



MINUTES

ORDINARY MEETING OF COUNCIL

Held at the Council Chambers, Home Island
Wednesday 3 January 2018 commencing at 4.00pm

Disclaimer

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

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1. OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding member declared the meeting open at 4.00pm.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

President Councillor Seriwati Iku

Deputy President Councillor Aindil Minkom

Councillors Councillor Tony Lacy
Councillor Noor Anthoney
Councillor Woren Dedian
Councillor Shane Charlston

Staff Joanne Soderlund, Acting Chief Executive Officer
Ian Evans, Manager Works & Services
Ibrahim Macrae, Executive Support Officer

Public 2

Visitors Nil

APOLOGIES Nil

APPROVED LEAVE OF ABSENCE Councillor Jan Young

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

Mr Michael Hender

Question 1: What is the status of boundary clearing on Lot 224 and will it be surveyed?

Answer: CEO - Council have before them an agenda item at tonight's meeting to discuss this matter further. As it is an unbudgeted expenditure to survey the referred lot, it is something that will have be considered by Council.

Question 2: Have Council had the opportunity to reply on the proposed lease documentations that were provided?

Answer: CEO – *A copy of the proposed lease documents has been provided to Council for discussion at tonight's meeting.*

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Council resolution

Moved Councillor Minkom, Seconded Councillor Anthonyey

That the minutes of the Ordinary Meeting of Council held on 13 December 2017 be confirmed as a TRUE and CORRECT RECORD.

The motion was put and declared CARRIED (6/0)

For: Anthonyey, Charlston, Dedian, Iku, Lacy, Minkom

Against: Nil

Recommendation

That the minutes of the Ordinary Meeting of Council held on 13 December 2017 be confirmed as a TRUE and CORRECT RECORD.

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil.

9. DECLARATION OF INTERESTS

Name	Item No	Interest	Nature
Cr Iku	10.4/A3	Indirect Financial	Vice President Home Island Sport & Recreation Association.
Cr Anthonyey	10.2/L2	Impartiality	The applicant is his niece.

Cr Lacy	10.4/A3	Indirect Financial	Deputy President Cocos (K) Islands Tourism Association.
Cr Dedian	10.2/L2	Financial	The applicant is his son in law's employer.
Cr Charlston	10.4/A3	Impartiality	His wife is involved in fundraiser.

10.REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

10.1/F1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 30 NOVEMBER 2017

Report Information

Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide

Authority/Discretion

Definitions

<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>

0118/01

Council resolution

Moved Councillor Charlston, Seconded Councillor Anthony

That the Financial Statements for the period 1st of July 2017 to 30th of November 2017 be RECEIVED.

The motion was put and declared CARRIED (6/0)

For: Anthony, Charlston, Dedian, Iku, Lacy, Minkom

Against: Nil

Recommendation

That the Financial Statements for the period 1st of July 2017 to 30th of November 2017 be RECEIVED.

Report Purpose

To inform Council of the financial position of the Shire at 30 November 2017 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

Attachments

Statement of Financial Activity with accompanying notes

Available for viewing at the meeting

Nil

Background

The Monthly Financial Statements for the period 1st July 2017 to 30th November 2017 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 2017 to 30 November 2017.

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

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That the financial statements for the period 1st of July 2017 to 30th November 2017 be received.

10.1/F2 **SCHEDULE OF ACCOUNTS PAID FOR PERIOD 1ST NOVEMBER
2017 TO 30TH NOVEMBER 2017**

Report Information

Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide

Authority/Discretion

Definitions

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0118/02

Council resolution

Moved Councillor Minkom, Seconded Councillor Charlston

That the list showing all accounts paid between 1/11/17 to 30/11/17, inclusive of Municipal Cheque number 11490 to 11497,11498, EFT 5550 to EFT 5607,Trust Cheque 69, MasterCard and Direct Debit Superannuation Payments: totaling \$366394.13 be RECEIVED.

