



MINUTES

ORDINARY MEETING OF COUNCIL

held in Council Chambers, Home Island on Wednesday, 07 October 2020
commencing at 4.00pm.

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 4.17pm and welcome Councillors, staff and visitors to the meeting.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

President Cr A Minkom

Deputy President Cr S Iku

Councillors Cr T Lacy
Cr J Ibram
Cr S Charlston

Officers A Selvey, Chief Executive Officer
J Soderlund, Deputy Chief Executive Officer
G Brigg, Manager Works and Services
Isa Minkom, Community Development Coordinator

Public Nil

Visitors: 1

Apologies: Cr N Anthoney
Cr M Hamiril

Approved Leave of Absence: Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

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* 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

5. LEAVE OF ABSENCE

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

5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillor	Date of Leave	Approved by Council
NIL		

5.2 APPLICATION FOR LEAVE OF ABSENCE

Nil

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

7.1 Ordinary Council Meeting held on 26 August 2020 -Attachment 7.1

OFFICER'S RECOMMENDATION – ITEM NO 7.1

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 26 AUGUST 2020, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

COUNCIL RESOLUTION – ITEM NO 7.1

MOVED CR IKU, SECONDED CR CHARLSTON

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 26 AUGUST 2020, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: CHARLSTON, 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
Cr Ibram	14.2.2	Financial	Employee of Cocos Island Cooperative
Cr Ibram	14.2.3	Financial	Employee of Cocos Island Cooperative

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

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

Report Information

Date: 24/09/2020
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.1.1 Statement of Financial Activity with accompanying notes 31 July 2020

Authority / Discretion

Definition

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

Report Purpose

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

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Monthly Financial Statements for the period 1 July 2020 to 31 July 2020 are presented for consideration.

Comment

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

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

Policy and Legislative Implications

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

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

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

Strategic Implications

Nil

Conclusion

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

OFFICER'S RECOMMENDATION – ITEM NO 10.1.1

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

COUNCIL RESOLUTION – ITEM NO 10.1.1

MOVED CR CHARLSTON, SECONDED CR IBRAM

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

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: CHARLSTON, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

10.1.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 31 AUGUST 2020

Report Information

Date: 24/09/2020
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.1.2 Statement of Financial Activity with accompanying notes 31 August 2020

Authority / Discretion

Definition

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

Report Purpose

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

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Monthly Financial Statements for the period 1st July 2020 to 31 August 2020 are presented for consideration.

Comment

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

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

Policy and Legislative Implications

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

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

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

Strategic Implications

Nil

Conclusion

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

OFFICER'S RECOMMENDATION – ITEM NO 10.1.2

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

COUNCIL RESOLUTION – ITEM NO 10.1.2

MOVED CR CHARLSTON, SECONDED CR IKU

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

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

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

10.1.3 SCHEDULE OF ACCOUNTS PAID FOR PERIOD 1 AUGUST 2020 TO 31 AUGUST 2020

Report Information

Date: 24 September 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 under the CEO's delegation, for the period 1 August 2020 - 31 August 2020.

Relevant Documents

Available for viewing at the meeting

Nil

Background

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

Comment

Nil

Policy and Legislative Implications

Expenditure has been in accordance with Council's adopted Budget 2020/21.

Strategic Implications

Nil

Conclusion

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

OFFICER'S RECOMMENDATION – ITEM NO 10.1.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO CREDITOR PAYMENTS FROM THE MUNICIPAL FUND FOR THE PERIOD 1 AUGUST 2020 TO 31 AUGUST 2020 INCLUSIVE OF CHEQUE 11602 AND EFT 7457 TO EFT 7509, VIVA ENERGY & DIRECT DEBIT SUPERANNUATION TOTALLING \$262,954.74.

COUNCIL RESOLUTION – ITEM NO 10.1.3

MOVED CR IBRAM, SECONDED CR LACY

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 AUGUST 2020 TO 31 AUGUST 2020 INCLUSIVE OF CHEQUE 11602 AND EFT 7457 TO EFT 7509, VIVA ENERGY & DIRECT DEBIT SUPERANNUATION TOTALLING \$262,954.74.

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: CHARLSTON, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

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.

Nil

10.3 PLANNING/BUILDING

10.3.1 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED WATER CORPORATION OFFICE – PART LOT 103 JALAN BUNGA MAWAR, HOME ISLAND

Report Information

Date: 14 September 2020
 Location: Part Lot 103 Jalan Bunga Mawar
 Applicant: Water Corporation
 File Ref:
 Reporting Officer: Chief Executive Officer
 Island: Home Island
 Attachment: 10.3.1 Water Corporation - Home Island Office Proposal - Aug 2020

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input 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</i>

		<i>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 the Water Corporation (WA) for the construction of an office and single toilet adjacent their existing leased industrial shed on the subject property.

Relevant Documents

Available for viewing at the meeting

Background

The Water Corporation provides essential water, wastewater and power services to the Cocos (Keeling) Islands community through a Service Delivery Agreement with the Australian Government. The Water Corporation employs 13 staff working on both Home Island and West Island to deliver these services. The Water Corporation has an office on West Island but has no suitable office facility on Home Island. The Australian Government has provided capital funding this financial year for the Water Corporation to establish an office facility on Home Island.

The Water Corporation currently leases a shed in the Industrial Area on Home Island from Lofty Raptikan. The site has existing power and water supplies and a sewer connection is located to the rear of the block that services the public toilet block.

The plan below shows the proposed location of the office and toilet block on the western side of the shed. A path will run between the office and the shed to provide access to the toilet block and to the parking area at the rear of the shed.



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 'office' is a permitted use.

Currently Council does not have a delegation register in place 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, in accordance with the 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 as per the Officer's recommendation, to facilitate the supply of the development's building materials on the November freight shipment to the Cocos (Keeling) Islands.

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
Financial			
Health & Safety			
Reputation			
Service Interruption			
Compliance	Building permit not obtained prior to construction	Low (1)	Advice note added to planning approval
Property			
Environment			
Fraud			

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 are 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 OFFICE AND ASSOCIATED TOILET FACILITY UPON PART LOT 103 JALAN BUNGA MAWAR, HOME ISLAND SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTES:

1. PLANS AND 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.

ADVICE NOTES:

1. 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.
2. IF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.
3. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.

