

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Minutes

Ordinary Meeting of Council

30 June 2021, 4.00pm

Council Chambers, Home 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

The presiding member declare the meeting opened at 4.03pm and welcome Councillors and staff to the meeting.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Shire President: Cr A Minkom

Deputy President: Cr S Iku

Councillors: Cr J Ibram
Cr M Hamiril
Cr T Lacy
Cr Charlston

Officers: K Small, Chief Executive Officer
J Soderlund, Deputy Chief Executive Officer
G Brigg, Manager Works and Services
I Macrae, Governance and Risk Coordinator

Public: Nil

Visitors: Nil

Apologies: Nil

Approved Leave of Absence: Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Mrs Jill Welch

Question

Could the Shire communicate with the Commonwealth regarding the West Island boat ramp as its current state of condition is causing damage to vehicles, boats and other on-going issues.

Response

The Shire will write to the Commonwealth to see if they have any funding available for a new boat ramp at Rumah Baru. The Shire will contact Ports to discuss any potential ramp options with Fulton and Hogan during their facility design.

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 (WA)(CKI)* 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.

Nil.

Cr Lacy sought permission from the Presiding member to address the meeting to make a public apology to the public. The Presiding member granted his request.

"I advise this meeting that:

- i. A complaint was made to the Local Government Standards Panel, in which it was alleged that I contravened the Local Government (Rules of Conduct) Regulations 2007 (WA) when I moved certain warning signs installed by the Shire.*
- ii. The Panel found that I breached regulation 9 of the said Regulations by involving myself in the administration of the Shire without authorisation.*

- iii. *I accept that I should not have engaged in the relevant conduct.*
- iv. *I now apologise to the Shire, the public and my fellow Councillors”.*

5. LEAVE OF ABSENCE

The *Local Government Act 1995 (WA)(CKI) (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

Nil

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

- 7.1 Ordinary Council Meeting held on 26 May 2021 - 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 (WA)(CKI)*, RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING 26 MAY 2021, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

COUNCIL RESOLUTION – ITEM NO 7.1

MOVED: CR LACY

SECONDED: CR IBRAM

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO *SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*, RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING 26 MAY 2021, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

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
NIL			

10. REPORTS AND RECOMMENDATIONS OF COMMITTEE**10.1 FINANCE**

10.1.1 MONTHLY FINANCIAL REPORT FOR THE MONTH ENDING 31 MAY 2021

Report Information

Date: 25 June 2021
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.1.1.1 - Monthly Financial Report Containing Statement of Financial Activity with accompanying notes 31 May 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

The purpose of this report is to provide a monthly financial report, which includes rating, investment, reserve, debtor, and general financial information to Elected Members in accordance with Section 6.4 of the *Local Government Act 1995 (WA) (CKI)*.

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 (WA) (CKI)*, and Regulation 34 of the *Local Government (Financial Management) Regulations 1996* and provides oversight of the Shire's finances to Council.

Comment

The period of review is May 2021. The current closing municipal surplus for this period is \$1,395,722 compared to a budget position of \$531,521. This is considered a satisfactory result for the Shire as it is maintaining a healthy budget surplus position.

Income for the May 2021 period year to date is \$6,850,182. This is made up of \$5,683,742 in operating revenues and \$1,166,440 in non-operating grants, contributions and subsidies received and proceeds from other investing activities. The budget estimated \$7,254,922 would be received for the same period. The variance to budget is (\$404,740).

Expenditure for the May 2021 period year to date is \$7,943,723. This is made up of \$5,592,549 in operating expenditure and \$2,259,984 in capital expenditure. The budget estimated \$9,304,618 would be spent for the same period. The variance to budget is \$1,360,892.

Details of all significant variances against the current budget are provided in the notes to the Monthly Financial Report contained within Attachment 10.1.1.1.

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.

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 Monthly Financial Report for the period 1 July 2020 to 31 May 2021, including explanations of material variances, be received.

OFFICER'S RECOMMENDATION – ITEM NO 10.1.1

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD 1 JULY 2020 TO 31 MAY 2021, AS CONTAINED IN ATTACHMENT 10.1.1.1.
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD 1 JULY 2020 TO 31 MAY 2021, AS CONTAINED IN ATTACHMENT 10.1.1.1.

COUNCIL RESOLUTION – ITEM NO 10.1.1

MOVED: CR CHARLSTON

SECONDED: CR IKU

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD 1 JULY 2020 TO 31 MAY 2021, AS CONTAINED IN ATTACHMENT 10.1.1.1.
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD 1 JULY 2020 TO 31 MAY 2021, AS CONTAINED IN ATTACHMENT 10.1.1.1.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

10.1.2 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD 1 MAY 2021 TO 31 MAY 2021

Report Information

Date: 25 June 2021
 Location: Not applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.1.2.1 - Schedule of Accounts Paid
 10.1.2.2 - Detailed Credit Card Transactions

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

The purpose of this report is to present to Council a list of accounts paid under delegated authority for the period 1 May 2021 to 31 May 2021, as required by the *Local Government (Financial Management) Regulations 1996*.

Relevant Documents

Available for viewing at the meeting.

Nil.

Background

Council has delegated, to the Chief Executive Officer, the exercise of its power to make payments from the Shire's Municipal and Trust funds. In accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996* a list of accounts paid is to be provided to Council, where such delegation is made.

Comment

The following table summarises the payments for the period by payment type, with full details of the accounts paid contained within Attachment 10.1.2.1.

Payment Type	Amount (\$)
EFT Payments #8083 to #8108	\$127,028.94
Direct Debit Payment	\$37,866.06
Total Payments	\$164,895.00

Contained within Attachment 10.1.2.2 is a detailed transaction listing of credit card expenditure for the period ended 31 May 2021. This amount is included within the total payments, listed above.

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 monthly 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

It is recommended that Council receives the reports provided for the period ended 31 May 2021.

OFFICER'S RECOMMENDATION – ITEM NO 10.1.2

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO PAYMENTS MADE FROM MUNICIPAL OR TRUST FUNDS FOR THE PERIOD 1 MAY 2021 TO 31 MAY 2021 TOTALLING \$164,895.00, AS CONTAINED IN ATTACHMENT 10.1.2.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 MAY 2021, AS CONTAINED IN ATTACHMENT 10.1.2.1.