The motion was put and declared CARRIED (6/0)

For: Anthoney, Charlston, Dedian, Iku, Lacy, Minkom

Against: Nil

Recommendation

That the list showing all accounts paid between 1/11/17 to 30/11/17, inclusive of Municipal Cheque number 11490 to 11497,11498, EFT 5550 to EFT 5607, Trust Cheque 69, MasterCard and Direct Debit Superannuation Payments: totaling \$366394.13 be RECEIVED.

Report Purpose

To inform Council of funds disbursed for the period 1st November 2017 – 30th November 2017

Relevant Documents

Attachments

Master Card

Schedule of accounts paid

Available for viewing at the meeting

Nil

Background

A list of accounts paid between 1st and 30th November 2017 is attached.

Comment

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

Policy and Legislative Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That council receives the list stating all accounts paid for November 2017.

10.2 LEASES

10.2/L1 KAMPONG HOUSE LEASE REQUEST - HOUSE 50

Report Information

Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Reporting Officer: Executive Support Officer
 Island: Home Island

Authority/Discretion

Definition

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<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>

0118/03

Council resolution

Moved Councillor Anthoney, Seconded Councillor Lacy

That Council APPROVE to lease house 50 to Mr Weekly Liedie and Mrs Azizah Hill with the following conditions:

- The Lease is to expire on 30 November 2043.

- That the initial Lease Premium for the Agreement be set at an upfront payment of \$3,500.
- Council advises prospective Lessee's and Assignee's of non-compliant out-buildings on properties, if they so exist, are the Lessee's responsibility to accept liability should any future claims arise in respect to these non-compliant out-buildings.
- All outstanding monies owing to the Shire are first paid in full.

The motion was put and declared CARRIED (6/0)

For: Anthoney, Charlston, Dedian, Iku, Lacy, Minkom
Against: Nil

Recommendation

That Council APPROVE to lease house 50 to Mr Weekly Liedie and Mrs Azizah Hill with the following conditions:

- The Lease is to expire on 30 November 2043.
- That the initial Lease Premium for the Agreement be set at an upfront payment of \$3,500.
- Council advises prospective Lessee's and Assignee's of non-compliant out-buildings on properties, if they so exist, are the Lessee's responsibility to accept liability should any future claims arise in respect to these non-compliant out-buildings.
- All outstanding monies owing to the Shire are first paid in full.

Report Purpose

To seek Council approval to enter into a lease agreement with Mr Weekly Liedie and Mrs Azizah Hill for Kampong House 50.

Relevant Documents

Attachments

Correspondence letter from Mr Weekly Liedie.

Available for viewing at the meeting

Nil

Background

Correspondence has been received from Mr Weekly Liedie and Mrs Azizah Hill of House 50 Home Island wishing to enter into a Residential Lease Agreement for their kampong house.

Comment

Council at its April 2009 Meeting resolved the following:-

53/2010

Moved Cr Arkrie Seconded Cr Anthoney that Council accepts the current Lease Document as being suitable for the establishment of new Residential Lease Agreements for the remaining 35 Kampong Homes based on the following:-

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

CARRIED (5/0)

Policy and Legislative Implications

Nil

Financial Implications

Entering into a new lease should always be conditional on any outstanding amounts owing to the shire having been first paid. There will be a reduction in rental income and an increase in lease payments received which can be addressed at the annual Budget Review. A lease preparation fee of \$250 will be charged.

Strategic Implications

Nil

Conclusion

That council agrees to enter into a lease for House 50 Home Island.

10.2/L2 TRANSFER OF LEASE - SHOP 1 HOME ISLAND SMALL BUSINESS CENTRE

Report Information

Location: Home Island Small Business Centre
 Applicant: Darling Elat-Rasa
 File Ref:
 Reporting Officer: Executive Support Officer
 Island: Home Island

Authority/Discretion

Definition

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Councillor Dedian had declared Financial Interest on this item and left the meeting room at 4.43pm.

