



NOTICE OF MEETING

Elected Members

Please be advised that the next Ordinary Meeting of Council will be held in Council Chambers, Home Island on Wednesday, 5 August 2020 commencing at 4.30pm.

Andrea Selvey
Chief Executive Officer

DISCLAIMER

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note this agenda contains recommendations which have not yet been adopted by Council. Members of the public should note that in any discussion regarding any planning or other application that any statement or intimation of approval made by any member or officer of the Shire during the course of any meeting is not intended to be and is not to be taken as notice of approval from the Shire. No action should be taken on any item discussed at a Council meeting prior to written advice on the resolution of the Council being received. Any plans or documents contained in this document may be subject to copyright law provisions (Copyright Act 1968, as amended) and the express permission of the copyright owner(s) should be sought prior to the reproduction.

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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
Cr Anthony	21 May 2020 – 30 August 2020	20 May 2020

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 24 June 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 24 JUNE 2020, AS PRESENTED IN ATTACHMENT 7.1 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.

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

10.1.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 30 JUNE 2020

Presentation of the Monthly Statement of Financial Activity for the month ending 30 June 2020 has been deferred due to end of financial processing. In accordance with the *Local Government (Financial Management) Regulations 1996* (see extract below), they will be presented the Ordinary Meeting of Council on 26 August 2020 to ensure compliance with legislative requirements and to ensure Council is kept informed of financial management.

- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates;

10.1.2 SCHEDULE OF ACCOUNTS PAID FOR PERIOD 1 JUNE 2020 30 JUNE 2020

Report Information

Date: 16 July 2020
 Location: Not applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.1.2 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 June 2020 - 30 June 2020.

Relevant Documents

Available for viewing at the meeting

Nil

Background

A list of accounts paid between 1 June 2020 and 30 June 2020 is attached.

Comment

The schedule of accounts paid is submitted as required by legislation.

Policy and Legislative Implications

In accordance with *Regulation 13(1)* of the *Local Government (Financial Management) Regulations 1996*.

Strategic Implications

Nil

Conclusion

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

OFFICER'S RECOMMENDATION – ITEM NO 10.1.1

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 JUNE 2020 TO 30 JUNE 2020 INCLUSIVE OF CHEQUE 11596 AND EFT 7310 TO EFT 7362, VIVA ENERGY & DIRECT DEBIT SUPERANNUATION TOTALLING \$217,069.55.

10.1.3 ADOPTION OF 2020/2021 MUNICIPAL FUND BUDGET AND RELEVANT DOCUMENTS

Report Information

Date: 15/07/2020
 Location: N/A
 Applicant: N/A
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire wide
 Attachments: 10.1.2 2020/21 Statutory Budget & 2020/21 Capital Expenditure

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 consider and adopt the 2020/2021 Municipal Budget and supporting schedules in accordance with Section 6.2(1) of the *Local Government Act (WA)(CKI) 1995*. The report includes the setting of municipal fund rates and other matters arising from the budget papers.

Relevant Documents

Available for viewing at the meeting

Background

The 2020/2021 municipal budget (draft) as attached is presented to Council for adoption. The draft budget has been prepared to align with and progress the Shire of Cocos (Keeling) Islands Corporate Business Plan 2020/21 (CBP) – 2023/24. Actions from (CBP) which operationalises the Strategic Community Plan.

Councillors have considered the details contained with the statutory budget papers in a series of workshops on 20 May 2020, 24 June 2020 and 8 July 2020. Council also formally considered aspects of the budget in the following formal Council meetings:

22 April 2020 - Support and recovery measures to assist the Shire of Cocos Keeling Islands community and local businesses impacted by COVID-19: At this meeting Council resolved to consider relief measures in the setting of the rate in the dollar and fees for waste collection.

20 May 2020 – Differential Rating: At this meeting Council resolved to give notice of the differential rates and minimum payments for rating categories. Public notice has been given in the Atoll and no comments have been received.