COUNCIL RESOLUTION – ITEM NO 10.3.1

MOVED CR CHARLSTON, SECONDED CR IBRAM

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 OFFICE AND ASSOCIATED TOILET FACILITY UPON PART LOT 103 JALAN BUNGA MAWAR, HOME ISLAND SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTES:

- 2. PLANS AND 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.

ADVICE NOTES:

- 4. 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.**
- 5. IF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.**
- 6. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.**

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: CHARLSTON, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

10.3.2 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED HOME ISLAND RETAIL BUILDING RENOVATIONS LOT 18 JALAN BUNGA MAWAR, HOME ISLAND

Report Information

Date: 3 September 2020
 Location: Lot 18 Jalan Bunga Mawar
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Reporting Officer: Chief Executive Officer
 Interest: Trustees of the 1979 Land Trust
 Island: Home Island
 Attachments: 10.3.2 Plans of the retail building renovations

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, as the statutory body, to consider an application for development approval for proposed alterations and additions to the existing Home Island retail building. Noting that Council, in its capacity as Trustee of the 1979 Land Trust is also the owner of the land.

Relevant Documents

[Available for viewing at the meeting](#)

Background

The Cocos (Keeling) Islands Corporate Business Plan 2018/19 – 2021/22 prioritises the Home Island Retail Centre for development in 2019/20 and commenced that work in December 2019 by engaging MCG Architects to assess the building and to develop plans for renewing the current structure and expanding the building. The Home Island Retail Building – Building Assessment Report and Concept Designs (April 2020) was circulated to Councillors by email in April 2020 and discussed at a Councillor Workshop. The Report which including QS Costings confirmed that, with some investment, the building could be renewed and serve the community for many more years. The concepts included four new retail spaces for new businesses as the consultation over the years has demonstrated a need for additional retail space for service-related businesses such as a hairdresser/beautician, laundromat and bakery.

At the time that options for commencing renewal work, using the Council allocated budget, was being considered, an opportunity arose for the Shire to apply for funding from the Economic Stimulus Funding from the Australian Government. As the Shire had a costed plan, we were in a strong position to apply for funding and was successful in attracting \$1.1million in funding from the Australian Government for this project.

The subject property is zoned ‘Commercial’ and has been used as ‘Shop’ under the Shire’s Local Planning Scheme No.1 (the Scheme) for many years. A Shop is defined as the following under the Scheme:

means any land or building wherein goods are kept, exposed or offered for sale by retail, or within which services of a personal nature are provided (including a hairdresser, beauty therapist or manicurist) but does not include a showroom, fast food/take-away outlet or any other premises specifically defined elsewhere in this Scheme.

Currently Council does not have a delegation register in place for statutory planning approvals, meaning each application must be presented to Council for determination.

Comment

The proposal raises no town planning concerns as the proposed alterations and extensions to the existing dated retail building are consistent with the concept in the Masterplan and there

will be no change to the established approved land use as a shop. Note: the land is managed by the Shire on behalf of the Land Trust under the 1979 Land Trust Deed.

The officer's recommendation is that Council approves the development as per the plans presented.

Policy and Legislative Implications

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

Financial Implications

Given the Shire is the applicant no application fee has been raised.

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
Financial	The project exceeds budget costs	Moderate (8)	The MCG report includes a statement of probable costs from a QS. The project has been based on those costs.
Health & Safety	The Shire is aware that there is some asbestos in the building.	High (10)	The Shire will follow strict OSH processes and ensure all contractors and employees have appropriate licences and PPE.
Reputation	That Council did not follow due process for its own project.	Moderate (6)	The DA was independently assessed by expert

	Three trees will have to be removed and could attract some criticism.		planners at the Shire of Dandaragan to offer that separation of duty and appropriate probity. The community has been advised via the Atoll that these trees will have to be removed.
Service Interruption	The project will result in some disruption to the retail services	High (15)	Retailer are being kept informed of the project and offered alternative options for some continuity of service.
Compliance	Building permit not obtained prior to construction	Low (1)	Advice note added to planning approval.
Property	N/A		
Environment	Trees will have to be removed.	High (15)	Advise the community that three trees will have to be removed. The Shire is carrying out extensive tree planting and revegetation programs. Around 120 trees - mixture of cuttings, seedlings and germinated seeds that are all growing well Under the 58 Plants project.
Fraud	N/A		

Risk Matrix

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

Voting Requirements

Simple Majority

Conclusion

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

OFFICER'S RECOMMENDATION – ITEM NO 10.3.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR THE PROPOSED ALTERATIONS AND ADDITIONS IN ACCORDANCE WITH THE ATTACHED PLANS ON LOT 18 JALAN BUNGA MAWAR, HOME ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTE:

CONDITION:

ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLANS (ENCLOSED), WHICH FORM PART OF THIS DEVELOPMENT APPROVAL, TO THE SPECIFICATIONS AND SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

1. 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.
2. IF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.
3. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.

COUNCIL RESOLUTION – ITEM NO 10.3.2

MOVED CR CHARLSTON, SECONDED CR LACY

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR THE PROPOSED ALTERATIONS AND ADDITIONS IN ACCORDANCE WITH THE ATTACHED PLANS ON LOT 18 JALAN BUNGA MAWAR, HOME ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTE:

CONDITION:

ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLANS (ENCLOSED), WHICH FORM PART OF THIS DEVELOPMENT APPROVAL, TO THE SPECIFICATIONS AND SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

- 1. 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.**
- 2. IF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.**
- 3. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.**

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: CHARLSTON, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

10.4 ADMINISTRATION

10.4.1 RFT 2020/03 DESIGN AND SUPPLY OF TWO KIT HOMES FOR A RESIDENTIAL PROPERTIES ON HOME ISLAND

Report Information

Date: 01 September 2020
 Location: N/A
 Applicant: The Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: A. Selvey, Chief Executive Officer
 Island: N/A
 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 information regarding RFT 2020/03 before Council and seeks a Council resolution to reject all tenders as a result of an administrative oversight.

Relevant Documents

Available for viewing at the meeting

Background

As part of the 2019/20 budget, Council allocated \$500,000 for the construction of one residential property on Home Island. The CEO, under delegated authority, advertised the tender for this project. Advertising was done via the West Australian newspaper on 8 August 2020, the Atoll on 7 August 2020 and via the Shire's website. Tenders closed on 31 August at 12noon.

Tenders were submitted via the tender email address which was kept locked by the Shire's off-island IT service provider.