0118/04

Council resolution

Moved Councillor Lacy, Seconded Councillor Minkom

That Council APPROVE the Assignment of the Lease for Shop 1 at the Home Island Small Business Centre from Darliana's Boutique to Shamroks Enterprise Pty Ltd and that assignment documents be prepared for signing on the following condition:

- a. All outstanding lease payments owing are paid in full.**

The motion was put and declared CARRIED (6/0)

For: Anthoney, Charlston, Dedian, Iku, Lacy, Minkom

Against: Nil

Recommendation

That Council APPROVE the Assignment of the Lease for Shop 1 at the Home Island Small Business Centre from Darliana's Boutique to Shamroks Enterprise Pty Ltd and that assignment documents be prepared for signing on the following condition:

- b. All outstanding lease payments owing are paid in full.

Report Purpose

To present the request to transfer the lease of Shop 1 Home Island Small Business Centre to council for consideration and approval.

Relevant Documents

Attachments

Nil

Available for viewing at the meeting

Letter correspondence request to transfer lease.

Background

Darling Elat-Rasa has written to Council requesting the transfer of the lease for Shop 1 Small Business Centre Home Island to Shamroks Enterprises. Mrs Elat-Rasa has advised that Shamroks Enterprises would like to continue the current operation selling clothing.

Comment

Clause 3.23 of the Lease Agreement provides provisions for Assignment or Sub-letting and indicates that the Lessee shall not assign, sublet or part with the possession of the Premises and the Lease without the prior written consent of the Lessor.

The current Lease expires on the 30th June 2018 with no further option periods remaining. Council has previously resolved to make all future leases of the Small Business Centre expire on this date. It has also made it clear to all current leaseholders in the current small business centre that they will receive no preference with regards to leases on space in the new retail precinct when it is complete.

0216/19

Moved Cr Jadah, Seconded Cr Clunies Ross

That Council approves to enter into new lease agreements with the current occupants of all shops in the Small Business Centre on the following conditions:

- 1. Each lease has an expiry date of 30th of June 2018;**
- 2. Council inform each occupant that they will not be guaranteed a retail space in the new retail precinct when it is complete and that the new shops will be awarded on a merit basis after an expressions of interest process.**

The motion was put and declared CARRIED (5/0)

For: Pirus, Capstan, Clunies Ross, Jada, Iku

Against: Nil

Policy and Legislative Implications

Clause 3.23 of the Lease Agreement relating to Assignment or Sub-letting.

Financial Implications

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

Strategic Implications

Community Strategic Plan and Corporate Business Plan – Strategy 1.5 relating to *“Supporting Employment and Promote Business Opportunities”*

Conclusion

The request of the transfer of lease for Shop 1 of the Home Island Small Business Centre is presented to Council for its consideration and approval.

Councillor Dedian returned at 4.49pm.

10.2/L3 LEASE OPTION LOT 223 & 224 SYDNEY HIGHWAY

Report Information

Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Reporting Officer: Acting Chief Executive Officer
 Island: Shire Wide

Authority/Discretion

Definitions

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<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>

0118/05

Council resolution

Moved Councillor Charlston, Seconded Councillor Minkom

- 1. That Council GRANT Hender Property Group a 3 month extension on the option to lease the reference of Lot 224, Sydney Highway for 20 + 20 years at full market rental for the development of an Eco Resort, subject to legislative requirements and the finalisation of agreed terms and conditions which is to include first right of refusal for lot 223.**
- 2. That Council INFORM Hender Property Group that any further extension to the option will be at the discretion of Council.**

3. That at the end of this 3 month extension it would be required that the proposal by Hender Property Group be advertised for public feedback.

The motion was put and declared CARRIED (6/0)

For: Anthoney, Charlston, Dedian, Iku, Lacy, Minkom

Against: Nil

REASON FOR CHANGE

Council is of the view that adequate time is required for both parties to prepare and inform the public for community feedback.

Recommendation

4. That Council GRANT Hender Property Group a 3 month extension on the option to lease Lot 224, Sydney Highway for 20 + 20 years at full market rental for the development of an Eco Resort, subject to legislative requirements and the finalisation of agreed terms and conditions which is to include first right of refusal for lot 223.
5. That Council INFORM Hender Property Group that no further extension to the option will be consider after this extension.
6. That Council INFORM Hender Property Group that should they wish to proceed with a lease at the end of the option period that their proposal will first be required to be advertised for public comment before a final decision on granting the lease will be made by council, consistent with other proposals that the shire has considered for the lease of Lot 224 Sydney Highway.