COUNCIL RESOLUTION – ITEM NO 10.1.2

MOVED: CR HAMIRIL

SECONDED: CR IBRAM

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO PAYMENTS MADE FROM MUNICIPAL OR TRUST FUNDS FOR THE PERIOD 1 MAY 2021 TO 31 MAY 2021 TOTALLING \$164,895.00, AS CONTAINED IN ATTACHMENT 10.1.2.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 MAY 2021, AS CONTAINED IN ATTACHMENT 10.1.2.1.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

10.1.3 DIFFERENTIAL RATING 2021/2022 FINANCIAL YEAR

Report Information

Date: 24 June 2021
 Location: Not Applicable
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: Nil

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 information to Council on rates modelling and obtain Council approval to advertise its intention to adopt differential rates and minimum payments for the 2021/2022 financial year.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

The *Local Government Act 1995 (WA) (CKI)* (the Act), provides that before imposing differential general rates or a minimum payment applying to a differential rate category, a local government is to give 21 days' local public notice of the intention to do so. Where a local government proposes to modify the proposed rates or minimum payments after considering any submissions received during the advertising period, it is not required to give local public notice of the modified rate or minimum payment.

The Act provides that a local government may impose differential general rates according to any, or a combination, of the following characteristics:

- A. The purpose for which the land is zoned under a town planning scheme in force under the Town Planning and Development Act 1928.
- B. The predominant purpose for which the land is held or used as determined by the local government.
- C. Whether or not the land is vacant; or
- D. Any other characteristic or combination of characteristics prescribed.

Comment

Every four years the Office of the Valuer General undertakes a revaluation of all properties on Cocos (Keeling) Islands. This process was last completed for rates beginning the 1 of July 2019, therefore there will be no change to the overall valuations until the rate year beginning 1 July 2023.

Due to the COVID-19 Pandemic at the April 2020 Ordinary Council Meeting Council resolved to not apply an increase to the rate in the dollar across all differential rating categories and to also reduce the rate in the dollar for Holiday Accommodation rate category to the same as General Developed. This was in response to the travel ban that was in place and the affect this was having, in particular for tourism accommodation providers. This travel ban was lifted in August 2020 and the tourism industry has seen high levels of visitation ever since.

It is proposed that this year a 3% increase in rates is applied across the board from the 2019/2020 rate in the dollar amounts. This will see a significant jump in the rates for Holiday Accommodation compared to last year however is only a 3% increase on the rates raised in the 2019/2020 year. Rates have been increased by 3% every year between 2014/2015 - 2019/2020.

The application of differential rates aims to provide a more equitable solution for the rates charged according to the use of the property. The land use is the recommended way to determine the categories and following are the intended differential rates for the 2021/2022 financial year.

RATING CATEGORY	RATE IN \$ 2021/22	MINIMUM RATE 2021/22	TOTAL RATE REVENUE 2021/22	RATE IN \$ 2020/21	MINIMUM RATE 2020/21	TOTAL RATE REVENUE 2020/21
GRV General Developed	0.1122	\$725	\$248,649	0.1090	\$705	\$240,667
GRV Vacant Land	0.2240	\$825	\$ 15,664	0.2175	\$800	\$ 15,206
GRV Business	0.1184	\$725	\$116,334	0.1150	\$705	\$112,308
GRV Holiday Accommodation	0.1665	\$725	\$ 49,603	0.1090	\$705	\$ 32,473

Policy and Legislative Implications

Sections 6.33, 6.35 & 6.36 of the *Local Government Act 1995 (WA) (CKI)*.

Financial Implications

If imposed the above rates would yield revenue of \$430,252.11 comprising a 7.38% increase in total rates revenue raised compared to the 2020/2021 year. This follows the 3.06% decrease in total rates revenue raised compared to the 2019/2020 year which was the result of the Holiday Accommodation rate in the dollar being lowered to the same as general developed.

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	If rates are not considered fair and equitable, members of the community may develop a poor opinion of Council.	Low (3)	Consideration has been given to both the historical increases and COVID-19 measures put in place last year when developing the rates model.
Service Interruption	N/A	N/A	N/A
Compliance	That the differential rates are not raised as per the <i>Local Government Act 1995 (WA) (CKI)</i> .	Low (3)	This report is prepared to allow time for the differential rates to be advertised for the statutory period before adoption.

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 officer's recommendation is for the proposed differential rates and minimum payments to be considered by Council for advertising.

OFFICER'S RECOMMENDATION – 10.1.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 6.33, 6.35 AND 6.36 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO GIVE LOCAL PUBLIC NOTICE OF ITS INTENTION TO ADOPT THE FOLLOWING DIFFERENTIAL RATES AND MINIMUM PAYMENTS FOR EACH OF THE FOLLOWING RATING CATEGORIES IN THE 2021/2022 FINANCIAL YEAR:

RATING CATEGORY	RATE IN THE DOLLAR	MINIMUM RATES
GRV GENERAL DEVELOPED	0.1122	\$725
GRV VACANT LAND	0.2240	\$825
GRV BUSINESS	0.1184	\$725
GRV HOLIDAY ACCOMMODATION	0.1665	\$725

COUNCIL RESOLUTION – ITEM NO 10.1.3**MOVED: CR CHARLSTON****SECONDED: CR LACY**

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 6.33, 6.35 AND 6.36 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO GIVE LOCAL PUBLIC NOTICE OF ITS INTENTION TO ADOPT THE FOLLOWING DIFFERENTIAL RATES AND MINIMUM PAYMENTS FOR EACH OF THE FOLLOWING RATING CATEGORIES IN THE 2021/2022 FINANCIAL YEAR:

RATING CATEGORY	RATE IN THE DOLLAR	MINIMUM RATES
GRV GENERAL DEVELOPED	0.1122	\$725
GRV VACANT LAND	0.2240	\$825
GRV BUSINESS	0.1184	\$725
GRV HOLIDAY ACCOMMODATION	0.1665	\$725

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM****AGAINST: NIL**

10.2 LEASES

Nil

10.3 PLANNING/BUILDING

10.3.1 PROPOSED LIGHT INDUSTRY – PART LOT 24 WEST ISLAND

Report Information

Date: 17 June 2021
 Location: Part Lot 24 West Island
 Applicant: Marshall Painting Services
 File Ref: WL24WI
 Reporting Officer: Governance and Risk Coordinator
 Island: West Island
 Attachments: 10.3.1.1 – Application Development Approval Marshall Painting Services

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 checked="" 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

For Council to consider an application for development approval from Marshall Painting Services for the construction of a storage shed on their newly leased industrial zoned property.