Comment

Shortly after the close of tender on Monday 31 August 2020, the Shire received a phone call from a contractor who had requested the tender documents. The contractor advised he had not received the tender documents. Investigations showed that the request for the tender documents had been made verbally and the Shire had not acted upon the request. The CEO made the decision that the tender process was flawed given that that the process could be challenged by that contractor; therefore, the tender would have to be readvertised.

It should be noted that the tender inbox was not opened, therefore all tenders and prices remained confidential, which protects the integrity of the process.

The Shire contacted all contractors who had requested tender documents to advise them that there had been an administrative flaw and therefore the tender would be readvertised under RFT 2020/04.

As a result, this report recommends that Council rejects all tenders received under RFT 2020/03.

Policy and Legislative Implications

Regulation 18(5) of the Functions and General Regulations and Section 11 (2) of the *Local Government (Functions and General) Regulations 1996*

Financial Implications

The Shire's budget makes an allocation for this project and the Australian Government has matched this funding.

Strategic Implications

Housing has been repeatedly raised as a priority strategic issue and barrier to social and economic sustainability. See Corporate Business Plan ED1.1.21 and ED1.1.25

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	N/A		
Health & Safety	N/A		
Reputation	Tenderers disillusioned by Shire rejecting tenders and do not resubmit.	Moderate (6)	All potential tenderers under RFT 2020/03 were contacted and all were happy to resubmit their tender under RFT 2020/04.
Service Interruption	Project delays due to retendering.	Low (4)	Given that the Council meeting had to be postponed due to a lack of quorum for the original date, the retendering has been able to be completed within timeframe to be presented to the same Council meeting.
Compliance	Process non-compliant	High (10)	Not re-tendering would have resulted in a process that was flawed and open to challenge regarding compliance.
Property	N/A		
Environment	N/A		

Fraud	Fraudulent activity around the tender process.	Low (4)	The tender inbox was kept locked and none of the tenders were opened or viewed in any way by any person associated with the Shire. Therefore, the CEO is willing to vouch for the integrity of the process and the low risk of any fraudulent activity.
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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 officer's recommendation for Council to reject all tenders is based on ensuring compliance for this process.

OFFICER'S RECOMMENDATION – ITEM NO – 10.4.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *REGULATION 18(5) OF THE FUNCTIONS AND GENERAL REGULATIONS AND SECTION 11 (2) OF THE LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996* RESOLVES TO REJECT ALL TENDERS SUBMITTED FOR RFT 2020/03 DESIGN AND SUPPLY OF TWO KIT HOMES FOR A RESIDENTIAL PROPERTIES ON THE BASIS THAT THERE WAS AN ADMINISTRATIVE OVERSIGHT THAT COMPROMISED THE EQUITY TO ALL POTENTIAL TENDERERS.

COUNCIL RESOLUTION – ITEM NO 10.4.1

MOVED CR CHARLSTON, SECONDED CR IBRAM

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *REGULATION 18(5) OF THE FUNCTIONS AND GENERAL REGULATIONS AND SECTION 11 (2) OF THE LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996* RESOLVES TO REJECT ALL TENDERS SUBMITTED FOR RFT 2020/03 DESIGN AND SUPPLY OF TWO KIT HOMES FOR A RESIDENTIAL PROPERTIES ON THE BASIS THAT THERE WAS AN ADMINISTRATIVE OVERSIGHT THAT COMPROMISED THE EQUITY TO ALL POTENTIAL TENDERERS.

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: CHARLSTON, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

10.4.2 RFT 2020/04 DESIGN AND SUPPLY OF TWO KIT HOMES FOR RESIDENTIAL PROPERTIES

Report Information

Date: 02 October 2020
 Location: N/A
 Applicant: The Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: A. Selvey, Chief Executive Officer
 Island: N/A
 Attachments: 10.4.2 RFT 2020/04 Tender Evaluation Report

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 the results of a tender (RFT 2020/04) for the supply and construction of two kit homes for residential properties on Home Island before Council, seeking a Council resolution to award the tender to the recommended tenderer as per the panel's Tender Evaluation Report.

Relevant Documents

[Available for viewing at the meeting](#)

Background

As part of the 2019/20 budget, Council allocated \$500,000 for the construction of one residential property on Home Island and this funding was matched with Australian Government Economic Stimulus funding. The CEO, under delegated authority, advertised the tender for this project. Advertising was done via the Atoll on 7 August 2020, the West Australian on 8 August 2020 and via the Shire's website.

The tender closed on Monday 31 August 2020 at 12noon. All tenders were submitted via the tenders@cocos.wa.gov.au email address. For probity and compliance, the tenders inbox was locked until after 12noon on the day the tenders closed at which time the Shire contacted our IT providers for the password. At around this time, the Shire staff became aware that one of the contractors who had expressed an interest in receiving the tender documents had not been provided with them. This was a purely administrative oversight but one that has compromised the tender processes and exposed the Shire to possible complaints of non-compliance or a flawed process. The CEO decided that the best process to move forward was to reject this process and re-advertise the tender. This matter is presented to Council with all details under agenda item 10.4.1 earlier in this agenda.

The CEO, under delegated authority, re-advertised the tender for this project under tender number RFT 2020/04. Advertising was done via the Atoll on 04 September 2020, the West Australian on 2 September 2020 and via the Shire's website.

This was conducted as an open public tender process with the aim of finding suitable proposals to design and supply two free-standing residential dwelling at fully serviced blocks on Home Island, Cocos (Keeling) Islands.

The scope of this tender included provision of a suitably qualified and experienced contractor to undertake the design, supply of 2 x kit homes suitable as residential dwellings at fully serviced blocks on Home Island, Cocos (Keeling) Islands. The design must be suitable for:

- harsh coastal environments
- occasional flooding and
- engineer certified for cyclones

All work is expected to be carried out in accordance with relevant conditions, licenses, registrations, standards.

The anticipated value of the Contract was \$600,000.

The closing date for tenders was Friday 18 September at 12noon Cocos Island time. At close of tender eight responses were received.

Comment

The Shire's Tender Evaluation Panel consisting of the Manager Works and Services, the Asset and Property Management Coordinator and the CEO reviewed all responses.

The initial examination and assessment were carried to ensure that the responses are legal and compliant. The compliance criteria were not point scored. Rather an assessment was made on a Yes/No basis.

Two responses were assessed as non-compliant as they did not provide any response to any of the information requested in the request for tender documents. These two responses were set aside from further consideration. (See the attached Confidential Tender Evaluation Report for more detail.)

