



VISION OF COUNCIL

"A thriving and friendly community that recognises our history and embraces cultural diversity and economic opportunity, whilst nurturing our unique natural and built environment."

AGENDA

BUSINESS OF AN URGENT NATURE

FOR THE

ORDINARY MEETING OF COUNCIL

27 SEPTEMBER 2018

OUR VISION

"A thriving and friendly community that recognises our history and embraces cultural diversity and economic opportunity, whilst nurturing our unique natural and built environment."

OUR MISSION

"To deliver affordable and quality Local Government services."

CORE VALUES OF THE SHIRE

The core values that underpin the achievement of the mission will be based on a strong customer service focus and a positive attitude:

Communication

Integrity

Respect

Innovation

Transparency

Courtesy

DISCLAIMER

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Broome expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

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SHIRE OF BROOME
ORDINARY MEETING OF COUNCIL
THURSDAY 27 SEPTEMBER 2018
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8. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

UNDER SECTION 5.23 (2)(D) OF THE LOCAL GOVERNMENT ACT 1995 COUNCIL MAY RESOLVE TO MOVE THE MEETING BEHIND CLOSED DOORS.

12. BUSINESS OF AN URGENT NATURE

12.1 LEASE DISPOSAL TO THE MINISTER FOR WORKS | PORTION OF RESERVE 29093

LOCATION/ADDRESS:	Nil
APPLICANT:	Nil
FILE:	Res29093
AUTHOR:	Property and Leasing Senior Officer
CONTRIBUTOR/S:	Nil
RESPONSIBLE OFFICER:	Director Infrastructure
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	10 September 2018

SUMMARY: The Minister for Works (the Minister) has expressed interest in leasing 7 Barker Street, Broome (Portion of Reserve 29093 – 'The Premises'). The Minister is seeking to start a lease from 15 October 2018 for an initial term of four years. Rent to commence at Market Value plus outgoings. The department occupying the premises will be the Department of Justice – Adult Justice.

BACKGROUND

The subject tenancy is situated at 7 Barker Street, Broome – portion of Reserve 29093. It comprises a freestanding single level office building which was formerly utilised and purpose-constructed as the Shire of Broome offices and Council Chambers. The tenancy fronts both Barker Street and Weld Street occupying a corner position which provides exposure to passing vehicle and pedestrian traffic. **See attachment 1**

The Reserve is vested with the Shire of Broome for the purpose of 'municipal office site', with Power to Lease (or sublease or license) for the designated purpose for the whole or any portion thereof for any term not exceeding 21 years from the date of the lease, subject to approval in writing from the Minister of Lands being first obtained to each and every lease. Pursuant also to section 19 of the Land Administration Act 1997.

Until recently Reserve 29093 was occupied by staff from the Shire's Infrastructure Directorate. Towards the end of 2017, the Infrastructure Directorate staff at Barker Street office relocated to the main Shire Administration Office, leaving the Barker Street Offices vacant.

Officers commenced an expression of interest campaign in February 2018; despite numerous communications with key stakeholders the Shire received no formal interest until 4 September 2018. On this date a letter was received from LPC Cresa Pty Ltd, the appointed tenant representative for the Minister of Works, Department of Justice (Adult Justice) to commence a tenancy from 15 October 2018 for an initial term of 4 years. **See attachment 2**

Adult Justice formerly occupied tenancy 10 at Kimberley Regional Offices between 1 June 2009 to 1 June 2017 at which time they relocated to the Broome Prison.

COMMENT**Proposed Lease Terms:**

Preliminary negotiations have taken place between the Shire of Broome Officers and LPC Cresa Pty Ltd with the following being offered:

Tenant	Minister for Works
Landlord	Shire of Broome
Permitted Use	Office Accommodation and ancillary uses
Lease Start Date	15 October 2018
Initial Term	Four (4) years
Further term(s)	Two years + a further two years
Rent	At market value \$100,520.00 + gst + outgoings
Rent Free / Fit-out Period	Two Months – under negotiation
Rent Reviews	The net rent is to be reviewed annually during the term in line CPI from the first anniversary of the commencement date in accordance with the Consumer Price Index (all Groups Perth). At the commencement of the first Option term, the net rent shall be reviewed to Market rent, with annual CPI increases applied to the first anniversary and the second option, if exercised by the tenant.
Outgoings	All normal building outgoings properly incurred by the landlord are payable by the tenant. This includes but is not limited to: <ul style="list-style-type: none"> • Electricity • Council Rates and Charges • Building maintenance • Plant and A/C servicing and repairs • Pest inspections and treatments • Water charges • Building Insurance
Cleaning	The tenant will be required to arrange for its own cleaning to the premises – both internally and externally
Parking Bays	The tenant acknowledges that all on-site parking is non-exclusive.

The terms and conditions set out are in-line with other commercial Shire leases. As the tenant is a State Government Department, the lease disposal is considered under Regulation 30 of the Local Government (Functions and General) Regulations 1996, 'Dispositions of Property to which Section 3.58 of the Act does not apply'.

Rental Valuation and Market Conditions:

On the 11 January 2018 Opteon Property Group were instructed to carry out a rental valuation for budgeting and marketing purposes. The valuation reflected a market rent of \$100,520.00 net rent per annum. A letter has been requested from Opteon Property Group requesting the valuation is remain unchanged as of today's date.