Relevant Documents

[Available for viewing at the meeting.](#)

Development application

Background

On 31 March 2021, Council resolved, subject to advertising, to enter into a lease agreement with the proponent for a 530sqm portion of parent Lot 24. Council received no submissions following the advert inviting for public submissions.

Following the closure of lease advertising, the proponent has now lodged a development application as contained in Attachment 10.3.1 to construct a 100sqm outbuilding on the plot of land for business storage.

Under the *Shire of Cocos (Keeling) Islands Local Planning Scheme No.1* (the Scheme) the subject land is zoned 'Industrial' where the proposed development of a 'industry – light' is a permitted use.

Council does not have delegated authority for statutory town planning approvals, meaning each application must be presented to Council for determination.

Comment

There is sufficient room on the subject property for the proposed development, taking into consideration, building setbacks, landscaping and vehicle parking requirements of the Scheme. For this reason, the application has no identified planning concerns.

A recommended condition of approval will ensure the building is developed in like form and colour to match and/or harmonise with the locality's streetscape.

Council is recommended to approve the development application subject to conditions.

Policy and Legislative Implications

Shire of Cocos (Keeling) Islands Local Planning Scheme No.1

Financial Implications

This item has no financial implications.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 – 2026:

Outcome 3.2 Future development is sympathetic to the Islands environment.

3.2.1 Maintain and develop infrastructure in-line with community needs and the Islands environment.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Compliance	Building permit not obtained prior to construction	Low (1)	Advice note added to planning approval

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

Given there is no relevant planning concerns the officer supports the proposal.

OFFICER'S RECOMMENDATION – ITEM NO 10.3.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR AN INDUSTRY - LIGHT LAND USE AND DEVELOPMENT OF AN OUTBUILDING UPON THE DESIGNATED LEASED PORTION OF LOT 24 WEST ISLAND, SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

1. DEVELOPMENT MAY BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN.
2. A SCHEDULE OF THE COLOUR AND TEXTURE OF THE BUILDING MATERIALS, DEMONSTRATING THAT THE PROPOSED DEVELOPMENT COMPLEMENTS THE SURROUNDING AREA, MUST BE SUBMITTED TO, AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS, PRIOR TO LODGING AN APPLICATION FOR A BUILDING PERMIT. THE DEVELOPMENT MUST BE FINISHED, AND THEREAFTER MAINTAINED, IN ACCORDANCE WITH THE PLANS AND SCHEDULE PROVIDED TO AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS, PRIOR TO OCCUPATION OF THE DEVELOPMENT.
3. PRIOR TO OCCUPATION OF THE LAND USE, THE PERIMETER OF THE DESIGNATED LEASED AREA SHALL BE FENCED TO AN INDUSTRIAL STANDARD, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

THIS IS A DEVELOPMENT APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS UNDER ITS *LOCAL PLANNING SCHEME NO.1*. IT IS NOT AN APPROVAL TO COMMENCE OR CARRY OUT DEVELOPMENT UNDER ANY OTHER LAW. IT IS THE RESPONSIBILITY OF THE APPLICANT/LANDOWNER TO OBTAIN ANY OTHER NECESSARY APPROVALS, CONSENTS, PERMITS AND LICENSES REQUIRED UNDER ANY OTHER LAW, AND TO COMMENCE AND CARRY OUT DEVELOPMENT IN ACCORDANCE WITH ALL RELEVANT LAWS.

COUNCIL RESOLUTION – ITEM NO 10.3.1

MOVED: CR LACY

SECONDED: CR IKU

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR AN INDUSTRY - LIGHT LAND USE AND DEVELOPMENT OF AN OUTBUILDING UPON THE DESIGNATED LEASED PORTION OF LOT 24 WEST ISLAND, SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

- 1. DEVELOPMENT MAY BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN.**
- 2. A SCHEDULE OF THE COLOUR AND TEXTURE OF THE BUILDING MATERIALS, DEMONSTRATING THAT THE PROPOSED DEVELOPMENT COMPLEMENTS THE**

SURROUNDING AREA, MUST BE SUBMITTED TO, AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS, PRIOR TO LODGING AN APPLICATION FOR A BUILDING PERMIT. THE DEVELOPMENT MUST BE FINISHED, AND THEREAFTER MAINTAINED, IN ACCORDANCE WITH THE PLANS AND SCHEDULE PROVIDED TO AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS, PRIOR TO OCCUPATION OF THE DEVELOPMENT.

- 3. PRIOR TO OCCUPATION OF THE LAND USE, THE PERIMETER OF THE DESIGNATED LEASED AREA SHALL BE FENCED TO AN INDUSTRIAL STANDARD, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.**

ADVICE NOTE:

THIS IS A DEVELOPMENT APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS UNDER ITS *LOCAL PLANNING SCHEME NO.1*. IT IS NOT AN APPROVAL TO COMMENCE OR CARRY OUT DEVELOPMENT UNDER ANY OTHER LAW. IT IS THE RESPONSIBILITY OF THE APPLICANT/LANDOWNER TO OBTAIN ANY OTHER NECESSARY APPROVALS, CONSENTS, PERMITS AND LICENSES REQUIRED UNDER ANY OTHER LAW, AND TO COMMENCE AND CARRY OUT DEVELOPMENT IN ACCORDANCE WITH ALL RELEVANT LAWS.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

**FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM
AGAINST: NIL**

10.4 ADMINISTRATION

10.4.1 ANNUAL REVIEW OF SHIRE OF COCOS (KEELING) ISLANDS DELEGATION REGISTER - 2021

Report Information

Date: 22 June 2021
 Location: N/A
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: N/A
 Attachments: 10.4.1.1 - SOCKI Delegation Register – June 2021 – Tracked Changes
 10.4.1.2 - SOCKI Delegation Register – June 2021 - Final