Qualitative Criteria

The six remaining compliant tenders were then scored against the qualitative criteria. A rating scale (0 – 10) was used to evaluate each Tender. A guide to the rating scale is provided in the attached Confidential Tender Evaluation Report.

The qualitative criteria were:

- Capability and Methodology 25%
- Organisational Experience 50%
- Organisational Capacity and Personnel 25%

A table attached as Appendix B to the Confidential Tender Evaluation Report provides a detailed summary of each tender, including their scores against the qualitative criteria, their price and company information.

The panel found that all tenderers scored well against the qualitative criteria. All were highly experience, provided sound proposals and methodology and had capacity to deliver a quality result for the Shire. Equally, it was found that prices were very competitive. The Manager of Works and Services conducted detailed reference checks and company checks and found that all received favourable references from past clients.

After considering all information the panel has formed the opinion regarding the preferred tenderer based on the following:

1. The appeal of the layout and design;
2. The size of the house – in terms of value for money;
3. The least risk for the Shire.

Policy and Legislative Implications

Regulation 18(5) of the Functions and General Regulations and Section 11 (2) of the *Local Government (Functions and General) Regulations 1996*

Financial Implications

The Shire's budget makes an allocation for this project and the Australian Government has matched this funding. The tender amount is within the budget allocation for this project.

Strategic Implications

Housing has been repeatedly raised as a priority strategic issue and barrier to social and economic sustainability. See Corporate Business Plan ED1.1.21 and ED1.1.25. For this item, we also refer to the Strategic Community Plan Goal of Civic Leadership.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	The cost exceeds budget allocation	Low 4)	A sound contract, good project management and oversight to ensure project is managed within budget.
Health & Safety	Injury	Moderate (8)	The recommended tendered is an experienced builder with all OSH documentation and processes in place (one of the compliance requirements). The

			tenderer would be required to participate in the Shire's Contractor Induction prior to commencing the project.
Reputation	Project quality is lacking	Moderate (6)	The rigour of the evaluation, referee checks etc mitigates this risk.
Service Interruption	N/A		
Compliance	Process non-compliant	Low (4)	The tender process has been compliant.
Property	N/A		
Environment	N/A		
Fraud	N/A		

Risk Matrix

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

Voting Requirements

Simple Majority

Conclusion

The officer's recommendation is that Council accepts the recommendation of the Tender Evaluation Panel based on the rigour of the process and as the recommendation is for a compliant tender that provided a high quality tender that is within the budget allocation for this project and that it is most advantageous to the Shire.

OFFICER'S RECOMMENDATION – ITEM NO – 10.4.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *REGULATION 18 OF THE FUNCTIONS AND GENERAL REGULATIONS AND SECTION 11 (2) OF THE LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996* RESOLVES TO AWARD THE CONTRACT FOR RFT 2020/04 DESIGN AND SUPPLY OF TWO KIT HOME FOR RESIDENTIAL PROPERTIES TO BLS CONSTRUCTION FOR THE TENDER PRICE OF \$530,030.48 (NB: VALUE OF TENDER WAS INSERTED IN THE MINUTES AFTER COUNCIL MEETING TO MAINTAIN COMMERCIAL IN CONFIDENCE UNTIL AFTER THE TENDER WAS AWARDED).

COUNCIL RESOLUTION – ITEM NO 10.4.2

MOVED CR LACY, SECONDED CR CHARLSTON

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *REGULATION 18 OF THE FUNCTIONS AND GENERAL REGULATIONS AND SECTION 11 (2) OF THE LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996* RESOLVES TO AWARD THE CONTRACT FOR RFT 2020/04 DESIGN AND SUPPLY OF TWO KIT HOME FOR RESIDENTIAL PROPERTIES TO BLS CONSTRUCTION FOR THE TENDER PRICE OF \$530,030.48 (NB: VALUE OF TENDER WAS INSERTED IN THE MINUTES AFTER COUNCIL MEETING TO MAINTAIN COMMERCIAL IN CONFIDENCE UNTIL AFTER THE TENDER WAS AWARDED).

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

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

10.4.3 COVID-19 FINANCIAL HARDSHIPS POLICY

Report Information

Date: 24 September 2020
 Location: N/A
 Applicant: The Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: N/A
 Attachments: 10.4.3 Draft COVID-19 Financial Hardships Policy

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 presents a draft COVID-19 Financial Hardships Policy for Council consideration and the officer's recommendation is that Council resolves to accept the policy as presented.

Relevant Documents

Available for viewing at the meeting

Nil

Background

In accordance with *section 2.7(2)(b) of the Local Government Act 1995*, Council is responsible for determining the Shire's policies. The Shire does not have a policy in relation to financial hardship. Council's endorsement is sought for the adoption of a policy addressing Financial Hardship in light of COVID-19.

Comment

This draft policy is considered necessary to assist with the submission and assessment of applications for financial hardship. This draft policy applies in relation to:

- a. Outstanding rates and service charges as at the date of adoption of the policy.
- b. Rates and service charges levied for the 2020/2021 financial year.

It is a reasonable community expectation, that those with the capacity to pay rates do so. For this reason, this draft policy is not intended to provide rate relief to ratepayers who are not able or not willing to evidence financial hardship and the statutory provisions of the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* will apply. This draft policy is intended to ensure that the Shire offers fair, equitable, consistent and dignified support to any ratepayers suffering hardship, while treating all members of the community with respect and understanding.

Policy and Legislative Implications

Section 2.7(2) (b) of the Local Government Act 1995 (WA)(CKI)

Financial Implications

Adopting this policy may result in the loss of some interest revenue however the amount is expected to be immaterial. It is also possible that some rates revenue will be delayed being received due to the policy.

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		
Health & Safety	N/A		
Reputation	Potential reputational damage in the event Council does not adequately support its local businesses and residential ratepayers.	Moderate (6)	The policy provides clear and transparent guidelines for decision-making that can be defended if required.
Service Interruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	Risk of fraudulent applications for financial hardship relief.	Moderate (6)	Require all applications to be properly substantiated with evidence.

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 required

Conclusion

The draft policy ensures the Shire is offering fair, equitable, consistent and dignified support to ratepayers suffering financial hardship and therefore the officer recommends that the policy is adopted as presented.

OFFICER'S RECOMMENDATION – ITEM NO 10.4.3

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO *SECTION 2.7(2)(B) OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*, RESOLVES TO ADOPT THE COVID-19 FINANCIAL HARDSHIP POLICY AND INCLUDE THE POLICY IN THE SHIRE OF COCOS (KEELING) POLICY MANUAL 2020 FOR REVIEW WHEN THE POLICY MANUAL IS REVIEWED IN JANUARY/FEBRUARY 2021.

