



GLADSTONE
REGIONAL COUNCIL

**GENERAL MEETING NOTICE
AND AGENDA**

**TO BE HELD AT THE GLADSTONE ENTERTAINMENT CONVENTION
CENTRE, 56 GOONDOON STREET, GLADSTONE**

On 3 November 2020

Commencing at 9.00am

Notice Section 277E *Local Government Regulation 2012*: This meeting will be closed to the public, due to health and safety reasons associated with the public health emergency involving COVID-19. Live streaming will be available on Council's website.

**Leisa Dowling
CHIEF EXECUTIVE OFFICER**

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G/1. MAYORAL STATEMENT OF CURRENT ISSUES

Nil.

G/2. CONFIRMATION OF MINUTES

G/2.1. CONFIRMATION OF GENERAL MEETING MINUTES FOR 20 OCTOBER 2020

Responsible Officer: Chief Executive Officer

Council Meeting Date: 3 November 2020

File Ref: CM7.2

Purpose:

Confirmation of the minutes of the General Meeting held on 20 October 2020.

Officer's Recommendation:

That the minutes of the General Meeting of Council held on 20 October 2020 be confirmed.

Attachments:

1. Minutes of the General Meeting of Council held on 20 October 2020.

Tabled Items:

Nil.

Report Prepared by: Manager Governance

G/3. OFFICERS' REPORTS

G/3.1. REQUEST TO WAIVE ADOPTED INFRASTRUCTURE CHARGES FOR STAGE 1 FOR DEVELOPMENT APPLICATION FOR A MATERIAL CHANGE OF USE OF PREMISES FOR A NATURE-BASED TOURISM (15 SITES) (STAGED) AT 2143 ROUND HILL ROAD, ROUND HILL QLD 4677

Responsible Officer: General Manager Customer Experience

Council Meeting Date: 3 November 2020

File Ref: DA/8/2019 and FM7.2

Purpose:

The purpose of this report is to allow Council to consider a request to waive a reduced Infrastructure Charge to Stage One of a Nature-Based Tourism approval located at 2143 Round Hill Road, Round Hill QLD 4677 (Ref: DA/8/2019).

Officer's Recommendation:

That the request to waive the reduced Stage Once Infrastructure Charge for Development Application 8/2019 located at 2143 Round Hill Road, Round Hill QLD 4677, be refused.

Background:

Development Application 8/2019 for a Material Change of Use of Premises for a Nature-Based Tourism (15 sites over 3 Stages) located at 2143 Round Hill Road, Round Hill QLD 4677, was received on 15 March 2019, and considered Properly Made with a Confirmation Notice issued on 25 March 2019.

Figure One provides an aerial image of the subject site.



Figure One: Aerial Image of Subject Site

After assessment of the proposal against the *Our Place Our Plan Gladstone Regional Council Planning Scheme, Version 2* (the Planning Scheme), a Development Permit was issued under Delegated Authority on 1 May 2019 (Attachment 1). After receipt of the Development Permit, the Applicant lodged and received a subsequent approval through a Generally in Accordance to update the approved plans.

An image of the approved site plan is shown below in Figure Two.



Figure Two: Approved Site Plan

An Adopted Infrastructure Charge Notice (AICN) was issued on 1 May 2019 for the total amount of \$44,500.00 (Attachment 2).

On 2 January 2020, the Applicant lodged a request under the Infrastructure Charges Rebate Scheme (Rebate Scheme) to receive a 50% reduction on the Adopted Infrastructure Charge Notice. The Applicant requested the reduction to assist in delivering economic development and growth to the Agnes Water area, and to make the business viable and prosperous for the future (Attachment 3). The request was presented to Council due to noncompliance with one of the three prerequisites. Council endorsed the request at the 4 February 2020 General Council Meeting (Attachment 4).

To facilitate the reduced AICN and requested instalment payments, Council and the Applicant entered into an Infrastructure Agreement (IA). Since the IA, the Applicant requested a Planning Final inspection for Stage One, which was considered compliant. As such, the Applicant has commenced the use, thus triggering the invoice of the first instalment payment (dated 30 March 2020).

The Applicant enacted a notice of Force Majeure within the IA provisions due to COVID-19, suspending the IA. During this time, the Applicant has submitted a request to waive the AICN associated with Stage One (Attachment 5).

Options, Risk and Opportunity Analysis:

Option 1 – Refuse Applicant's Request

The original AICN was calculated in accordance with the *Gladstone Regional Council Adopted Infrastructure Charges Resolution (No.1) – 2015 Version 2 (Resolution)*. The Applicant was successful in receiving a rebate of 50% under the Rebate Scheme despite noncompliance with the one of the prerequisite criteria.

Council has recognised the economic benefits from this type of development and considered the location suitable despite being located outside of the Priority Infrastructure Area, thus endorsing the rebate. Any further reduction/waiving of levied charges removes Council's ability to accept a monetary contribution towards trunk infrastructure given the expected loading on the networks from this type of development. As such, the Applicant's request is recommended for refusal.