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

Under s. 5.46 of the *Local Government Act 1995 (WA) (CKI)* (the Act) the CEO is to maintain a register of delegations that must be reviewed by Council at least once every financial year. This report brings a formal review before Council as per the legislative requirements.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

Under s. 5.42 of the *Local Government Act 1995 (WA) (CKI)*, a local government may delegate to the CEO the exercise of any of its powers or the discharge of its duties under the Act. This is subject to the limitations in s. 5.43, and associated regulations. This section states:

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) appointing an auditor;*
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) borrowing money on behalf of the local government;*
- (g) hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) any power or duty that requires the approval of the Minister or the Governor;*
- (i) such other powers or duties as may be prescribed.*

The Shire of Cocos (Keeling) Islands Delegations Register was last reviewed by Council in May 2020. The review conducted in 2020 was a major review that aligned the Shire's Delegation Register with the WALGA best practice template. The current review involved:

- a review of the West Australian Local Governments Association (WALGA) Toolkit titled 'Decision Making in Practice';
- a review of the enabling legislation and subsidiary legislation forming the basis of each delegation;
- internal consultation with relevant officers; and
- a review of other local government approaches (for contextual reference only).

Comment

Each delegation has been considered on the basis of whether or not the delegation remains relevant and necessary and if it will provide greater efficiency in service delivery for the Shire without providing any undue risk to the Shire.

The review resulted in some grammatical and formatting changes as well as an update to the conditions set out in Delegation 2.1.9 Disposing of Property, by updating the value of the condition whereby a Council Resolution is not required for the disposal of property (other than land or buildings), from \$10,000 to \$20,000. This brings the delegation into alignment with r.30 of the *Local Government (Financial Management) Regulations 1996*.

Tracked changes of the recommended changes are contained within Attachment 10.4.1.1 and a final copy based on the tracked changes has been provided in Attachment 10.4.1.2.

Policy and Legislative Implications

Section 5.46 of the *Local Government Act 1995 (WA) (CKI)* deals with the need for CEOs to maintain a register of delegations and the requirement to conduct annual reviews of delegations.

Many of the delegations are guided by Policies of Council.

Financial Implications

There are no direct financial implications in adopting the delegations register.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016-2026:
Outcome 4.1 An informed Council leading working with others to advance our Islands.
4.1.1 To provide leadership to the community.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	Poor or lack of delegation can hamper decision-making resulting in reputational damage.	Low (4)	Delegations are based on WALGA best practice template taking into consideration the needs of the Shire of Cocos (Keeling) Islands.
Service Interruption	Lack of delegation in appropriate areas of service delivery could result in delays in normal operations as those items would have to be referred to Council for decisions.	Moderate (8)	Officers have reviewed operations and believe all necessary delegations, appropriate to a Council of our size, have been included.
Compliance	No review conducted, or not conducted in a timely manner.	Low (3)	Review of Delegation Register is listed on the corporate compliance calendar which is checked every month.

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

Absolute Majority of Council is required.

Conclusion

The annual review of the Shire of Cocos (Keeling) Islands Delegations Register has been completed with the only minor edits being recommended.

OFFICER'S RECOMMENDATION – ITEM NO 10.4.1

THAT COUNCIL, BY ABSOLUTE MAJORITY, RESOLVES TO ADOPT THE REVIEW OF DELEGATED AUTHORITY REGISTER IN ACCORDANCE WITH SECTION 5.46 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* AS CONTAINED IN ATTACHMENT 10.4.1.2.

COUNCIL RESOLUTION – ITEM NO 10.4.1

MOVED: CR CHARLSTON

SECONDED: CR HAMIRIL

THAT COUNCIL, BY ABSOLUTE MAJORITY, RESOLVES TO ADOPT THE REVIEW OF DELEGATED AUTHORITY REGISTER IN ACCORDANCE WITH SECTION 5.46 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* AS CONTAINED IN ATTACHMENT 10.4.1.2.

THE MOTION WAS PUT AND DECLARED CARRIED BY ABSOLUTE MAJORITY (6/0)

FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

10.5 MINUTES TO BE RECEIVED

Nil

11. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL

Nil

13. MATTERS BEHIND CLOSED DOORS

Nil

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) Islander's resident in the Territory on land owned by the Council.'

14.1 TRUSTS ADMINISTRATION

Nil

14.2 TRUSTS LEASES

14.2.1 APPLICATION TO ENTER INTO A NEW LEASE FOR PART LOT 227 HOME ISLAND – COMMUNITY RESOURCE CENTRE (CRC) TENANCY 2 – AUSTRALIAN FEDERAL POLICE HOME ISLAND OFFICE

Report Information

Date: 21 June 2021
 Location: Part Lot 227 Home Island – Community Resource Centre (CRC)
 Tenancy 2 – Australian Federal Police (AFP) Home Island Office
 Applicant: Australian Federal Police
 File Ref: HL227
 Disclosure of Interest:
 Reporting Officer: Leasing Officer
 Island: Home Island
 Attachments: 14.2.1.1 - Proposal to Lease Request
 14.2.1.2 - Map of Leased 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>
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Report Purpose

To present the request and supporting documentation from the Australian Federal Police (AFP) to enter into a new lease for Part Lot 227 Home Island CRC Tenancy 2 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 227) 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

Nil

Background

The AFP has held the lease since 2012 with the Shire for Part Lot 227 Home Island Tenancy 2 to operate their policing services on Home Island. The term was for five (5) years with a five (5) year further option to renew. Both parties have no record of communications regarding exercising the further option on the lease or hold a copy of the signed lease agreement. Therefore, it was agreed that a new lease will be requested and have subsequently submitted a request of their intentions moving forward, as contained in attachment 14.2.1.1.

Comment

The AFP utilises the office space to enable their members to provide services on Home Island. It also provides a space for key stakeholders, community support agencies to conduct meetings with their clients and or members of the community. The AFP has made available a VHF radio permanently assigned to CH20 which offers the community instant engagement with the local police and emergency services.

They employ 2 local staff members from Home Island and engages the Cocos Cooperative with cleaning of the office. This is a positive economic outcome for the Community as per the Trust requirements.

The proponent has requested an initial five (5) year lease with a further two (2) year option. The proposal is supported by officers.