Report Purpose

To grant a final 3 month extension to Hender Property Group to their option to lease Lot 224 Sydney Highway.

Relevant Documents

Attachments

Confidential Attachment: Correspondence from Hender Property Group
Confidential Attachment: Concept Plan from Hender Property Group
Confidential Attachment: Concept Timeline from Hender Property Group
Confidential Attachment: Correspondence form Extra Divers Worldwide

Available for viewing at the meeting

Nil

Background

Lot 223 and 224 has been the subject of various interest over the years by numerous parties. In 2008/9 Shire records indicate that Arup was engaged by the Attorney Generals Department to work with the Shire on developing an EOI for interested parties and then the EOI process. Records indicate that at least two EOIs were received, but the process did not result in an Eco Resort being built.

In August 2013 Council granted interim planning approval for a period of 36 months to Safari Trek International for the development of an Eco Resort on lot 223 and 224. The result of this decision by Council was that lots 223 and 224 were not available to any other interested party for a 3 year term. At the end of August 2016, with no progress made towards the development of the Eco Resort, the interim planning approval lapsed and lots 223 and 224 were again made available for any interested person / parties to develop an eco-resort.

More recently Council received a proposal from Gerald Short and Susanne Stavenhagen-Short to lease Lot 223 and 224 Sydney Hwy, (trust land) for the establishment of an Eco Resort however the proposal was later withdrawn.

Lot 223 is 5.9582 ha and Lot 224 is 6.0964 ha. Both lots are zone special use 8 – which is Tourist Resort.

“Tourist resort means any land or buildings used for the overnight or holiday accommodation of patrons in self-contained units and / or shared accommodation and may include incidental onsite facilities such as golf, swimming, bike riding, tennis, bowls, fishing, restaurants, shops, function rooms and entertainment facilities, administration offices, and caretakers facilities. It may include dormitory style accommodation, hostel / backpackers, tourist lodging house / guest houses and motel and hotel”.

Comment

At the July 2017 ordinary council meeting council resolved the following:
That Council provides a 6 month option to the Hender Property group to lease lot 224, Sydney Hwy for 20 + 20 years at full market rental for the development of an Eco Resort, subject to legislative requirements and the finalisation of agreed terms and conditions which is to include first right of refusal for lot 223.

The Shire has received the following request from the Hender Property Group seeking an extension to their option period for 3 months to allow some unresolved issues with their due diligence to be completed.

“we would like to ask the Shire to consider granting us a further extension of our option to lease for 3 months. We do not believe this is an unreasonable request and it may well suit the

Shire to have the additional time to reach agreement with us on the lease. We would like to assure the Shire we are very genuine in our attempts to get this project off the ground and would appreciate you giving consideration to allowing us a little further option time."

At the time that the Shire considered the original request for a 6 month option from Hender Property Group the Shire had also received a proposal from Walter Harscher from Extra Divers Worldwide for a lease on both Lot 223 & Lot 224 Sydney Highway. Extra Divers Worldwide have set up an operation on Christmas Island and were looking to extend their operations to Cocos Islands as the majority of their diving guest want to visit both islands.

Lot 223 & Lot 224 have a history of being tied up for long periods of time with the Shire receiving no benefit for having the blocks effectively 'off the market'. To date no development has ever proceeded on the blocks. The Hender Property Group appear to have complete a significant amount of due diligence which is a positive sign for the project. Given the significant nature of the project a further 3 month extension is reasonable, however council should make it clear that no further extension would be consider after this time.

As with other proposals that have come to Council to lease these blocks Hender Property Group should be made aware that if they decide to take up the option that their proposal will need to be advertised for public comment before Council can make a final decision on the lease.