COUNCIL RESOLUTION – ITEM NO 10.4.3

MOVED CR LACY, SECONDED CR IBRAM

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO *SECTION 2.7(2)(B) OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*, RESOLVES TO ADOPT THE COVID-19 FINANCIAL HARDSHIP POLICY AND INCLUDE THE POLICY IN THE SHIRE OF COCOS (KEELING) POLICY MANUAL 2020 FOR REVIEW WHEN THE POLICY MANUAL IS REVIEWED IN JANUARY/FEBRUARY 2021.

THE MOTION WAS PUT AND DECLARED CARRIED BY ABSOLUTE MAJORITY (5/0)

FOR: CHARLSTON, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

10.4.4 SHIRE OF COCOS (KEELING) ISLANDS DISABILITY ACCESS AND INCLUSION PLAN AND POSITIVE AGEING PLAN

Report Information

Date: 28 September 2020
 Location: N/A
 Applicant: Shire of Cocos Keeling Islands
 File Ref:
 Reporting Officer: Community Development Coordinator
 Island: Home & West Island
 Attachments: 14.4.4 Disability Access and Inclusion Plan FINAL
 14.4.4 Positive Ageing Plan 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 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

This report brings the Disability Access and Inclusion Plan (DAIP) and Positive Ageing Plan (PAP) before Council for consideration. The officer's recommendation is that the DAIP and PAP be adopted as presented and reviewed annual as part of the budget process.

Relevant Documents

[Available for viewing at the meeting](#)

Background

It is a legislative requirement that every local government in Western Australia should have a DAIP to ensure its goods, services, workplace, premises and facilities are accessible and inclusive to people with disabilities. As this Shire did not have a DAIP, and indeed has never had a DAIP, this was seen a priority and listed for development in the Shire's Corporate Business Plan S2.1.5.5. Noting that the community has a significant proportion of elderly residents, and that the national demographic trend towards an aging population, the Corporate Business Plan also listed the need for a plan to ensure our services are cognisant of this sector of our community (S2.1.5.1). Given the alignment and overlap between the DAIP and plan for services to seniors, these plans have been developed concurrently.

Comment

The Shire is committed to exceeding its legal obligations in providing goods, services, workplaces, and facilities which are accessible and inclusive to all people in the community. The Shire seeks to demonstrate this commitment with the development of a Disability Access and Inclusion Plan which guides future actions to overcome the attitudinal, physical, communication and social barriers which may be faced by those living with a disability in the community.

Developing and implementing a Disability Access and Inclusion Plan is a proactive way for the Shire to comply with legislation regarding the provision of goods, services or facilities, against people on the basis that they have or may have, a disability. The plan will express our commitment to go beyond compliance and break down attitudinal, physical, communication and social barriers.

The DAIP aims to:

1. Align with the Shire's Community Strategic Plan and Corporate Business Plan aspirations and priorities;
2. Ensure legislative compliance;
3. Demonstrate a proactive approach that assists us to deliver services more efficiently and increase its ability to reach all stakeholders; and
4. Be action focussed with clear measures.

A Positive Ageing Plan articulates a commitment to support the Shire's ageing population. The Shire is anecdotally aware that the population of older people is increasing and therefore is also aware of importance of that demographic having access to appropriate support and services as they age. As a result, the Shire has developed a Positive Ageing Plan that provides direction for how the Shire will address, in partnership, the challenges facing its ageing community. The plan provides effective strategies to facilitate meaningful participation in the community to build social capital whereby community members are involved and take leadership in shaping their community. The Plan assists in building a strong, connected, accessible, harmonious and supportive community that drives improvements in the quality of life of the older community.

The Shire's Positive Ageing Plan:

1. Aligns with the Shire's Community Strategic Plan and Corporate Business Plan aspirations and priorities;
2. Ensures legislative compliance;
3. Demonstrates a proactive approach that assists us to deliver services more efficiently and increase its ability to reach all stakeholders; and
4. Is action focussed with clear measures.

The DAIP and PAP went through an extensive consultation process that began with internal engagements with Shire staff and Elected Members. Face to face meetings were held to ascertain whether staff and elected members have been made aware of any barriers/strategies to access in the past and to include any that have been highlighted internally into the external engagement consultations as a way of providing examples that have been implemented to address them.

As part of the external engagement, the community were informed through The Atoll newsletter, Facebook and Shire website regarding the development of a DAIP and PAP to address barriers to access for people with disability, their family and carers, and to support its older population (60+) to be engaged, healthy and socially connected as they age on Cocos. This engagement process invited people to provide input in writing, by phone or in person however received poor response rate. A survey was also made available online and at the Shire offices. A community and focus group meeting were also held and attracted a total of 21 participants discussing barriers and its potential strategies and listening to its older population providing direction for the Shire to address areas highlighted by providing a supportive, inclusive community. These meeting were also extended to stakeholder interviews with Health and School representatives to discuss potential inter-agency collaboration.

The draft DAIP and PAP was made available for public comment prior to this report. No comments were received.

After the public consultation period the DAIP and PAP was sent to the Dept of Communities for their signoff. The only aspect that was suggested was that some formatting adjustments be made to improve the accessibility of the document. These adjustments were made using department issued guidelines and checklists. These are not compliance issues, just best practice. The revised DAIP as presented to Council, has been checked by Dept of Communities.

Following Council's endorsement, a copy of the plans will be sent to the Dept of Communities for their records and for the Shire to publish and implement. It is important to note that the legislation requires an annual review of the DAIP. The review date will be calculated as the end of the month the department receive the endorsed version. (NB: minor details in the document (noted in red) will be changed accordingly depending on Council's resolution).

Policy and Legislative Implications

It is a requirement under the Disability Services Act 1993 (Western Australia, amended 2004) that all local governments develop and implement a Disability Access and Inclusion Plan (DAIP) identifying barriers and outlining strategies to ensure people with disability have equal access to its facilities and services.

Further legislation underpinning access and inclusion includes the Equal Opportunity Act 1984 (Western Australia, amended 1988) and Commonwealth Disability Discrimination Act 1992 (DDA), both of which define discrimination on the basis of a person's disability unlawful.

