation from Water Corporation to renew the lease for Lot 231 Home Island to Council for consideration. It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 231) is held in Trust. Council, in making any decision in relation to the Trusts, must give due consideration of the purpose of the Trusts that is “the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders” and

ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to consider matters relating to Land held in Trust.

Relevant Documents

Available for viewing at the meeting

Background

Water Corporation has held a lease with the Shire for Lot 231 Home Island for the use of Pump House/Tanks. The term lease was for 20 years with no further option to renew.

The Shire wrote to the lessees advising them that the lease had expired and to seek their intentions moving forward. They have advised the Shire of their intent to enter into a new lease agreement with the Shire and subsequently submitted their request on 10 December 2020. See attachment 14.2.3.

Comment

The Water Corporation provides essential services to the Cocos Island and one of the main services is the supply of water to the community. The Part land that is located at Lot 231 is used for the seawater reverse osmosis plant, water storage tanks and distribution pumps allowing Water Corporation to supply drinking water to Home Island.

A revaluation will be sought from a registered independent valuer which will determine the annual lease fee to be charged, noting the fee would be subject to annual CPI review. In addition to this Shire rates would also be raised on the area if this lease is approved.

The proponent has requested a ten (10) years with a further ten (10) year option. Officers supports this long-term lease proposal as this a Commonwealth lease and Water Corporation provides an essential service to the community.

Milestones have not been requested as there is no change proposed for the current business use and output, however the lease will stipulate that the lease purpose continues to be met.

As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 231) is Land held in Trust under the 1984 Land Trust Deed; therefore Council, is required to have due consideration of the purpose of the Trust, that is “upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council.”

Water corporation is classified as an 'instrumentality of the crown' and is therefore exempt from the requirement to advertise the disposition of property notice as per the functions and general regulations 1996 section 30(2)(c)(ii).

Policy and Legislative Implications

Section 3.58 of the *Local Government Act (WA) (CKI)* 1995 as amended

Financial Implications

The applicant has committed to paying the market value. An updated valuation has been requested. The current annual lease fee is \$2,450.00 and it is likely the valuation will be of a similar amount; therefore, it is unlikely to have any impact on the adopted budget.

Strategic Implications

Strategic Community Plan: Key Result Area 4 – Civic Leadership

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for a key stakeholder who provides a critical community service.	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Service Interruption	Without a lease, a critical community service could be disrupted.	Moderate (6)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Compliance	The process for leasing does not comply with legislation.	Low (3)	The process outlined in this report is consistent with legislative requirements.

Property	The property is being used other than what it has been intended for.	Low (3)	Property inspection to be conducted annually.
Environment	Commercial activities could damage the environment.	N/A	The lease contains clauses to protect the environment.
Fraud	N/A	N/A	N/A

Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Voting Requirements

Simple majority

Conclusion

The request for a new lease is presented to Council, acting as the Trustee of the 1984 Land Trust, for consideration and the officer's recommendation is that the request is approved as it continues to provide an important service for the community.

OFFICER'S RECOMMENDATION – ITEM NO 14.2.3

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1984 LAND TRUST DEED, BY SIMPLE MAJORITY, RESOLVES TO AUTHORISE THE CEO TO ENTER INTO A LEASE TO DISPOSE THE LEASE AT LOT 231 TO WATER CORPORATION AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$250;**
- 2. THE LEASE OF PROPERTY WILL BE FOR "AS IS WHERE IS" BASIS;**
- 3. THE LEASE TERM BEING FOR 10 YEARS WITH 10 YEAR OPTION;**
- 4. THE PURPOSE OF THE LEASE IS TO ALLOW INFRASTRUCTURE, NEEDED FOR CONTINUED OPERATION TO SUPPLY ESSENTIAL WATER SERVICES TO HOME ISLAND;**
- 5. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL BE UNDERTAKEN;**
- 6. TO ADVISE THE PROSPECTIVE LESSEE THAT, SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL.**

14.2.4 APPLICATION TO RENEW LEASE FOR PART LOT 100 WEST ISLAND WASTEWATER TREATMENT PLANT

Report Information

Date: 17 February 2021
 Location: Part Lot 100 West Island – Wastewater Treatment Plant
 Applicant: Water Corporation
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Leasing Officer
 Island: Home Island
 Attachments: 14.2.4 Application letter to lease

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To present the request and supporting documentation from Water Corporation to renew the lease for Part Lot 100 Home Island to Council for consideration. It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the Land Trusts as the Land (Part Lot 100) is held in Trust. Council, in making any decision in relation to the Trusts, must give due consideration of the purpose of the Trusts that is “the benefit, advancement and

wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders” and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to consider matters relating to Land held in Trust.