Policy and Legislative Implications

Shire of Cocos (Keeling) Islands Town Planning Scheme No.1 and Section 3.58 of the *Local Government Act 1995 (WA) (CKI)* relating to the disposal of property.

Financial Implications

In the event the lease goes ahead full market rent as well as shire rates on Lot 224 will be received by the Shire. Both amounts require a valuation to determine what those amounts will be.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 - 2023 - Goal 1 Economic Development -1.1 Increase Tourism; 1.2 promote available of accommodation to meet a variety of needs; 1.3 encourage developer to construct a low impact eco-style Resort; 1.5 Promote employment and stable business environment and attraction of new businesses.

Conclusion

That Council provides a 3 months extension to the option to Hender Property Group for the lease of Lot 224.

10.3 PLANNING/BUILDING

Nil

10.4 ADMINISTRATION

10.4/A1 DRAFT ACTING CHIEF EXECUTIVE OFFICER POLICY

Report Information

Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Reporting Officer: Chief Executive Officer
 Island: Shire wide

Authority/Discretion

Definitions

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0118/06

Council resolution

Moved Councillor Minkom, Seconded Councillor Charlston

That Council ADOPT the Draft Acting Chief Executive Officer Policy as detailed in Attachment 1.

The motion was put and declared CARRIED (6/0)

For: Anthoney, Charlston, Dedian, Iku, Lacy, Minkom

Against: Nil

Recommendation

That Council ADOPT the Draft Acting Chief Executive Officer Policy as detailed in Attachment 1.

Voting Requirements

Absolute majority

Report Purpose

To ensure the principle of good governance is undertaken by the Shire in its appointments of Acting Chief Executive Officers, by adopting an Acting Chief Executive Officer Policy.

Relevant Documents

Attachments

Attachment 1 - Draft Acting Chief Executive Officer Policy

Available for viewing at the meeting

Nil.

Background

Section 2.7 of the Local Government Act (WA) (CKI) 1995 prescribes in part, that the role of the Council is to 'determine the local government's policies'. The Shire believes that the application of policies should reinforce the principles of transparency of decision making and good governance with all relevant statutory requirements being adhered to. Furthermore, policies should reflect the strategic direction that is set in the Shire's Strategic Community Plan (2016 -2026).

During the September Council Meeting, the Higher Duties Policy was revoked. This policy defined the process to be undertaken when appointing an Acting Chief Executive Officer whilst the Chief Executive Officer is on leave. The Higher Duties Policy was found to be somewhat out dated and repeated Delegation CEO11. As Delegation CEO11 more accurately reflected current practices, the Higher Duties Policy was revoked.

Comment

The Higher Duties Policy was revoked at the September 2017 ordinary council meeting on the basis that there was a delegation in place that granted authority to the Chief Executive Officer to appoint an Acting Chief Executive Office therefore the policy was not required. The Shire however has since sought advice on the topic from the Manager of Governance at WALGA and has been advised that appointing an Acting Chief Executive Officer via a delegation is inappropriate. It was suggested that either council creates a policy on the appointment of an Acting Chief Executive Officer or Council will need to consider each instance on a case by case basis.

Section 5.36 of the Local Government Act establishes that a person is not to be employed in the position of CEO unless the Council believes that the person is suitably qualified for the position. Therefore the appointment of an Acting Chief Executive Officer must be a decision made by the Council. Once appointed to act in the position of a Chief Executive Officer, that person has been employed in that position with all its functions and delegated authority.

The draft policy seen in Attachment 1 is similar to the higher duties policy revoked during the September Ordinary Council Meeting. However, the policy has been reviewed and updated to exclusively discuss the appointment of an Acting Chief Executive Officer. The policy also reflects the recent remuneration decision made by council at its special meeting in November to pay an acting CEO their ordinary rate of pay + 20%. The draft policy also includes that in addition to the Manager of Works and Services that the Executive Support Officer can also act in the position in the event that both the Chief Executive Officer and the Deputy Chief Executive Officer are on leave at the same time. A limitation on the policy that it can only apply to appointments of an Acting Chief Executive Officer of 6 consecutive weeks or less has also been added.