Policy and Legislative Implications

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

Financial Implications

The applicant has committed to paying the market value. The proponents have been informed of the new valuation which is \$2,964.00 per annum.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016-2026:

Outcome 4.1 An informed Council leading working with others to advance our Islands.

4.1.1 To provide leadership to the community.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
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	Low (3)	Property inspection to be conducted annually

	it has been intended for.		
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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

Simple majority

Conclusion

The request for a new lease is presented to Council, acting as the Trustee of the 1979 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 14.2.1

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1979 LAND TRUST DEED, BY SIMPLE MAJORITY RESOLVES TO AUTHORISE THE CHIEF EXECUTIVE OFFICER TO ENTER INTO A LEASE TO DISPOSE OF PROPERTY AT PART LOT 227 HOME ISLAND CRC TENANCY 2 TO THE AUSTRALIAN FEDERAL POLICE (AFP) 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, A MARKET REVIEW AT THE EXERCISE OF ANY FURTHER TERMS AND A ONE-OFF LEASE PREPARATION FEE OF \$250;
2. THE LEASE TERM BEING FOR FIVE (5) YEARS WITH TWO (2) YEAR OPTION;
3. THE PURPOSE OF THE LEASE IS TO CONTINUE TO PROVIDE AND OPERATE AFP POLICING SERVICES ON HOME ISLAND.
4. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY BE UNDERTAKEN;
5. TO ADVISE THE PROSPECTIVE LESSEE THAT, SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL.
6. AUSTRALIAN FEDERAL POLICE IS CLASSIFIED AS AN 'INSTRUMENTALITY OF THE CROWN' AND IS EXEMPT TO ADVERTISE THE DISPOSITION OF PROPERTY NOTICE AS PER R.30(2)(C)(ii) OF THE *LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996*.

COUNCIL RESOLUTION – ITEM NO 14.2.1

MOVED: CR LACY

SECONDED: CR IKU

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1979 LAND TRUST DEED, BY SIMPLE MAJORITY RESOLVES TO AUTHORISE THE CHIEF EXECUTIVE OFFICER TO ENTER INTO A LEASE TO DISPOSE OF PROPERTY AT PART LOT 227 HOME ISLAND CRC TENANCY 2 TO THE AUSTRALIAN FEDERAL POLICE (AFP) 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, A MARKET REVIEW AT THE EXERCISE OF ANY FURTHER TERMS AND A ONE-OFF LEASE PREPARATION FEE OF \$250;**
- 2. THE LEASE TERM BEING FOR FIVE (5) YEARS WITH TWO (2) YEAR OPTION;**
- 3. THE PURPOSE OF THE LEASE IS TO CONTINUE TO PROVIDE AND OPERATE AFP POLICING SERVICES ON HOME ISLAND.**
- 4. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY BE UNDERTAKEN;**
- 5. TO ADVISE THE PROSPECTIVE LESSEE THAT, SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL.**
- 6. AUSTRALIAN FEDERAL POLICE IS CLASSIFIED AS AN ‘INSTRUMENTALITY OF THE CROWN’ AND IS EXEMPT TO ADVERTISE THE DISPOSITION OF PROPERTY NOTICE AS PER R.30(2)(C)(ii) OF THE *LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996*.**

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

14.2.2 APPLICATION TO RENEW LEASE FOR LOT 33 WEST ISLAND – DEPARTMENT OF DEFENCE -RAAF COMMUNICATION SITE

Report Information

Date: 21 June 2021
 Location: Lot 33 West Island – RAAF Communication Site
 Applicant: Department of Defence
 File Ref: WL133
 Disclosure of Interest:
 Reporting Officer: Leasing Officer
 Island: West Island
 Attachments: 14.2.2.1 - Application letter to lease
 14.2.2.2 - Map to Lot 33 West Island

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 Department of Defence to renew the lease for Lot 33 West 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 33) 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 “upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council” 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

Nil

Background

The initial lease between the Department of Defence and the Shire for Lot 33 West Island commenced in 1990 with a tenure of 15 years with a 15-year option. The lease expired in June 2020 and is currently in holding over arrangement.

The Department have since submitted a request to enter into a new lease agreement, as contained in attachment 14.2.2.1.

Comment

The Department of Defence have a presence at this location commonly referred to as the RAAF Communication Site. The extension of this lease will ensure the continuance of national security in the interest of the Commonwealth. Further information regarding this site is unable to be provided for security reasons.

A revaluation has been sought from a registered independent valuer to determine the annual lease fee to be charged, noting this fee would be subject to annual CPI review and a market review at the exercise of any further terms.

The proponent has requested a ten (10) year lease with a further ten (10) year option. The officers supports this long term lease proposal to ensure the Department’s critical services are met.

Policy and Legislative Implications

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

Financial Implications

The applicant has committed to paying the market value subject to final delegate signoff. The proponents have been informed of the new valuation and new the annual lease fee is \$64,000.00 per annum.

Strategic Implications

Strategic Community Plan: Key Result Area 4 – Civic Leadership

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016-2026:

Outcome 4.1 An informed Council leading working with others to advance our Islands.

4.1.1 To provide leadership to the community.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
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.	Low (3)	The lease contains clauses that will protect any harm

			made to the environment.
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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

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 in the interest of national security.

OFFICER'S RECOMMENDATION – ITEM NO 14.2.2

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1984 LAND TRUST DEED, BY SIMPLE MAJORITY RESOLVES TO AUTHORISE THE CHIEF EXECUTIVE OFFICER TO ENTER INTO A LEASE TO DISPOSE OF PROPERTY AT LOT 33 TO DEPARTMENT OF DEFENCE 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, A MARKET REVIEW ON EXERCISE OF ANY FURTHER TERMS AND A ONE-OFF LEASE PREPARATION FEE OF \$250;
2. THE LEASE TERM BEING FOR 10 YEARS WITH 10 YEAR OPTION;
3. THE PURPOSE OF THE LEASE IS FOR THE OPERATION OF THE RAAF COMMUNICAITON SITE
4. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY BE UNDERTAKEN;
5. TO ADVISE THE PROSPECTIVE LESSEE THAT, SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL.
6. DEPARTMENT OF DEFENCE IS CLASSIFIED AN 'INSTRUMENTALITY OF THE CROWN' AND IS EXEMPT TO ADVERTISE THE DISPOSITION OF PROPERTY NOTICE AS PER R.30(2)(C)(ii) OF THE LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996.