Option 2 – Approve Applicant's Request

The levied charge and associated instalment plan for Stage One be waived.

As no provisions exist within the Resolution or Rebate Scheme to allow Officers to consider the request, the decision must be made by Council.

If Council choose to waive the charge, the existing AICN remains applicable and a Deed of Variation to the IA must be completed.

Communication and Consultation:

N/A

Legal Strategy and Policy Implications:

If the Applicant's request is agreed to, this will not be in accordance with the Resolution or Rebate Scheme.

The reporting requirements under the *Planning Regulation 2017* require material to be publicly available which will include the correct charge calculation and any Infrastructure Agreement that is applied.

Financial and Resource Implications:

Option 1 – \$22,250 as per endorsed Rebate Scheme.

Option 2 – Nil levied charges for Stage One will be received by Council. Should Council apply its discretion against Officer's recommendation and decide to consider this option, the calculation of additional demand placed upon the trunk infrastructure that will be generated by the development will fall to Council to cover. A breakdown of the AICN cost has been included below:

	Applicant Cost	Council Cost	Total
Infrastructure Charge	Stage One - \$26,700 Stage Two - \$8,900 Stage Three - \$8,900		\$44,500
Approved Rebate Scheme	Stage One - \$13,350 Stage Two - \$4,450 Stage Three - \$4,450	Stage One - \$13,350 Stage Two - \$4,450 Stage Three - \$4,450	
Waived Infrastructure Charge	Stage One - \$0 Stage Two - \$4,450 Stage Three - \$4,450	Stage One - \$26,700 Stage Two - \$4,450 Stage Three - \$4,450	

Summary:

As the Applicant's request does not meet the requirements outlined in the Resolution or Rebate Scheme, it is recommended that the request be refused.

- Option 1 – Refuse Applicant's Request
- Option 2 – Approve Applicant's Request

Anticipated Resolution Completion Date:

If Option 1 is endorsed and the request is refused, the Applicant will be informed within 5 business days of the decision via formal correspondence.

If Option 2 is endorsed, the Applicant must complete a Deed of Variation to the existing Infrastructure Agreement with Council.

Attachments:

1. DA/8/2019 - Decision Notice
2. DA/8/2019 - Adopted Infrastructure Charge Notice
3. DA/8/2019 - Request for Rebate Scheme consideration
4. DA/8/2019 - Approved Rebate Scheme consideration
5. DA/8/2019 - Request to waive Stage One Adopted Infrastructure Charges

Tabled Items:

Nil.

Report Prepared by: Development Services

G/3.2. LEASE - 2 RAFTING GROUND ROAD, AGNES WATER - KERMEN INVESTMENTS PTY LTD

Responsible Officer: General Manager Strategic Asset Performance

Council Meeting Date: 3 November 2020

File Ref: CP8.2

Purpose:

The purpose of this report is for Council to consider leasing a building located at 2 Rafting Ground Road, Agnes Water to Kermen Investments Pty Ltd.

Officer's Recommendation:

That Council:-

1. Resolves that s236(1)(c)(iii) of the *Local Government Regulation 2012* applies to the proposed lease of the building at 2 Rafting Ground Road, Agnes Water to Kermen Investments Pty Ltd.
2. Authorise the Chief Executive Officer (or delegate) to enter into a Lease that commences 1 July 2019 and expires on 30 June 2021 with Kermen Investments Pty Ltd at 2 Rafting Ground Road, Agnes Water.

Background:

2 Rafting Ground Road, Agnes Water (Lot 8 RP619964) is located on the corner of Rafting Ground Road and Round Hill Road, Agnes Water. The site is improved with 2 detached buildings that are separately occupied and leased by Impact Community Service and Kermen Investments Pty Ltd (also known as Agnes Water Dental).



Blue Outline – property boundary of 2 Rafting Ground Road, Agnes Water
Yellow Outline – Building 1 – Impact Community Service
Green Outline – Building 2 - Agnes Water Dental

Kermen Investment Pty Ltd occupies Building 2 (green outline). Council and Kermen Investments Pty Ltd are parties to a Rental Agreement that expired 30 June 2019, and currently holding over on a monthly tenancy.

Kermen Investments Pty Ltd expressed interest in entering into a lease agreement with Council commencing 1 July 2019. During this time, Kermen Investments Pty Ltd sold the dentist business.

Council Officers have since received a signed Lease and the necessary paperwork to assign the Lease to the new owner.

Kermen Investments Pty Ltd did not consult Council prior to committing to sell the business.

Options, Risk and Opportunity Analysis:

2 Rafting Ground Road, Agnes Water is freehold land owned by Council.

In considering the request from Kermen Investments Pty Ltd to lease the building at 2 Rafting Ground Road, Agnes Water, two (2) options were considered:-

1. Undertake an expression of interest to determine if other groups are interested in leasing the building.
2. Enter into a lease agreement with Kermen Investments Pty Ltd.

Option 1 – Undertake an expression of interest to determine if other groups are interested in leasing the building

This is consistent with section 227 of the Local Government Regulation 2012, noting that there is exception under section 236 that allows Council to lease land for the purpose of renewing the lease to the existing tenant without going to tender.