Policy and Legislative Implications

Section 2.7(2) (b) of the Local Government Act 1995 prescribes in part, that the role of a local government is to determine the policies of said local government.

Section 5.42(1) of the Local Government Act (WA) (CKI)

Section 5.36 of the Local Government Act (WA) (CKI)

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That the Draft Acting Chief Executive Officer Policy is adopted as per the recommendation in this report.

10.4/A2 CHIEF EXECUTIVE OFFICER DELEGATION REVIEW

Report Information

Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Reporting Officer: Acting Chief Executive Officer
 Island: Shire wide

Authority/Discretion

Definitions

<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>

0118/07

Council resolution

Moved Councillor Charlston, Seconded Councillor Minkom

- 1. That in accordance with section 5.42(1) of the Local Government Act 1995 Council ADOPTS the amended delegations of Authority to the Chief Executive Officer as detailed in Attachment 1.**
- 2. That in accordance with section 5.16(1) of the Local Government Act 1995 Council ADOPTS the delegations of Authority to the Chief Executive Officer's Performance Review Committee as detailed in Attachment 2.**

3. That council **REVOKES** the delegation given in September 2015 to the CEO Performance Review Committee to vary the CEO remuneration package.

The motion was put and declared **CARRIED BY ABSOLUTE MAJORITY (6/0)**

For: Anthoney, Charlston, Dedian, Iku, Lacy, Minkom

Against: Nil

Recommendation

1. That in accordance with section 5.42(1) of the Local Government Act 1995 Council **ADOPTS** the amended delegations of Authority to the Chief Executive Officer as detailed in Attachment 1.
2. That in accordance with section 5.16(1) of the Local Government Act 1995 Council **ADOPTS** the delegations of Authority to the Chief Executive Officer's Performance Review Committee as detailed in Attachment 2.
3. That council **REVOKES** the delegation given in September 2015 to the CEO Performance Review Committee to vary the CEO remuneration package.

Voting Requirements

Absolute majority

Report Purpose

This report is presented to enable Council to review its delegations to the Chief Executive Officer and committees, in accordance with sections 5.46(2) and 5.16(2) respectively of the Local Government Act 1995.

Relevant Documents

Attachments

Attachment 1 - Current delegations with proposed amendments marked up in new format

Attachment 2 - Chief Executive Officer's Performance Review Committee delegations

Attachment 3 - Current delegations with proposed amendments marked up in the old format

Available for viewing at the meeting

Nil

Background

Sections 5.46(2) and 5.18 of the Local Government Act 1995 requires that, at least once every financial year all delegations must be reviewed by the delegators. The Council last reviewed its delegations in January 2017.

Comment

Delegations to the CEO

To ensure compliance with the Act, a review of the current delegations has been undertaken. As a part of this review, the delegations have been transcribed into a new, more professional format. The changes made to the formatting of the delegations has resulted in some insignificant changes to the delegations including the delegation numbers and the use of headings. In addition to these insignificant changes, some significant amendments to the delegations have been identified and are described below:

Delegation CEO7 – Authority to invest, has been corrected to state that investments greater than five (5) million require a decision of Council. In addition, in exercising authority under section 5.44 of the Local Government Act 1995, a sub-delegation of this authority/ duty has been made to the Deputy Chief Executive Officer. This will expedite the process undertaken to make an investment, and supports the Shire's current practice.

Delegation CEO10 – Certain Provisions about Land, has been corrected to reference Section 3.25 of the Local Government Act 1995, as described under the function of the delegation.

Delegation CEO11 – Acting Chief Executive Officer, has been revoked to be replaced with a policy as per advice received from the Manager of Governance at WALGA.

Delegation CEO12 – Write Off Small Amounts, has been amended to reference section 5.42 of the Local Government Act 1995, which provides the legislative power for the delegation to be made from the Shire Council to the Chief Executive Officer.

Delegation CEO14 – Disposal of Assets, has been amended to reference section 5.42 of the Local Government Act 1995, which provides the legislative power for the delegation to be made from the Shire Council to the Chief Executive Officer.