The following Market Conditions were noted:

“Commercial rents are currently subdued with sitting tenants in most instances looking to renegotiate reductions in option periods. As for new leasing activity, the market has weakened overall and although no official vacancy rates are kept by leasing agents, we note an over supply is available at present within the market place. Discussions with a number of commercial agents around town have revealed there is limited enquiry / take up of commercial space within the market place at present with landlords trying to hold on to their existing tenants when commercial terms conclude”.

CONSULTATION

Opteon Property Group Pty Ltd
LPC Cresa Pty Ltd
Minister for Works
Government Office Accommodation

STATUTORY ENVIRONMENT

Local Government (Functions and General) Regulations 1996

30. Dispositions of property to which section 3.58 of Act does not apply

- (1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*
- (2) *A disposition of land is an exempt disposition if —*
 - (a) *the land is disposed of to an owner of adjoining land (in this paragraph called “**the transferee**”) and —*
 - (i) *its market value is less than \$5 000; and*
 - (ii) *the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;*
 - (b) *the land is disposed of to a body, whether incorporated or not —*
 - (i) *the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
 - (ii) *the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*
 - (c) *the land is disposed of to —*
 - (i) *the Crown in right of the State or the Commonwealth;*
 - (ii) *a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or*
 - (iii) *another local government or a regional local government;*
 - (d) *it is the leasing of land to an employee of the local government for use as the employee's residence;*
 - (e) *it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land;*

- (f) it is the leasing of land to a “medical practitioner” (as defined in section 3 of the Medical Act 1894) to be used for carrying on his or her medical practice; or
 - (g) it is the leasing of residential property to a person.
- (2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —
 - (a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government;
 - (b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or
 - (c) the subject of Statewide public notice under section 3.59(4), and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including —
 - (i) the names of all other parties concerned;
 - (ii) the consideration to be received by the local government for the disposition; and
 - (iii) the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.
- (2b) Details (see section 3.58(4) of the Act) of a disposition of property under subregulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.
- (3) A disposition of property other than land is an exempt disposition if —
 - (a) its market value is less than \$20 000; or
 - (b) it is disposed of as part of the consideration for other property that the local government is acquiring for a consideration the total value of which is not more, or worth more, than \$50 000.

[Regulation 30 amended in Gazette 25 Feb 2000 p. 974-5; 28 Apr 2000 p. 2041; 31 Mar 2005 p. 1055-6.]

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

A certified valuation has estimated the current net rent at \$110,520 per annum. The tenant shall be responsible for the costs the Shire has incurred in obtaining the market valuation and associated fees for drawing up the new lease agreement.

RISK

Leasing to State Governments represents very low commercial risk. Having the tenancy occupied improves security across the site as well as decreasing the Shires costs for building expenses.

STRATEGIC IMPLICATIONS**Our People Goal – Foster a community environment that is accessible, affordable, inclusive, healthy and safe:**

Affordable services and initiatives to satisfy community need

Accessible and safe community spaces

Our Place Goal – Help to protect the nature and built environment and cultural heritage of Broome whilst recognising the unique sense of the place:

A built environment that reflects tropical climate design principles and

Core asset management to optimise the Shire's infrastructure whilst minimising life cycle costs.

Our Prosperity Goal – Create the means to enable local jobs creation and lifestyle affordability for the current and future population:

Affordable and equitable services and infrastructure

Affordable land for residential, industrial, commercial and community use

Key economic development strategies for the Shire which are aligned to regional outcomes working through recognised planning and development groups/committees

Our Organisation Goal – Continually enhance the Shire's organisational capacity to service the needs of a growing community:

Responsible resource allocation

VOTING REQUIREMENTS

Simple Majority

REPORT RECOMMENDATION:

That Council:

- 1. Accepts, in accordance with Local Government (Functions and General) Regulations 1996, Regulation 30(2)(b)(i) the request from the Minister for Works to occupy Portion of Reserve 29093 at 7 Barker Street, Broome.*
- 2. Seeks Ministerial approval from the Minister for Lands for the lease in accordance with section 18 of the Land Administration Act 1997;*
- 3. Authorises the Chief Executive Officer to negotiate the final terms and conditions of*

the lease agreement as follows:

- a) Initial annual rent in line with market valuation; with annual CPI increases
- b) Lease term as follows:
 - (i) Initial term of four (4) years from 15 October 2018 to 14 October 2022; and
 - (ii) Option to renew for a further term of two (2) years plus an additional two (2) years.
- c) Permitted use is for 'Office Accommodation';
- d) Lease to be prepared by Council's solicitor with the tenant to be responsible for all associated legal costs, including preparation and registration of lease documentation;
- e) The landlord shall be provided with the expressed right to undertake preventative maintenance at the cost of the tenant throughout the term. Current preventative maintenance shall include but not limited to:
 - (i) Pest inspection;
 - (ii) Emergency service equipment inspection; and
 - (iii) RCD and electrical inspection.
 - (iv) Air-Conditioning and plant servicing
- f) Utilities services and consumption charges including telephone, electricity, gas and water, covered by tenant;
- g) Building Insurance to be effected by the landlord at the cost of the tenants, all other insurances to be effected by the tenant, at the tenants cost.

Attachments

1. Leased Area
2. Lease Proposal (Confidential to Councillors and Directors Only)

This attachment is confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)((e)(ii)) as it contains "a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government".

3. Rental Valuation (Confidential to Councillors and Directors Only)

This attachment is confidential in accordance with Section 5.23(2) of the Local Government Act 1995 section 5.23(2)((e)(ii)) as it contains "a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government".