24 June 2020 - Proposed Schedule of Fees and Charges: At this meeting Council endorsed the statutory advertising of the 2020/2021 Schedule of Fees and Charges.

Comment

The format for Adoption of 2020/2021 Budget is as follows;

1. Adoption of Municipal fund budget for 2020/2021
2. Adoption of General Rates and Minimum Payments
3. Adoption of Payment Options
4. Adoption of Instalment Administration Fee
5. Adoption of Instalment Interest Charges
6. Adoption of Late Payment Penalty Interest
7. Adoption of Material Variance Reporting

The highlights of the draft budget as presented include:

- a. no increase to rates and a reduction in the rate in the dollar for Holiday Accommodation;
- b. a carried forward surplus of \$1,098,796;
- c. an end of year position (Net Current Assets) of \$1,907,041;
- d. a capital works program of \$3,351,536;
- e. transfers of \$874,317 from reserves and a transfer of \$427,250 into reserves.

Policy and Legislative Implications

Section 6.2 of the *Local Government Act (WA) (CKI) 1995* and Part 3 of the *Local Government (Financial Management) Regulations 1996* state that every Local Government is to prepare and adopt an annual budget.

Sections 6.32, 6.34, 6.35, 6.37 and 6.38 of the *Local Government Act (WA) (CKI) 1995* and Regulation 54 of the *Local Government (Financial Management) Regulations 1996* provide Council with the power to impose rates and service charges.

Sections 6.45 and 6.50 of the *Local Government Act (WA) (CKI) 1995* and Regulation 64(2) of the *Local Government (Financial Management) Regulations 1996* provide Council with the power to adopt options for payments of rates or service charges.

Regulation 68 of the *Local Government (Financial Management) Regulations 1996* provides Council with the power to impose interest on payment by instalment.

Sections 6.13 and 6.51 of the *Local Government Act (WA) (CKI) 1995* and Regulation 19(A) and 70 of the *Local Government (Financial Management) Regulations 1996* provide Council with the power to impose interest on overdue amounts owing to the Shire.

Section 6.49 of the *Local Government Act (WA) (CKI) 1995* provides Council with the power to accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.

Section 6.11 of the *Local Government Act (WA) (CKI) 1995* and Regulations 17 and 27(h) of the *Local Government (Financial Management) Regulations 1996* provide Council with the power to establish and maintain reserve accounts.

Regulation 34(5) of the *Local Government (Financial Management) Regulations 1996* and AASB 1031 Materiality require the Council to adopt a percentage or value to be used in statements of financial activity for reporting material variances.

Financial Implications

The annual budget provides the Administration with the approval to undertake all of its planned activities in the 2020/2021 financial year.

Strategic Implications

The budget has been prepared in alignment with the Shire's Corporate Business Plan 2020/21 – 2023/24 which operationalises the Strategic Community Plan.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	The budget does not accurately reflect actual expenditure and revenue	Low (3)	The budget has been prepared with sufficient rigour to provide a high level of confidence in all estimates
Health & Safety	N/A	N/A	N/A
Reputation	The budget does not reflect community aspiration and priority	Moderate (3)	The budget has been prepared to align with the CBP
Service Interruption	N/A	N/A	N/A
Compliance	The budget does not comply	Low (4)	The budget has been prepared in accordance with all legislative requirements
Property	N/A	N/A	N/A
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)

Conclusion

The draft budget as prescribed has been subject to detailed consideration by Councillors in workshops and aligns with decisions of council in formal council meetings. It presents a reasonable balance between renewal and new capital, to work towards improving our asset sustainability ratio.

Officers submit the Shire's 2020/2021 Annual Budget for adoption as required under Section 6.2 of the *Local Government Act (WA) (CKI) 1995*.