Financial Implications

The adoption of these plans has no direct financial implications; however, they do recommend actions that will need investment from Council or via other funding streams. These investments will be brought before Council as part of the budget process, either as operational or capital investment.

Strategic Implications

Strategic Community Plan - Key Result Area: Social

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	The Shire is seen not providing equal access to its facilities and services	Low (5)	Adopt plans as policies and ensure community awareness of its strategic outcomes.
Service Interruption	N/A	N/A	N/A
Compliance	Non-compliant to the Disability Services Act 1993 (as amended in 2004)	Low (2)	The DAIP has been assessed and will ensure compliance.
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

These plans will demonstrate Council's commitment to serving all sectors of our community. The plans have been developed in consultation with the community and provide a guide to operational and capital investment. They are therefore presented for adoption subject to annual review and refinement.

OFFICER'S RECOMMENDATION – ITEM NO 10.4.4

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *SECTION 53.18 (3) OF THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995 AND THE DISABILITY SERVICE ACT 1993 (WA)* RESOLVES TO:

1. ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS DISABILITY ACCESS AND INCLUSION PLAN 2020;
2. ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS POSITIVE AGEING PLAN 2020; AND
3. REVIEW BOTH PLANS AS PART OF THE 2021/22 BUDGET PROCESS.

COUNCIL RESOLUTION – ITEM NO 10.4.4

MOVED CR IKU, SECONDED CR LACY

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *SECTION 53.18 (3) OF THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995 AND THE DISABILITY SERVICE ACT 1993 (WA)* RESOLVES TO:

1. ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS DISABILITY ACCESS AND INCLUSION PLAN 2020;
2. ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS POSITIVE AGEING PLAN 2020; AND
3. REVIEW BOTH PLANS AS PART OF THE 2021/22 BUDGET PROCESS.

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: CHARLSTON, 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) Islanders resident in the Territory on land owned by the Council.'

14.1 TRUSTS ADMINISTRATION

Nil

14.2 TRUSTS LEASE

14.2.1 ASSIGNMENT OF LEASE KAFE KU

Report Information

Date: October 2020
 Location: LOT 227, Tenancy 8 Community Resource Centre
 Applicant: Mrs Hayati Kasban
 File Ref:
 Disclosure of Interest: NIL
 Reporting Officer: Asset & Property Management Coordinator
 Island: Home Island
 Attachments: 14.2.1 Letter from Current Lessee and Applicant

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 a commercial tenancy (on a portion of Lot 227 on Home Island). 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 (Lot 227) 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 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](#)

Background

The applicant has requested approval to offer an assignment on their current lease, being a portion of Lot 227 (known as Kafe Ku) to Mrs Noorzulaikha Jadah for the remaining term of the current lease. The assignment of lease will be effective as of 1 January 2021. See attachment 14.2.1

The lease with the Shire for the Café at the HI Community Resource Centre was initially executed in January 2017. The initial term of the lease was for 3 years with a 3-year option. The applicant has exercised the option which commenced in January 2020 and expires in January 2023.

Comment

Under the Lease Agreement:

3.23 *Assignment or subletting*

- (1) *The Lessee must not assign, sublet or part with the possession of the Premises or nay part of the premises and the Lease without the prior written consent of the Lessor.*
- (2) *Sections 80 and 82 of the Property Law Act 1969 are expressly excluded.*
- (3) *The Lessor must not mortgage, encumber or charge the Premises or the Lease.*

The officer's recommendation is for Council to approve the request for the assignment. Previous requests of similar nature have been supported by Council. The current tenant has provided a good service but sees this as a chance to allow another small business to have an opportunity to establish their business. The lessee (applicant) is aware that a sublease does not absolve her of responsibility for the lease but is keen to proceed on this basis.

Policy and Legislative Implications

Section 3.58 of the Local Government Act 1995 as amended

Financial Implications

Entering into a new 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

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 continuation of catering service to the community	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Service Interruption	Without a lease, service could be disrupted and put added pressure on other service provider	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 based on providing business opportunity for others to provide catering and food service.

OFFICER'S RECOMMENDATION – ITEM NO – 14.2.1

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

1. TO GRANT APPROVAL TO ASSIGN LEASE FOR KAFE KU TO MRS NOORZULAIKHA JADAH ON THE BASIS THAT THE NEW LESSEE ACCEPTS ALL TERMS AND CONDITIONS OF THE CURRENT LEASE, INCLUDING THE LEASE EXPIRY DATE OF 1 JANUARY 2023;
2. ADVISE THE NEW LESSEE THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL BE UNDERTAKEN;
3. ADVISE THE OUTGOING LESSEE THAT SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE; THEY ARE TO BE PAID IN FULL.

COUNCIL RESOLUTION – ITEM NO 14.2.1

MOVED CR IBRAM, SECONDED CR LACY

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

- 1. TO GRANT APPROVAL TO ASSIGN LEASE FOR KAFE KU TO MRS NOORZULAIKHA JADAH ON THE BASIS THAT THE NEW LESSEE ACCEPTS ALL TERMS AND CONDITIONS OF THE CURRENT LEASE, INCLUDING THE LEASE EXPIRY DATE OF 1 JANUARY 2023;**
- 2. ADVISE THE NEW LESSEE THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL BE UNDERTAKEN;**
- 3. ADVISE THE OUTGOING LESSEE THAT SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE; THEY ARE TO BE PAID IN FULL.**

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: CHARLSTON, IBRAM, IKU, LACY, MINKOM

AGAINST: NIL

Cr Ibram declared a financial interest on item 14.2.2 and 14.2.3 and left the meeting room at 4.29pm.

**14.2.2 APPLICATION TO RENEW LEASE FOR HARDWARE STORE AND DEMOUNTABLE OFFICE
– COCOS ISLANDS COOPERATIVE**

Report Information

Date: 30 September 2020
 Location: LOT 250, Hardware Store and Demountable
 Applicant: Cocos Island Cooperative Society Ltd
 File Ref:
 Disclosure of Interest: NIL
 Reporting Officer: L Sloan, Asset & Property Management Coordinator
 Island: Home Island
 Attachments: 14.2.2 Application letter to lease

Authority / Discretion

Definition

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

Report Purpose

To present the request and supporting documentation from the Cocos Islands Cooperative Society to enter into new lease agreement for Lot 250 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 (Lot 250) 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 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](#)

Background

The Cocos Keeling Islands Cooperative Society Ltd (Cocos Coop) has been lessee of Lot 250, known as the Hardware Store which is used for hardware retail and office. The proponent also installed a demountable for additional office space adjacent to the hardware store which has been utilised for stevedoring operations. The Cocos Coop is also the sole provider of stevedoring service on the islands.