COUNCIL RESOLUTION – ITEM NO 14.2.2

MOVED: CR HAMIRIL

SECONDED: CR IBRAM

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1984 LAND TRUST DEED, BY SIMPLE MAJORITY RESOLVES TO AUTHORISE THE CHIEF EXECUTIVE OFFICER TO ENTER INTO A LEASE TO DISPOSE OF PROPERTY AT LOT 33 TO DEPARTMENT OF DEFENCE 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, A MARKET REVIEW ON EXERCISE OF ANY FURTHER TERMS AND A ONE-OFF LEASE PREPARATION FEE OF \$250;**
- 2. THE LEASE TERM BEING FOR 10 YEARS WITH 10 YEAR OPTION;**
- 3. THE PURPOSE OF THE LEASE IS FOR THE OPERATION OF THE RAAF COMMUNICAITON SITE**
- 4. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY BE UNDERTAKEN;**
- 5. TO ADVISE THE PROSPECTIVE LESSEE THAT, SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL.**
- 6. DEPARTMENT OF DEFENCE IS CLASSIFIED AN 'INSTRUMENTALITY OF THE CROWN' AND IS EXEMPT TO ADVERTISE THE DISPOSITION OF PROPERTY NOTICE AS PER R.30(2)(C)(ii) OF THE *LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996*.**

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

14.2.3 APPLICATION TO LEASE PART LOT 18 HOME ISLAND RETAIL CENTRE - TENANCY 7 – GIFT SHOP

Report Information

Date: 24 June 2021
 Location: Part Lot 18 Home Island Retail Centre – Tenancy 7 Gift Shop
 Applicant: Mr T Battcher & Mrs U Dollar
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Leasing Officer
 Island: Home Island
 Attachments: 14.2.3.1 - Leasing Proposal
 14.2.3.2 - Sample Product Grandola Shelving & Quote for Shop Fittings & Fixtures
 14.2.3.3 - Map of Tenancies

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 Thomas Battcher and Mrs Ummerah Dollar to lease Part Lot 18 Home Island retail space. The purpose of a gift shop

known as Sweet As Gifts 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 (Part 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 Shire advertised in the Atoll seeking expressions of interest for 4 new retail spaces at the Home Island Retail Centre. Mr Battcher and Mrs Dollar (the proponents) wrote to the Shire expressing their interest in tenancy 7 for the purpose of a Gift Shop. See attachment 14.2.3.1. At the Ordinary Council meeting held on Wednesday 31 March, it was resolved that the Shire will enter into formal lease negotiations with the proponents.

The proponents have since provided a lease proposal to the Shire as contained in Attachment 14.2.3.1.

Comment

The proponents intend to provide a range of products including but not limited to gifts for all ages, flower arrangements/bouquets, Cocos style clothing and apparel, personal outdoor items suitable to the Islands weather conditions and plants from the mainland Australia or Christmas Island. The proponents also intend to offer services such as snorkel and mask hire and have tourist information available regarding local knowledge specific to Home Island activities. They will be working alongside business operators on Home Island to offer assistance for any relevant services they may require. The proponents also propose to sell local art and craft items, creating opportunities for local business. This will bring a positive economic outcome for the Community as per the Trust requirements.

As part of the lease proposal, the proponents have requested the Shire to consider purchasing shelving units and display cases suitable for the retail space and have provided some products for consideration, as contained in attachment 14.2.3.2. This type of asset however would not be classed as a fixture to the building and may not be needed by future tenancies. It is proposed that before Council consider the request to purchase shelving and display cases that

this element be deferred so that administration can bring to Council a Commercial Grants Program proposal that would more equitably and transparently deal with such requests.

The proponents have requested a three (3) years with a further three (3) year option lease.

A valuation 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, market review at the commencement of option of any further term.

Milestones have not been requested however the lease will stipulate that the lease purpose continues to be met.

Policy and Legislative Implications

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

Financial Implications

The Shire is currently seeking a valuation for the retail outlets. It is likely the valuation will be of a similar amount with the other leases in the retail centre.

Strategic Implications

Shire of Strategic Community Plan 2016-2026:
Outcome 1.1 Encourage economic stability for the Islands.
1.1.1 Increase employment opportunities for local residents.

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 is presented to the Trust for consideration and the officer's recommendation is that the request is approved as it will provide a new service to the community and visitors.

OFFICER'S RECOMMENDATION – ITEM NO 14.2.3

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 1995 (WA)* (CKI) RESOLVES:

1. TO GIVE LOCAL PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY WAY OF LEASE OF PART LOT 18 HOME ISLAND RETAIL

CENTRE TENANCY 7 TO MR BATTCHER AND MRS DOLLAR 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, A MARKET REVIEW AT THE EXERCISE OF ANY FURTHER TERM AND A ONE-OFF LEASE PREPARATION FEE OF \$250;
- b. THE LEASE TERM BEING FOR THREE (3) YEARS WITH A THREE (3) YEAR OPTION;
2. THE PURPOSE OF THE LEASE IS TO OPERATE A GIFT SHOP BUSINESS.
3. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CHIEF EXECUTIVE OFFICER 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 BE UNDERTAKEN;
6. THAT COUNCIL DEFER CONSIDERING THE REQUEST TO PURCHASE SHELVING AND DISPLAY CASES UNTIL A PROPOSAL FOR A COMMERCIAL GRANT PROGRAM OR SIMILAR IS BROUGHT TO COUNCIL.