OFFICER'S RECOMMENDATION – ITEM NO 10.1.2

1. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTION 6.2 OF THE *LOCAL GOVERNMENT ACT (WA) (CKI) 1995* AND PART 3 OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RESOLVES TO ADOPT THE 2020/2021 MUNICIPAL FUND BUDGET FOR THE SHIRE OF COCOS (KEELING) ISLANDS WHICH INCLUDES THE FOLLOWING:
 - a. STATEMENT OF COMPREHENSIVE INCOME BY NATURE OR TYPE SHOWING A NET RESULT FOR THE YEAR OF \$214,623 ON PAGE 2
 - b. STATEMENT OF COMPREHENSIVE INCOME BY PROGRAM SHOWING A NET RESULT FOR THE YEAR OF \$214,623 ON PAGE 4
 - c. STATEMENT OF CASH FLOWS ON PAGE 6
 - d. RATE SETTING STATEMENT SHOWING AMOUNT TO BE RAISED FROM RATES OF \$399,761 ON PAGE 7
 - e. NOTES TO AND FORMING PART OF THE BUDGET ON PAGES 8 TO 21
 - f. TRANSFERS TO / FROM RESERVE ACCOUNTS AS DETAILED ON PAGE 16

2. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTIONS 6.32, 6.34, 6.35, 6.37 AND 6.38 OF THE *LOCAL GOVERNMENT ACT (WA) (CKI) 1995* AND REGULATION 54 OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RESOLVES TO ADOPT THE 2020/2021 GENERAL RATE AND MINIMUM PAYMENT FOR THE SHIRE OF COCOS (KEELING) ISLANDS AS FOLLOWS:

RATING CATEGORY	PROPOSED RATE IN \$	PROPOSED MINIMUM RATE
GRV GENERAL DEVELOPED	.1090	\$705
GRV UNDEVELOPED	.2175	\$800
GRV BUSINESS	.1150	\$705
GRV HOLIDAY ACCOMMODATION	.1090	\$705

3. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTIONS 6.45 AND 6.50 OF THE *LOCAL GOVERNMENT ACT (WA) (CKI) 1995* AND REGULATION 64(2) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RESOLVES TO ADOPT THE 2020/2021 PAYMENT OPTIONS FOR THE PAYMENT OF RATES & DOMESTIC REFUSE CHARGE FOR THE SHIRE OF COCOS (KEELING) ISLANDS AS FOLLOWS:
 - a. ONE INSTALMENT:
PAYMENT IN FULL BY 14TH OF SEPTEMBER 2020.
 - b. FOUR INSTALMENTS:
1ST QUARTERLY INSTALMENT DUE DATE 14TH OF SEPTEMBER 2020;
2ND QUARTERLY INSTALMENT DUE DATE 9TH OF NOVEMBER 2020;
3RD QUARTERLY INSTALMENT DUE DATE 21ST OF DECEMBER 2020;
4TH QUARTERLY INSTALMENT DUE DATE 1ST OF FEBRUARY 2021.

4. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTIONS 6.45 AND 6.50 OF THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995 AND REGULATION 67 OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RESOLVES TO ADOPT AN INSTALMENT ADMINISTRATION CHARGE WHERE THE OWNER HAS ELECTED TO PAY RATES (AND SERVICE CHARGES) BY WAY OF AN INSTALMENT OPTION OF \$5 FOR EACH INSTALMENT AFTER THE INITIAL INSTALMENT IS PAID.

5. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO REGULATION 68 OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RESOLVES TO ADOPT AN INSTALMENT INTEREST RATE OF 5.5% FOR THE SHIRE OF COCOS (KEELING) ISLANDS WHERE THE OWNER HAS ELECTED TO PAY RATES AND SERVICE CHARGES THROUGH AN INSTALMENT OPTION.

6. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTIONS 6.51(1) AND 6.51(4) OF THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995 AND REGULATION 19(A) AND 70 OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RESOLVES TO ADOPT AN INTEREST RATE OF 11% PER ANNUM FOR RATES AND CHARGES THAT REMAIN UNPAID AFTER BECOMING DUE AND PAYABLE.

7. THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO REGULATION 34(5) OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996, AND AASB 1031 MATERIALITY RESOLVES TO ADOPT THE LEVEL FOR REPORTING MATERIAL VARIANCES IN MONTHLY FINANCIAL STATEMENTS IN 2020/2021 AS 10% OR \$20,000 WHICHEVER IS THE GREATER.

10.2 LEASES

All matters relating to leases for consideration in this agenda relate to leases of trust land and therefore are listed in a separate part of this meeting dealing with land trusts matters.

10.3 PLANNING/BUILDING

10.4 ADMINISTRATION

10.4.1 SHIRE OF COCOS (KEELING) ISLANDS COMMUNITY FUNDING PROGRAM POLICY AMENDMENT

Report Information

Date: 14 July 2020
 Location: N/A
 Applicant: Shire of Cocos Keeling Islands
 File Ref:
 Reporting Officer: Community Development Coordinator
 Island: West and Home Island
 Attachments:

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

This report brings an amendment to the current Community Funding Program Policy, to make it a pre-requisite for applicants to have participated in the Shire's Adopt a Spot program, before Council for consideration. The officer's recommendation is that the amendment is adopted as presented and reviewed in February 2021 unless a need is identified prior to the scheduled review.

Relevant Documents

[Available for viewing at the meeting](#)

Background

The Shire has provided small grants to community groups, Equipment and Small Capital and Events and Festivals Community Funding, since 2010. A policy to ensure a fair, equitable and transparent process for Council funding of community projects, programs and initiatives was developed in July 2019, with the amalgamation of previous 2 funding opportunities, and adopted by Council on 28 August 2019.

Comment

This Policy has articulated the Shire of Cocos (Keeling) Islands' commitment to supporting incorporated not-for-profit organisations/associations located within the Shire of Cocos (Keeling) Islands. The proposed change is to make it a pre-requisite for applicants to have participated in the Shire's Adopt-a-Spot program.

The Adopt-a-Spot program engages community groups to undertake clean-ups at a site of their choice in the community whilst receiving cash rewards for every bag of rubbish collected. The program not only provides community groups with funding assistance but also an easy way to do something simple to look after the environment and helps increase public awareness of the effects of littering. Sites include but are not limited to roadsides, streets, parks, trails and beaches. Participants will be provided with tools and support.

The Policy provides some structure for the provision of grants of up to \$2000 to assist with the delivery of projects that address identified community needs, that aim to benefit the Cocos community and aligns with the Shire's strategic plan goals.

The policy also makes provision for applications outside the scope of this policy to be considered by the Committee and recommended to Council in exceptional circumstances, if there is evidence of direct and significant benefit to the Cocos Community.

The policy outlines eligibility criteria as follows:

- The Applicant organisation is a community-based incorporated not-for-profit organisation/association located within the Shire of Cocos (Keeling) Islands;

Unincorporated groups should find a suitable organisation to auspice them by prior arrangement with the Shire.

- The project takes place within the Shire of Cocos (Keeling) Islands;
- The Applicant organisation has no outstanding debts with the Shire of Cocos (Keeling) Islands;
- The Applicant organisation has completed and properly acquitted any project for which funding was previously received;
- The Applicant organisation undertakes the project for the benefit of the wider community;
- The Applicant organisation submits their applications on the prescribed form, with a full budget showing proposed expenditure with two quotes where possible;
- Applications must be lodged within the timeframe specified – late applications will not be accepted;
- The Applicant organisation must demonstrate the other avenues of funding tried –e.g. their own fundraising, other grants; the Shire’s rubbish collection fundraising program.
- The Applicant organisation contributes 25% co-funding either through cash or in-kind or a combination of both. (Note: volunteer work in organisation and / or labour will be calculated as a contribution of \$25.00 per hour.)
- *The Applicant organisation has completed one clean up event in a financial year as part of the Shire’s Adopt-a-Spot program.*