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 new lease agreement with the Shire and subsequently submitted their request on 20 July 2020. See attachment 14.2.2

In their application, Cocos Coop has used the template provided by the Shire for smaller commercial leases.

Comment

The Cocos Coop is the only business that provides hardware sales and stevedoring on Cocos and is an important service to the community. The remoteness of Cocos provides very limited opportunities for customers to purchase hardware products.

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

The proponent has requested a 5 year with a further 5-year option. Milestones have not been requested as there is no change proposed for the current business use and output, however the lease will stipulate that the lease purpose continues to be met.

As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 250) is Land held in Trust under the 1984 Land Trust Deed; therefore Council, is required to have due consideration of the purpose of the Trust, that is “upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council.”

Policy and Legislative Implications

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

Financial Implications

The applicant has committed to paying the market value. The current lease fee is \$4,131 and it is likely the valuation will be of a similar amount; therefore, it is unlikely to have any impact on the adopted budget

Strategic Implications

Strategic Community Plan: Key Result Area 4 – Civic Leadership

Risk Implications

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

			observing legislative requirements.
Compliance	The process for leasing does not comply with legislation	Low (3)	The process outlined in this report is consistent with legislative requirements.
Property	The property is being used other than what it has been intended for	Low (3)	Property inspection to be conducted annually
Environment	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 Council, acting as the Trustee of the 1984 Land Trust, for consideration and the officer’s recommendation is that the request is approved as it does the benefit and provide for the wellbeing of Cocos (Keeling) Islanders resident in the Territory on land owned by the Council” a it provides continuation of service for other on-island businesses that seek the services of the lessee through the procurement of supplies and equipment;

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, PURSUANT TO SECTION 3.58 OF THE *LOCAL GOVERNMENT ACT (WA) (CKI) 1995* RESOLVES:

1. TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY LEASE OF LOT 250 TO THE COCOS ISLANDS COOPERATIVE SOCIETY AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:
 - a. THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$250;
 - b. THE LEASE OF PROPERTY WILL BE FOR "AS IS WHERE IS" BASIS;
 - c. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING;
 - d. THE LEASE TERM BEING FOR 5 YEARS WITH 5 YEAR OPTION;
 - e. THE PURPOSE OF THE LEASE IS TO CONTINUE TO PROVIDE ESSENTIAL STORAGE FOR THE HARDWARE STORE AND STEVEDORING SERVICE.
2. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD, AUTHORISE THE CEO 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. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL 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.

COUNCIL RESOLUTION – ITEM NO 14.2.2

MOVED CR IKU, SECONDED CR CHARLSTON

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

1. TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY LEASE OF LOT 250 TO THE COCOS ISLANDS COOPERATIVE SOCIETY AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:

- a. THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$250;
 - b. THE LEASE OF PROPERTY WILL BE FOR “AS IS WHERE IS” BASIS;
 - c. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING;
 - d. THE LEASE TERM BEING FOR 5 YEARS WITH 5 YEAR OPTION;
 - e. THE PURPOSE OF THE LEASE IS TO CONTINUE TO PROVIDE ESSENTIAL STORAGE FOR THE HARDWARE STORE AND STEVEDORING SERVICE.
2. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD, AUTHORISE THE CEO 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. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL 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.

THE MOTION WAS PUT AND DECLARED CARRIED (4/0)

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

14.2.3 APPLICATION TO RENEW LEASE FOR FUEL DEPOT – COCOS COOPERATIVE SOCIETY

Report Information

Date: 30 September 2020
 Location: Part Lot 103, Fuel Depot
 Applicant: Cocos Island Cooperative Society Ltd
 File Ref:
 Disclosure of Interest: NIL
 Reporting Officer: L Sloan Asset & Property Management Coordinator
 Island: Home Island
 Attachments: 14.2.3 Application letter to lease

Authority / Discretion

Definition

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

Report Purpose

To present the request and supporting documentation from the Cocos Islands Cooperative Society to enter into new lease agreement for part Lot 103 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 103) 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 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](#)

Background

The Cocos Islands Cooperative Society Ltd (Cocos Coop) has been the lessee of part Lot 103, known as the Fuel Depot Home Island which houses fuel tanks and bowser.

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 new lease agreement with the Shire and subsequently submitted their request on 20 July 2020. See attachment 14.2.3.

In their application, Cocos Coop has used the template provided by the Shire for smaller commercial leases.

Comment

The Cocos Coop has been the sole provider of petrol and diesel fuel sales on Home Island. This is a vital service not only for the community but also for visiting commercial and recreational sailing vessels.

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

The proponent has requested a 5 year with a further 5-year option. Milestones have not been requested as there is no change proposed for the current business use and output, however the lease will stipulate that the lease purpose continues to be met.

As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Part Lot 103) is Land held in Trust under the 1984 Land Trust Deed; therefore Council, is required to have due consideration of the purpose of the Trust, that is “upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council.”

Policy and Legislative Implications

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

Financial Implications

The applicant has committed to paying the market value. The current lease fee is \$4,131 and it is likely the valuation will be of a similar amount; therefore, it is unlikely to have any impact on the adopted budget

Strategic Implications

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

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for a key stakeholder who provides a 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	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 based on that the continuation of service provided by the Cocos Coop brings about ongoing economic stability and growth for the islands.

OFFICER'S RECOMMENDATION – ITEM NO – 14.2.3

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

1. TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY LEASE OF PART LOT 103 TO THE COCOS ISLANDS COOPERATIVE SOCIETY AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:
 - a. THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$250;
 - b. THE LEASE OF PROPERTY WILL BE FOR "AS IS WHERE IS" BASIS;
 - c. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING;
 - d. THE LEASE TERM BEING FOR 5 YEARS WITH 5 YEAR OPTION;
 - e. THE PURPOSE OF THE LEASE IS TO CONTINUE TO PROVIDE ESSENTIAL STORAGE FOR FUEL FOR SALE TO THE COMMUNITY.

2. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD, AUTHORISE THE CEO 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. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL 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.