Attachment 1 depicts all suggested amendments, including formatting changes.

Delegations to the Chief Executive Officer's Performance Review Committee

At the September 2015 Ordinary Council meeting council resolved the following:

1) *That a CEO performance review committee be FORMED comprising of:*

- *the Shire President;*
- *Deputy Shire President; and*
- *Cr Clunies Ross.*

to undertake the CEO performance review in accordance with section 5.38 of the Local Government Act 1995 (WA) (CKI).

2) *That Council Delegate to the CEO performance review committee the ability to undertake the CEO review including being able to vary the CEO package.*

The above resolution gave delegated authority to the CEO performance review committee to conduct the CEO performance review and to vary the CEO remuneration package. Section 5.18 of the Act – Register of delegations to committees' states that "A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year." This delegation of authority has never been formally written or included in the delegations register previously and therefore has never been reviewed in accordance with the requirements of the Local Government Act 1995. Despite this in the report that went to Council at the October 2017 Special Council Meeting to select the current CEO performance review committee it was stated that:

This committee currently has the following delegations:-

- *Conduct and manage the performance review of the Chief Executive Officer; and*
- *Make any appropriate changes to the Chief Executive Officer's employment agreement in respect of the Chief Executive Officer's remuneration.*

The delegation to the CEO Performance Review Committee to conduct and manage the performance review of the CEO has now been formally written up in Attachment 2. It is more appropriate however for any changes to the CEO remuneration package to be a decision of the whole Council rather than the CEO performance review committee.

Policy and Legislative Implications

Section 5.42(1) of the Local Government Act 1995 states:-

“A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.”

Section 5.46(2) of the Local Government Act 1995 states:-

“at least once every financial year, delegations made under the Division are to be reviewed by the delegator”

Section 5.16(1) of the Local Government Act 1995 states:-

“A local government may delegate* to a committee any of its powers and duties other than this power of delegation.”

Section 5.18 of the Local Government Act 1995 states:-

“A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.”

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

A review of the current delegations has been completed. It is recommended that the Council adopt the revised delegations.

10.4/A3 COMMUNITY FUNDING PROGRAM - EVENTS & FESTIVALS

Report Information

Location: Not Applicable
 Subject: Community Funding Program - Events & Festivals
 File Ref:
 Reporting Officer: Community Projects Officer
 Island: Shire Wide

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>

0118/08

Council resolution

Moved Councillor Minkom, Seconded Councillor Dedian

That Council approves the following funding amounts for the Events & Festivals 2018 Grants.

- *Kelly Edwards - approve \$ 2,000 to host Cocos Beyond Blue Bash*
- *CIYC - approve \$ 1,163 to host National Youth Week*
- *CKITA - approve \$ 2,000 to cover costs associated with Annual Lagoon Swim*
- *PKPK - approve \$ 2,000 to cover catering expenses for ASDD*
- *PKPK - not funded*

- *HISRA – approve \$ 2,000 to cover expenses for Hari Raya Fireworks*

The motion was put and declared CARRIED (6/0)

For: Anthoney, Charlston, Dedian, Iku, Lacy, Minkom

Against: Nil

Recommendation

That Council approves the following funding amounts for the Events & Festivals 2018 Grants.

- *Kelly Edwards – approve \$ 2,000 to host Cocos Beyond Blue Bash*
- *CIYC – approve \$ 1,163 to host National Youth Week*
- *CKITA – approve \$ 2,000 to cover costs associated with Annual Lagoon Swim*
- *PKPK – approve \$ 2,000 to cover catering expenses for ASDD*
- *PKPK – not funded*
- *HISRA – approve \$ 2,000 to cover expenses for Hari Raya Fireworks*

Report Purpose

To inform Council of applications received for the Shire of Cocos (Keeling) Islands Community Events & Festivals Funding 2018 and the recommendations be accepted for approval.