The policy now includes a statement that applications will not be considered if *the Applicant organisation is not registered under the Shire’s Adopt-a-Spot program.*

The existing conditions remain unchanged and are as follows:

- The Applicant organisation is another tier of government or if the grant would directly benefit another tier of government.
- The applicant organisation is funded by other tiers of government, or if the grant would directly benefit an organisation funded by another tier of government;
- The Applicant organisation has an outstanding grant that has not been acquitted properly.
- The application is for a program or event that has already been delivered (e.g. retrospective funding).

The assessment process is outlined in the draft Policy as is the dispute resolution process.

Policy and Legislative Implications

Section 2.7 of the *Local Government Act (WA) (CKI) 1995* prescribes part of the role of a Council is to “determine the local government’s policies”.

Policies in the Policy Manual 2020 will inform and guide the decisions and activities of the Administration and form the basis of recommendations to Council.

Financial Implications

The inclusion of the Adopt a Spot program will have a financial impact as the guidelines for Adopt-a-Spot includes a commitment to pay on a per bag basis.

Strategic Implications

Strategic Community Plan - Key Result Area: Social

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Large take-up of the program could exceed budget allocation	Low (2)	Monitoring the take-up and if necessary seek a budget amendment
Health & Safety	Participants are hurt in the rubbish collection	Moderate (9)	Register as Shire volunteers Safety induction and provide PPE and First Aid Kit.
Reputation	N/A	N/A	N/A
Service Interruption	N/A	N/A	N/A
Compliance	N/A	N/A	N/A
Property	N/A	N/A	N/A
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

This Policy provides a clear and consistent approach to the provision of Council funding to other community groups and now includes a positive mutual obligation responsibility.

OFFICER'S RECOMMENDATION – ITEM NO 10.4.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 2.7 OF THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995 RESOLVES TO ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS POLICY MANUAL 2020 AND CONDUCT THE NEXT ANNUAL REVIEW OF ALL POLICIES IN FEBRUARY 2021.

- 1. ADOPT THE AMENDMENT TO THE SHIRE OF COCOS (KEELING) ISLANDS COMMUNITY FUNDING PROGRAM POLICY; AND**
- 2. INCLUDE THIS POLICY IN THE SHIRE OF COCOS (KEELING) ISLANDS POLICY MANUAL TO BE REVIEWED IN THE NEXT ANNUAL REVIEW OF ALL POLICIES IN FEBRUARY 2021.**

10.5 MINUTES TO BE RECEIVED

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 LEASE

14.2.1 RESIDENTIAL LEASE REQUEST

Report Information

Date: 26 February 2020
 Location: Lot 139, Jalan Kembang Molok
 Applicant: Mr Manija Pazan and Mrs Lelie Lambert
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Asset & Property Management Coordinator
 Island: Home Island
 Attachments: 14.2.1 Letter of request from applicant
 14.2.1 Map of Lot139

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 the request and supporting documentation for a new lease for land held under the 1979 Land Trust Deed to Council, acting in its capacity as the Trustee, for consideration.

Relevant Documents

Available for viewing at the meeting

Background

The proponent has requested to enter into a Residential Lease Agreement for House 39 Home Island. The proponent currently rents this property from the Shire.

At the Ordinary Meeting of Council in April 2009, Council resolved the following:

That Council accepts the current Lease Document as being suitable for the establishment of new Residential Lease Agreements for the remaining 35 Kampong Homes based on the following: -

1. *That the term of the new Agreements be reduced to coincide with the expiration of the 40-year Leases in 2043;*
2. *That the initial Lease Premium for the new Agreements be set at an upfront payment of \$3,500 however, should the tenant be prepared to take up a Lease prior to 1 January 2011, the Lease Premium be reduced to \$3,000 as a financial inducement to take up the Lease Agreement.*
3. *That Council advises prospective Lessee's and Assignee's of non-compliant out-buildings on properties, if they so exist, and that it is the prospective Lessee and Assignee's responsibility to accept liability should any future claims arise in respect to these non-compliant out-buildings.*
4. *That Council lists in its 2011/2012 Budget considerations the appointment of a suitably qualified person to undertake inspections of the leased homes within the Kampong and to develop a procedural periodic inspection process for the future.*