COUNCIL RESOLUTION – ITEM NO 14.2.3

MOVED CR IKU, SECONDED CR LACY

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

1. **TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY LEASE OF PART LOT 103 TO THE COCOS ISLANDS COOPERATIVE SOCIETY AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:**
 - a. **THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$250;**
 - b. **THE LEASE OF PROPERTY WILL BE FOR "AS IS WHERE IS" BASIS;**
 - c. **THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING;**
 - d. **THE LEASE TERM BEING FOR 5 YEARS WITH 5 YEAR OPTION;**
 - e. **THE PURPOSE OF THE LEASE IS TO CONTINUE TO PROVIDE ESSENTIAL STORAGE FOR FUEL FOR SALE TO THE COMMUNITY.**
2. **THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD, AUTHORISE THE CEO 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. **THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL 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. TO OBTAIN AN ENVIRONMENTAL MANAGEMENT PLAN FROM THE LESSEE WITHIN 6 MONTHS FOR CONSIDERATION BY COUNCIL.**

THE MOTION WAS PUT AND DECLARED CARRIED (4/0)

FOR: CHARLSTON, IKU, LACY, MINKOM

AGAINST: NIL

Cr Ibram returned to the meeting room at 4.37pm.

14.2.4 APPLICATION TO ENTER INTO NEW LEASE – HAPPY JACKS

Report Information

Date: 30 September 2020
 Location: Lot 24, West Island
 Applicant: Happy Jacks
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: L Sloan Asset & Property Management Coordinator
 Island: West Island
 Attachments: 14.2.4 Proposal from Happy Jacks

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 the Happy Jacks to enter into new lease agreement for Part Lot 24 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 Trusts as the Land (part Lot 24) 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 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](#)

Background

Happy Jacks is formally requesting the lease of Trust land at Part Lot 24 West Island in the proximity of the Shire’s three LIA sheds. The proponent is seeking to lease land to construct a storage shed for essential plant and machinery for the business. (See Map on page 2 of the Proposal from Happy Jacks.)

The site has been identified as most suitable for the proponent as it is zoned industrial, which is the correct zoning for the use proposed by Happy Jacks and collocates similar type businesses.

In their application, Happy Jacks has used the template provided by the Shire for smaller commercial leases (see attached) to address issues previously queried by Council on similar proposals.

Comment

The proponent is a small local business which employs 8 residents on full and part time positions and has proven to be a successful small business that generates positive economic outcomes for the Community as per the Trust requirements.

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. In addition to this Shire rates would also be raised on the area if this lease is approved.

The proponent has requested a 10 year with a further 10-year option. However, to be consistent with other leases recently awarded, the officer’s recommendation is for a 5-year plus 5-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 24) is Land held in Trust under the 1984 Land Trust Deed; therefore Council, is required to have due consideration of the purpose of the Trust, that is

“upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council.”

Policy and Legislative Implications

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

Financial Implications

The applicant has committed to paying the market value. This is anticipated to be approx. \$1,050 based on the square metre rate. In addition, the lessee would be required to pay the Shire rate, providing additional revenue for the Land Trust and for the Shire.

Strategic Implications

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

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for an important small business on Island.	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Service Interruption	N/A	N/A	N/A
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	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 based on supporting a successful small business on Island and on the financial return from the lease to the Land Trust and the Shire.

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, PURSUANT TO SECTION 3.58 OF THE *LOCAL GOVERNMENT ACT (WA) (CKI) 1995* RESOLVES:

1. TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY LEASE OF PART LOT 24 TO HAPPY JACKS AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:
 - a. THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$250;
 - b. THE LEASE OF PROPERTY WILL BE FOR "AS IS WHERE IS" BASIS;
 - c. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL CONNECTION OF UTILITIES AS REQUIRED;
 - d. THE LEASE TERM BEING FOR 5 YEARS WITH 5 YEAR OPTION;
 - e. THE PURPOSE OF THE LEASE IS TO PROVIDE ESSENTIAL STORAGE FOR PLANT AND MACHINERY FOR HAPPY JACKS BUSINESS TO OPERATE AND THAT THE FOLLOWING MILESTONES BE INCLUDED IN THE LEASE:
 - I. A DEVELOPMENT APPLICATION FOR THE SHEDS TO BE LODGED WITHIN 12 MONTHS OF THE LEASE BEING SIGNED.
 - II. LODGE A BUILDING PERMIT WITHIN 6 MONTHS OF THE DATE OF ISSUE OF THE DEVELOPMENT APPLICATION.

- III. COMMENCE WORK ON THE SHEDS WITHIN 6 MONTHS FROM THE DATE OF ISSUE OF BUILDING PERMIT.
 - IV. THE HAPPY JACKS BUSINESS COMMENCES OPERATION FROM THE SHED WITHIN 2 YEARS OF THE LEASE BEING SIGNED.
2. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD, AUTHORISE THE CEO 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. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL BE UNDERTAKEN.

COUNCIL RESOLUTION – ITEM NO 14.2.4

MOVED CR LACY, SECONDED CR CHARLSTON

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

1. **TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY LEASE OF PART LOT 24 TO HAPPY JACKS AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:**
 - a. **THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$250;**
 - b. **THE LEASE OF PROPERTY WILL BE FOR "AS IS WHERE IS" BASIS;**
 - c. **THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL CONNECTION OF UTILITIES AS REQUIRED;**
 - d. **THE LEASE TERM BEING FOR 5 YEARS WITH 5 YEAR OPTION;**
 - e. **THE PURPOSE OF THE LEASE IS TO PROVIDE ESSENTIAL STORAGE FOR PLANT AND MACHINERY FOR HAPPY JACKS BUSINESS TO OPERATE AND THAT THE FOLLOWING MILESTONES BE INCLUDED IN THE LEASE:**
 - V. **A DEVELOPMENT APPLICATION FOR THE SHEDS TO BE LODGED WITHIN 12 MONTHS OF THE LEASE BEING SIGNED.**
 - VI. **LODGE A BUILDING PERMIT WITHIN 6 MONTHS OF THE DATE OF ISSUE OF THE DEVELOPMENT APPLICATION.**
 - VII. **COMMENCE WORK ON THE SHEDS WITHIN 6 MONTHS FROM THE DATE OF ISSUE OF BUILDING PERMIT.**

VIII. THE HAPPY JACKS BUSINESS COMMENCES OPERATION FROM THE SHED WITHIN 2 YEARS OF THE LEASE BEING SIGNED.

- 2. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD, AUTHORISE THE CEO 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. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL BE UNDERTAKEN.**

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: CHARLSTON, IKU, IBRAM, LACY, MINKOM

AGAINST: NIL