COUNCIL RESOLUTION – ITEM NO 14.2.3

MOVED: CR IKU

SECONDED: CR IBRAM

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 1995 (WA) (CKI)* RESOLVES:

1. **TO GIVE LOCAL PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY WAY OF LEASE OF PART LOT 18 HOME ISLAND RETAIL CENTRE TENANCY 7 TO MR BATTCHER AND MRS DOLLAR 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, A MARKET REVIEW AT THE EXERCISE OF ANY FURTHER TERM AND A ONE-OFF LEASE PREPARATION FEE OF \$250;**
 - b. **THE LEASE TERM BEING FOR THREE (3) YEARS WITH A THREE (3) YEAR OPTION;**
2. **THE PURPOSE OF THE LEASE IS TO OPERATE A GIFT SHOP BUSINESS.**
3. **THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CHIEF EXECUTIVE OFFICER 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 BE UNDERTAKEN;
6. THAT COUNCIL DEFER CONSIDERING THE REQUEST TO PURCHASE SHELVING AND DISPLAY CASES UNTIL A PROPOSAL FOR A COMMERCIAL GRANT PROGRAM OR SIMILAR IS BROUGHT TO COUNCIL.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM
AGAINST: NIL

14.2.4 APPLICATION TO ENTER INTO A NEW LEASE FOR PART LOT 100 WEST ISLAND – WATER CORPORATION – SEAWATER DESALINATION PLANT

Report Information

Date: 24 June 2021
 Location: Part Lot 100, Sydney Highway
 Applicant: Water Corporation
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Asset & Property Management Coordinator
 Island: West Island
 Attachments: 14.2.4.1 - Proposal 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 enter into a new lease agreement for Part Lot 100 to Council for consideration. It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the 1984 Land Trust as the Land (Part Lot 100) is held in Trust. Council, in making any decision in relation to the Trust,

must give due consideration to the purpose of the Trust that is “the benefit, advancement and wellbeing of Cocos (Keeling) Islanders resident in the Territory on land owned by the Council” 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

Nil

Background

Water Corporation is formally requesting the lease of Trust land at Part Lot 100 West Island in the proximity of the Water Corporation Wastewater Treatment Plant (WWTP) on Sydney Highway West Island. The proponent is seeking to lease land to construct a Saltwater Desalination Plant (SDP), seawater bores and a raw water main.

In their application, Water Corporation (Water Corp) has used the template provided by the Shire.

Comment

The current West Island water source is extremely vulnerable to contamination due to the shallow groundwater lens. Several galleries are offline and unable to be used due to contamination, leaving the scheme operating near to capacity. Additionally, the runway upgrade is expected to commence in late 2022 and will further increase the risk of contamination to the community drinking water supply. There is an extreme risk to public health with the continued use of this water source as the drinking water supply of the community.

A working group was formed in late 2020, to determine the best option for a permanent alternative source for the community. A desalination plant with four beach bores has been selected as the preferred option. Similarly, Water Corp has an established SDP on Home Island which has been in full operation since December 2015.

A valuation will be sought from a registered independent valuer to determine the annual lease fee to be charged, noting the fee would be subject to annual CPI review and a market review at the commencement of any further terms.

The proponent has requested an initial ten (10) year lease with a further ten (10) year option. The officers support this long-term lease proposal as this is a lease with Water Corporation

who provides a critical and essential service to the community on behalf of the Commonwealth as part of their Service Delivery Agreement (SDA).

Milestones have been set however noting the works related to the delivery of the project is subject to funding approval. It is anticipated the clearing for the borefields will commence in late 2021 with the commencement of works for the installation of the SDP to start in July 2022.

Policy and Legislative Implications

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

Financial Implications

This lease will provide lease income to the Land Trust.

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
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for an essential service provider	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 used in a manner that is other than what it has been intended for.	Low (3)	Property inspection to be conducted annually
Environment	Commercial activities could damage the environment	Moderate (6)	The lease contains clauses to protect the environment

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. The officer's recommendation is that the request is approved as it supports the provision of an important 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 CHIEF EXECUTIVE OFFICER TO ENTER INTO A LEASE TO DISPOSE OF PROPERTY AT PART LOT 100 SYDNEY HWY WEST ISLAND 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, A MARKET REVIEW AT THE EXERCISE OF ANY FURTHER TERM AND A ONE-OFF LEASE PREPARATION FEE OF \$250;
2. THE LEASE TERM BEING FOR 10 YEARS WITH 10 YEAR OPTION;
3. THE PURPOSE OF THE LEASE IS FOR THE CONSTRUCTION OF A SALTWATER DESALINATION PLANT AND ASSOCIATED INFRASTRUCTURE FOR WATER CORPORATION TO ESTABLISH AN ALTERNATIVE WATER SOURCE FOR WEST ISLAND
4. THAT THE FOLLOWING MILESTONES BE INCLUDED IN THE LEASE:

1. A DEVELOPMENT APPLICATION FOR THE SHEDS TO BE LODGED WITHIN 12 MONTHS OF THE LEASE BEING SIGNED.
2. LODGE A BUILDING PERMIT WITHIN 6 MONTHS OF THE DATE OF ISSUE OF THE DEVELOPMENT APPLICATION.
3. COMMENCE WORK ON THE INSTALLATION OF INFRASTRUCTURE ASSOCIATED WITH SALTWATER DESALINATION PLANT WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF BUILDING PERMIT.
4. THE WATER CORPORATION COMMENCES OPERATION FROM THE SITE WITHIN 1 YEAR OF THE COMPLETION OF WORKS.
5. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY 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 R.30(2)(C)(ii) OF THE *LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996*.

COUNCIL RESOLUTION – ITEM NO 14.2.4

MOVED: CR CHARLSTON

SECONDED: CR HAMIRIL

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1984 LAND TRUST DEED, BY SIMPLE MAJORITY RESOLVES TO AUTHORISE THE CHIEF EXECUTIVE OFFICER TO ENTER INTO A LEASE TO DISPOSE OF PROPERTY AT PART LOT 100 SYDNEY HWY WEST ISLAND 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, A MARKET REVIEW AT THE EXERCISE OF ANY FURTHER TERM AND A ONE-OFF LEASE PREPARATION FEE OF \$250;**
2. **THE LEASE TERM BEING FOR 10 YEARS WITH 10 YEAR OPTION;**
3. **THE PURPOSE OF THE LEASE IS FOR THE CONSTRUCTION OF A SALTWATER DESALINATION PLANT AND ASSOCIATED INFRASTRUCTURE FOR WATER CORPORATION TO ESTABLISH AN ALTERNATIVE WATER SOURCE FOR WEST ISLAND**
4. **THAT THE FOLLOWING MILESTONES BE INCLUDED IN THE LEASE:**
 1. **A DEVELOPMENT APPLICATION FOR THE SHEDS TO BE LODGED WITHIN 12 MONTHS OF THE LEASE BEING SIGNED.**
 2. **LODGE A BUILDING PERMIT WITHIN 6 MONTHS OF THE DATE OF ISSUE OF THE DEVELOPMENT APPLICATION.**
 3. **COMMENCE WORK ON THE INSTALLATION OF INFRASTRUCTURE ASSOCIATED WITH SALTWATER DESALINATION PLANT WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF BUILDING PERMIT.**