Comment

Based on the formal position of Council, as articulated in April 2009, it is proposed to offer the lease for Lot 139, Jalan Kembang Molok on a 23 year term as this period will result the lease expiration coinciding with the expiry of all other Kampong House leases in November 2043. Conditions of the lease will be consistent with all other Kampong leases and the position of Council as outlined above. The more significant of these conditions include the following:

- i. Maintenance of the house will become the responsibility of the leaseholder;
- ii. The prospective lessee assumes responsibility for and accepts liability should any future claims arise in respect to non-compliant out-buildings

The Shire's standard process for leases is to seek independent valuation on the property to determine the market rental value for the initial lease fee. However, officers are bound by the Council resolution from April 2009 (cited above) which sets the lease fee at \$3,500 with no other rent review increases or CPI over the 23-year term of the lease. Officers recognise

that the \$3,500 lease fee does not financially benefit the Trust; however, officers also recognise that a lease promotes good social outcomes in terms of a stronger sense of ownership and security of tenure.

Previous leases have included a requirement for the Shire to carry out a full inspection of the property to determine whether any remedial work would be required to be undertaken prior to leasing. The officer's recommendation does not support that previous requirement; instead, the recommendation is that the house is offered on an as-is basis given the very generous financial terms of \$3,500 per annum lease fee.

(NB: Point 4 the 2009 Council resolution noted the requirement for staffing resource to undertake inspections of leased homes and resolved to consider that requirement in their 2011/12 budget. That appears not to have been actioned but is under consideration for the 2020/21 budget.)

Policy and Legislative Implications

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

Financial Implications

This lease would result in the following additional revenue items:

- i. Once-off lease fee - \$3,500;
- ii. Annual land and water rates charge - \$2,102.08 (noting that this amount may increase in accordance with Council adopted Rates Charges)
- iii. Annual contribution towards insurance costs - \$1272

This lease would also result in a reduction in revenue from rent charges of \$250 per week.

A lease preparation fee of \$250 will be charged.

This new lease will be conditional on any outstanding amounts owing to the Shire having been first paid.

In addition, approving a lease agreement for this tenancy, will minimise the Shire's annual Kampong housing maintenance operational budget; however, this amount cannot be accurately quantified as it varies depending on maintenance requirements.

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Reduction in rent revenue	Moderate (5)	Offset by the reduced responsibility and cost in housing maintenance.
Health & Safety	N/A	N/A	N/A
Reputation	Inconsistent decision making	Moderate (6)	This recommendation is consistent with precedent and established process.
Service Interruption	N/A	N/A	N/A
Compliance	Lack of legislative compliance	Moderate (6)	The process outlined in this report is consistent with legislative requirements.
Property	The lessee does not maintain the property to a habitable standard.	Moderate (9)	The Shire intends commencing a process to inspect leased properties soon to ensure they are being maintained.
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

Conclusion

The request for a new lease is supported based on the precedent set by Council whereby previous applications for leases by Kampong resident tenants have always been supported on the basis that a lease provides more surety of tenure for residents, whilst alleviating the Shire of the financial burden of the property maintenance for the leased property.