Relevant Documents

Available for viewing at the meeting

Background

Water Corporation held the lease with the Shire for Part Lot 100 for a term of 20 years with no further option to renew.

The Shire wrote to the lessees advising them that the lease had expired and to seek their intentions moving forward and have subsequently submitted their request on the 10th of December 2020 to enter into a new lease agreement. See attachment 14.2.4.

Comment

Water Corporation utilises the infrastructure at Part Lot 100 for the Wastewater Treatment Plant. It is part of their essential services to manage the waste treatment for the Cocos Island Community. They employ 13 staff across Home Island and West Island to deliver these services generating a positive economic outcome for the Community as per the Trust Requirements.

A revaluation will be sought from a registered independent valuer which will determine the annual lease fee to be charged, noting the fee would be subject to annual CPI review. In addition to this Shire rates would also be raised on the area if this lease is approved.

The proponent has requested a ten (10) years with a further ten (10) year option. The officers support this long-term lease proposal as this a Commonwealth lease and Water Corporation provides an essential service to the community.

Milestones have not been requested as there is no change proposed for the current business use and output, however the lease will stipulate that the lease purpose continues to be met.

As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Part Lot 100) is Land held in Trust under the 1984 Land Trust Deed; therefore Council, is required to have due consideration of the purpose of the Trust, that is “upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council.”

Water corporation is classified as an 'instrumentality of the crown' and is therefore exempt from the requirement to advertise the disposition of property notice as per the functions and general regulations 1996 section 30(2)(c)(ii).

Policy and Legislative Implications

Section 3.58 of the *Local Government Act (WA) (CKI)* 1995 as amended

Financial Implications

The applicant has committed to paying the market value. An updated valuation has been requested. The current annual lease fee is \$3,150.00 and it is likely the valuation will be of a similar amount; therefore, it is unlikely to have any impact on the adopted budget.

Strategic Implications

Strategic Community Plan: Key Result Area 4 – Civic Leadership

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for a key stakeholder who provides a critical community service.	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Service Interruption	Without a lease, a critical community service could be disrupted.	Moderate (6)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Compliance	The process for leasing does not comply with legislation.	Low (3)	The process outlined in this report is consistent with legislative requirements.

Property	The property is being used other than what it has been intended for.	Low (3)	Property inspection to be conducted annually
Environment	Commercial activities could harm the environment.	N/A	The lease contains clauses that will protect any harm made to the environment.
Fraud	N/A	N/A	N/A

Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Voting Requirements

Simple majority

Conclusion

The request for a new lease is presented to Council, acting as the Trustee of the 1984 Land Trust, for consideration and the officer's recommendation is that the request is approved as it continues to provide critical service for the community.

OFFICER'S RECOMMENDATION – ITEM NO 14.2.4

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1984 LAND TRUST DEED, BY SIMPLE MAJORITY, RESOLVES TO AUTHORISE THE CEO TO ENTER INTO A LEASE TO DISPOSE THE LEASE AT PART LOT 100 TO WATER CORPORATION AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$250;**
- 2. THE LEASE OF PROPERTY WILL BE FOR "AS IS WHERE IS" BASIS;**
- 3. THE LEASE TERM BEING FOR 10 YEARS WITH 10 YEAR OPTION;**
- 4. THE PURPOSE OF THE LEASE IS TO MANAGE THE WASTE TREATMENT TO THE WEST ISLAND COMMUNITY.**
- 5. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL BE UNDERTAKEN;**

6. TO ADVISE THE PROSPECTIVE LESSEE THAT, SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL.
7. WATER CORPORATION IS CLASSIFIED AN 'INSTRUMENTALITY OF THE CROWN' AND IS EXEMPT TO ADVERTISE THE DISPOSITION OF PROPERTY NOTICE AS PER THE FUNCTIONS AND GENERAL REGULATIONS 1996 SECTION 30(2)(C)(ii).

14.3 TRUSTS FINANCE

15. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING (LATE ITEM)

16. CLOSURE