4. **THE WATER CORPORATION COMMENCES OPERATION FROM THE SITE WITHIN 1 YEAR OF THE COMPLETION OF WORKS.**
5. **THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY 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 R.30(2)(C)(ii) OF THE LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996.**

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM
AGAINST: NIL

14.2.5 RESIDENTIAL ASSIGNMENT OF LEASE REQUEST – LOT 183 HOME ISLAND JALAN BUNGA KANGKONG

Report Information

Date: 21 June 2021
 Location: LOT183, Jalan Bunga Kangkong
 Applicant: Adim Hajat
 File Ref: HL183
 Disclosure of Interest:
 Reporting Officer: Leasing Officer
 Island: Home Island
 Attachments: 14.2.5.1 - Letter of request from applicant
 14.2.5.2 - Map Lot183 Home Island

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 to Council, a request and supporting documentation for assignment of a lease for Lot 183 (83) Home Island Jalan Bunga Kangkong. 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 183) 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 “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

Nil

Background

Lot 183 (83) Home Island Jalan Bunga Kangkong is currently leased to Ms Maraja Winston who deceased earlier this year. The applicant Adim Hajat has resided in the household, with six other family members, for the past 3 years and states that there are no issues of overcrowding. The applicant Adim Hajat is the late Ms Winton’s son in-law and has submitted a request to transfer the lease to his name as the primary lessee holder, as per Attachment 14.2.5.1.

Comment

Clause 3.22 of the lease agreement deals with assignment and states:

3.22 Assignment or subletting

The Lessee shall not assign, sublet or otherwise part with the possession of or dispose of the Premises or the benefit of this Lease without the prior written consent of the Lessor provided that:

(a) Consent not unreasonably withheld to assignment

If the Lessee wishes to assign the whole of the Premises and the benefit of this Lease the Lessor may not unreasonably withhold its consent to that assignment if:

- (i) the proposed assignee is a respectable, responsible and solvent Kampong resident (the onus of proof of which shall be upon the Lessee);*
- (ii) the Lessee procures the execution by the proposed assignee of a deed of assignment of this Lease to which the Lessor is a party prepared and completed by the Lessor’s solicitors at the cost of the Lessee in all respects and the covenants and agreements on the part of any proposed assignee will be deemed to be supplementary to this Lease and will not in any way relieve the Lessee from its liability under this Lease;*

- (iii) *all outgoings and other payments then due or payable have been paid and there is not any existing unremedied breach of any of the Lessee's obligations under this Lease;*
- (iv) *the deed of assignment contains a covenant by the assignee with the Lessor that the assignee will at all times during the continuance of the Term duly observe and perform all the Lessee's obligations under this Lease;*
- (v) *the Lessee pays to the Lessor all proper and reasonable costs charges and expenses incurred by the Lessor of and incidental to the deed of assignment and any enquiries which may be made by or on behalf of the Lessor as to the respectability, responsibility, solvency and identity of any proposed assignee.*

(b) Exclusion of Sections

Sections 80 and 82 of the Property Law Act 1969 are excluded from any assignment or sub-lease.

The Officer's recommendation is for Council to approve the request for the assignment. The applicant and his family have informed they will stay on the island due to ongoing family disability carer responsibilities.

It is also proposed to add the following additional special condition to the assignment document and also to all future assignment or new kampong lease agreements:

- That Council may terminate this lease if the lessee does not occupy the house for at least six months in any 12-month period unless written approval for the absence has been given by the Shire.

This additional condition has been added to ensure that lease houses in the kampong do not sit vacant for long periods of time. It also protects against the property potentially being used like an investment property and rented out to others by an absentee lessee.

Policy and Legislative Implications

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

Financial Implications

An assignment of lease should always be conditional on any outstanding amounts owing to the shire having been first paid. A fee of \$250 will be charged for the preparation of assignment of lease document.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan:

Outcome 4.1 An informed Council leading working with others to advance our Islands.

4.1.1 To provide leadership to the community.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	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.

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 to assign a lease is presented to Council, acting as the Trustee of the 1979 Land Trust, for consideration and the Officer's recommendation is that the request is approved 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 – 14.2.5

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 1995 (WA)* (CKI) RESOLVES:

1. TO ASSIGN THE LEASE FOR LOT 183, JLN BUNGA KANGKONG TO ADIM HAJAT 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. THERE IS A ONE-OFF LEASE PREPARATION FEE OF \$250
 - 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 ANY 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.
 - f. THAT COUNCIL MAY TERMINATE THIS LEASE IF THE LESSEE DOES NOT OCCUPY THE HOUSE FOR AT LEAST 6 MONTHS IN ANY 12 MONTH PERIOD UNLESS WRITTEN APPROVAL FOR THE ABSENCE HAS BEEN GIVEN BY THE SHIRE.
2. ADVISE THE PROSPECTIVE LESSEE THAT SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL BEFORE THE ASSIGNMENT CAN OCCUR.

COUNCIL RESOLUTION – ITEM NO 14.2.5

MOVED: CR IBRAM

SECONDED: CR IKU

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 1995 (WA) (CKI)* RESOLVES:

- 1. TO ASSIGN THE LEASE FOR LOT 183, JLN BUNGA KANGKONG TO ADIM HAJAT 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. THERE IS A ONE-OFF LEASE PREPARATION FEE OF \$250**
 - 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 ANY 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.**
 - f. THAT COUNCIL MAY TERMINATE THIS LEASE IF THE LESSEE DOES NOT OCCUPY THE HOUSE FOR AT LEAST 6 MONTHS IN ANY 12 MONTH PERIOD UNLESS WRITTEN APPROVAL FOR THE ABSENCE HAS BEEN GIVEN BY THE SHIRE.**
- 2. ADVISE THE PROSPECTIVE LESSEE THAT SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL BEFORE THE ASSIGNMENT CAN OCCUR.**

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: CHARLSTON, HAMIRIL, IBRAM, IKU, LACY, MINKOM
AGAINST: NIL