OFFICER'S RECOMMENDATION – ITEM NO 14.2.1

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 ENTER INTO A LEASE FOR LOT 139, JALAN KEMBANG MOLOK WITH MR MANIJA PAZAN AND MRS LELIE LAMBERT AS PER THE SHIRE'S STANDARD RESIDENTIAL LEASE CONDITIONS WITH THE FOLLOWING SPECIAL CONDITIONS:**
 - a. THE LEASE EXPIRY DATE IS SET FOR 30 NOVEMBER 2043;**
 - b. THAT THE INITIAL LEASE PREMIUM FOR THE AGREEMENT BE SET AS AN UPFRONT PAYMENT OF \$3,500;**
 - c. THE LEASE OF PROPERTY WILL BE FOR "AS IS WHERE IS" BASIS;**
 - d. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING;**
 - e. THAT THE TRUSTEE ADVISES THE PROSPECTIVE LESSEE THAT NON-COMPLIANT OUT-BUILDING ON PROPERTY, IF THEY SO EXIST, ARE THE LESSEE'S RESPONSIBILITY TO ACCEPT LIABILITY SHOULD ANY FUTURE CLAIMS ARISE IN RESPECT TO THESE NON-COMPLIANT OUT-BUILDINGS.**
- 2. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD, THE CEO IS TO ENTER THE LEASE AS PER THE SHIRE'S STANDARD RESIDENTIAL LEASE TEMPLATE AND WITH THE CONDITIONS AS OUTLINED ABOVE;**
- 3. THAT IF OBJECTIONS ARE RECEIVED, CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;**
- 4. 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 MARINE CENTRE – LINX-CKI PORT

Report Information

Date: 16 July 2020
 Location: Lot 242, Marine Centre
 Applicant: LINX trading as CKI PORT
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Asset & Property Management Coordinator
 Island: Home Island
 Attachments: 14.2.2 Lease application

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 for LINX to enter into new lease agreement for Lot 242 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 242) 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

The Commonwealth of Australia through their representatives LINX trading as CKI Ports has held a lease with the Shire for Lot 242 known as the Marine Centre. The lease term was for 20 years with no lease option.

The Shire wrote to the lessee 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 lease agreement with the Shire and subsequently submitted their request on 9th of July 20. See attachment 10.2.2.

In their application, LINX has used the template provided by the Shire for all smaller commercial leases. The template was developed by the Shire to ensure applicants provided information in a uniform format and under standard headings wherever possible, for Council to make their decision in an informed and consistent manner.

Comment

This facility is used by LINX for storage and a workshop to undertake maintenance and repairs of Commonwealth marine assets and infrastructure. The facility is crucial as it serves the community by supporting essential transport services. LINX management of the facility employs local contractors for maintenance of critical community transport vessels.

LINX is an important service provider responsible for the management and operations of inter-island ferry and the back-up ferry. The inter-island ferry service is vital to the Islands daily business operations. LINX also manages other inter islands transport vessels which also allow for ongoing business continuity for the community.

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

The proponent has requested a 5 years lease with 2 + 2-year option.

As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 242) 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 “the benefit, advancement and wellbeing of the community formed by Kampong residents; and ensure their decision-making is guided by this objective.

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 \$6,541 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	N/A	N/A	N/A
Environment	Commercial activities could damage the environment	Low (3)	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 for consideration and the officer's recommendation is that the request is approved based on:

1. The area houses critical infrastructure for the delivery of maritime services
2. Securing the ongoing maintenance management of critical inter island transport vessels for the benefit of the community and visitors to the islands; and
3. The service supports various objectives of the Shire of Cocos Keeling Islands Strategic Community Plan.

OFFICER'S RECOMMENDATION – ITEM NO 10.2.2

THAT COUNCIL, 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 ENTER INTO A LEASE FOR LOT 242 (USED AS A MARINE CENTRE) WITH LINX SUBJECT TO THE FOLLOWING CONDITIONS:
 - a. THE LEASE FEE TO BE SET AT THE MARKET VALUE AS DETERMINED BY AN INDEPENDENT VALUER, WITH ANNUAL CPI INCREASES;
 - b. THE LEASE TERM BEING FOR 5 YEARS WITH 2 + 2 YEAR OPTION;
 - c. THE PURPOSE OF LEASE IS TO CONTINUE TO SUPPORT THE DELIVERY OF CRITICAL MARITIME SERVICES TO THE COMMUNITY
2. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD, THE CEO IS TO ENTER THE LEASE AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE AND WITH THE CONDITIONS AS OUTLINED ABOVE;
3. THAT IF OBJECTIONS ARE RECEIVED, CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;
4. TO ADVISE THE PROSPECTIVE LESSEE THAT SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE; THEY ARE TO BE PAID IN FULL.