Relevant Documents

Attachment

Nil

Available for viewing at the meeting

Applications received

Background

The Shire of Cocos (Keeling) Islands advertised in The Atoll Newsletter from the 12th of October until 17th of November calling on interested applicants for the Community Events and Festivals Funding Program 2018. It was also published through the Shire Facebook page as well as dispersed through the Community Resource Centre email distribution list. Applications closed on the 17 November 2017 and a total of 6 applications were received with requested amounting to \$ 11,163.

App #	Organisation	Funding Requested	Funding Approved	Event
1	<i>Kelly Edwards</i>	\$ 2,000	\$ 2,000	<i>Cocos Beyond Blue Bash</i>
2	<i>CIYC</i>	\$ 1,163	\$ 1,163	<i>National Youth Week</i>
3	<i>CKITA</i>	\$ 2,000	\$ 2,000	<i>Lagoon Swim</i>
4	<i>PKPK</i>	\$ 2,000	\$ 2,000	<i>ASDD</i>
5	<i>PKPK</i>	\$ 2,000		<i>Hari Raya</i>
6	<i>HISRA</i>	\$ 2,000	\$ 2,000	<i>Hari Raya</i>
TOTALS:		\$ 11,163	\$ 9,163	

Comment

In assessing the six applications received claims are being proposed to be funded and denied:

- Cocos Beyond Blue Bash; to be granted funding on the grounds that it meets with the funding criteria of an event. The event will include a day of sporting competitions, silent auction and raffle to raise funds for Beyond Blue Foundation towards improving the lives of individuals, families and communities affected by anxiety, depression and suicide. The event has been earmarked to be held on Sunday 11th of March 2018 on Direction Island. The event has been instigated by Kelly Edwards and Tanya Charlston, two community individuals whom have successfully raise an excess of \$ 20, 000 for other causes in the past. The organisers have also sought support from other agencies with the Department of Infrastructure funding a special ferry run to allow maximum participation as to not coincide with a flight day.
- Cocos Islands Youth Council; funding to be approved for the group to host a festival for young people in our community during National Youth Week. The youth council has been heavily involved in ongoing self-fundraising efforts throughout the year and shown to commit some of these funds as well as volunteering their personal time towards this event.
- Cocos (K) Islands Tourism Association; the annual Cocos Keeling Islands Lagoon Swim is held in November each year bringing with it a significant amount of people to the islands resulting in a boost to the local economy. The application is to be funded on the basis of the benefits the event brings to the economy as well as the fact that funds are also sourced from other agencies as well as the Tourism Association themselves contributing significantly to the event.
- Persatuan Kebudayaan Pulu Kokos; submitted two applications one to fund ASDD activities and the other for Hari Raya festival. Both submissions contained very limited information. The submission to fund \$2,000 to cover

catering costs for ASDD is recommended to be funded on the basis that if PKPK do not organise a community meal on ASDD then the Shire would ensure there was something for the community on this day similar to what we do for Australia Day. Funding will not be granted however to cover catering costs for Hari Raya. PKPK has been reminded several times that it should not rely on the Shire as its only source of funds. The Shire previously purchased PKPK an ice machine to provide the organisation with a means to raise its own funds so that it did not rely on shire funding for the annual events it hosts. Last year that Council resolved that it would provide funds for Hari Raya on the condition that they provide a report on the ice machine proceeds. No report has ever submitted to council.

- HISRA; submission to be approved for the association to host Fireworks display during Hari Raya. HISRA are proposing an event for the whole community with the majority of the funds necessary coming from HISRA itself. HISRA regularly holds its own fund raising events so that it is not solely reliant on receiving funds from organisations such as the Shire.

The grant funds will be available to the community groups from the 1 January 2018 and will be paid on a reimbursement basis on receipt of invoices at the conclusion of the purchase or before 30 December 2018.

Policy and Legislative Implications

Nil

Financial Implications

The Shire has sufficient budget to fund the project that will occur in the first half of 2018, with the remainder being budgeted for in the 2018/2019 financial year.

Strategic Implications

Goal 3 - To enhance quality of life and meet social needs.

Conclusion

A list of recommended community grant funding applications was presented to Council for its consideration and approval.