14.2.3 APPLICATION TO RENEW LEASE FOR CRANE SHED – LINX-CKI PORT

Report Information

Date: 16 July 2020
 Location: Part LOT230, Crane Shed
 Applicant: LINX trading as CKI PORT
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Asset & Property Management Coordinator
 Island: Home Island
 Attachments: Lease application; and Map showing proposed lease area

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 LINX to enter into new lease agreement for Part Lot 230 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 230) 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

The Commonwealth of Australia through their representatives LINX trading as CKI Port has held a lease with the Shire for Part Lot 230 (for use as a Crane Shed). The lease term was for 20 years with no lease option.

The Shire wrote to the lessee 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 lease agreement with the Shire and subsequently submitted their request on 9 July 2020. See attachment 14.2.3

Comment

The Shire has indicated to the applicant that the new lease area would need to include the additional area already used by LINX for the storage of an old crane and other plant. LINX has advised that the old crane will be removed for disposal and the other piece will be placed inside the shed until such time that an alternative storage option becomes available for volunteer groups. The final negotiated position regarding the lease area is as follows:

- Total lease area: 395m²
- Additional 6metres to the existing western boundary to align with the current boundary fence;
- Additional 2metres to the existing northern boundary to align with the adjoining Water Corp fence line.

See attached map showing proposed lease area.

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

The proponent has requested a 5 years lease with 2 + 2-year option.

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 230) 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 "the benefit, advancement and wellbeing of the community formed by Kampong residents; and ensure their decision-making is guided by this objective.

Policy and Legislative Implications

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

Financial Implications

The applicant has committed to paying the market value. The current lease fee is \$3,589 and it is likely the valuation will be of a similar amount; therefore, it is unlikely renewing this will 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	N/A	N/A	N/A
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

Conclusion

The request for a new lease is presented to Council for consideration and the officer's recommendation is that the request is approved based on:

1. The area houses critical infrastructure for the delivery of maritime services;
2. With limited storage opportunity proponents have also allowed for short term storage for vital volunteer groups equipment, plant and machinery; and
3. The service supports various objectives of the Shire of Cocos Keeling Islands Strategic Community Plan.

OFFICER'S RECOMMENDATION – ITEM NO 14.2.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995 RESOLVES:

5. TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO ENTER INTO A LEASE FOR PART LOT 230 (USED AS A CRANE SHED) WITH LINX SUBJECT TO THE FOLLOWING CONDITIONS:
 - a. THE LEASE FEE TO BE SET AT THE MARKET VALUE AS DETERMINED BY AN INDEPENDENT VALUER, WITH ANNUAL CPI INCREASES;
 - b. THE LEASE TERM BEING FOR 5 YEARS WITH 2 + 2-YEAR OPTION;
 - c. A COMMITMENT TO REMOVE THE OLD CRANE WITHIN 12 MONTHS;
 - d. THE PURPOSE OF LEASE IS TO CONTINUE TO SUPPORT THE DELIVERY OF CRITICAL MARITIME SERVICES TO THE COMMUNITY.
6. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CEO IS TO ENTER THE LEASE AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE AND WITH THE CONDITIONS AS OUTLINED ABOVE;
7. THAT IF OBJECTIONS ARE RECEIVED, CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;
8. TO ADVISE THE PROSPECTIVE LESSEE THAT SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE; THEY ARE TO BE PAID IN FULL.

14.3 TRUSTS FINANCE

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

16. CLOSURE