Kermen Investments Pty Ltd is an existing tenant and a dentist service has been provided from this building since 2014.

Council Officers have received a number of requests from the community to lease this building. Not all requests received are consistent with the zoning of the land being “Community Facilities” (eg beautician, hairdresser).

This option does provide other groups an opportunity to express their interest in leasing the building.

Should Council choose this option, the new owner that purchased the business from Kermen Investments Pty Ltd for the purpose of expanding their dentist services and encouraging specialists to the area will be disadvantaged and financially impacted.

The new owners purchased the business on the information that was provided to them from Kermen Investments Pty Ltd, that the lease would be renewed.

This is not the preferred option.

Option 2 – Enter into lease agreement with Kermen Investments Pty Ltd

Council records indicate that a dentist service has been offered from this building since 2014.

The new owner currently operates out of Discovery Coast Dental & Medical Centre at 3 Captain Cook Drive, Agnes Water. The intention is to continue dental services at 2 Rafting Ground Road, expand their services and encourage specialists to the area.

The permitted use of the Lease that has been signed by Kermen Investments Pty Ltd is for provision of dental services.

This option meets the exception under section 236 of the Local Government Regulation 2012 (236(1)(c)(iii)) should Council resolve to lease the building to Kermen Investments Pty Ltd.

The only disadvantage that has been identified by Council Officers is that other groups are not given the opportunity to express interest in leasing this building.

This option is consistent with the current leasing practices of renewing leases with existing tenants.

This is the preferred option.

Communication and Consultation:

Discussions have been undertaken with Kermen Investments Pty Ltd and the new owners regarding the proposed Lease.

Council's Senior Legal Advisor has been involved with drafting the necessary documentation to assign the Lease.

Legal Strategy and Policy Implications:

2 Rafting Ground Road, Agnes Water is freehold land and is considered a valuable non-current asset.

Under section 227 of the *Local Government Regulation 2012* ("LGR"), Council cannot enter into a valuable non-current asset contract unless it first invites written tenders or offers the non-current asset for sale by auction. Exceptions to S227 include the ability to dispose of the property other than by tender or auction if Council in general meeting resolves to transfer the property for the purpose of renewing the lease to the existing tenant without going to tender.

Kermen Investments Pty Ltd is an existing tenant.

Financial and Resource Implications:

Option 1 – depending on who leases the land will depend on what rent is charged. This option will also require staff resources to undertake the tender process.

Option 2 – No change to status quo. Rent is being received on a monthly basis.

Summary:

Nil

Anticipated Resolution Completion Date:

30 June 2021

Attachments:

Nil

Tabled Items:

Nil.

Report Prepared by: Property Acquisition & Disposal Specialist (Acting)

G/3.3. GLADSTONE MENS SHED - REQUEST FOR LEASE - 22 MOURA CRESCENT, BARNEY POINT

Responsible Officer: General Manager Strategic Asset Performance

Council Meeting Date: 3 November 2020

File Ref: CP8.2

Purpose:

The purpose of this report is for Council to consider leasing land located at 22 Moura Crescent, Barney Point (Lot 2 SP 268261) to Gladstone Men's Shed Association Inc.

Officer's Recommendation:

That Council:-

1. Resolves that s236(1)(b)(ii) of the *Local Government Regulation 2012* applies to the proposed lease of Lot 2 SP 268261 (22 Moura Crescent, Barney Point) to Gladstone Men's Shed Association Inc.
2. Authorise the Chief Executive Officer (or delegate) to enter into a Lease with Gladstone Men's Shed Association Inc on the basis that:
 - (a) Lots 1 to 2 on SP 268261 (18 & 22 Moura Crescent, Barney Point) are amalgamated into one (1) lot;
 - (b) Gladstone Men's Shed Association Inc be responsible for the documentation and fees associated with amalgamating the two (2) lots; and
 - (c) The expiry date for the Lease will be 31 October 2044 (consistent with the current lease over 18 Moura Crescent, Barney Point).

Background:

Gladstone Men's Shed Association Inc ("the association") currently lease land at 18 Moura Crescent, Barney Point (Lot 1 SP 268261) (purple outline below). 18 Moura Crescent is freehold land owned by Council. The Lease commenced 1 November 2014 and expired 31 October 2034, with a 10 year option. The association has already exercised their 10 year option, with the Lease expiring on 31 October 2044.

The association was established in 2012. After occupying temporary premises, they moved to 18 Moura Crescent in July 2017 after securing funding to construct the facility.

The association submitted a letter to Council in 2019 requesting to lease additional land at 22 Moura Crescent, Barney Point (Lot 2 SP 268261) (yellow outline below), next to their current leased area at 18 Moura Crescent. 22 Moura Crescent is freehold land owned by Council.



Reasons provided by the association for requesting additional land:-

- Increased member numbers (currently 80 members);
- Extra room required for the safe operation of woodwork and metalwork equipment;
- Footprint of equipment takes up a lot of space;
- More floor space for larger projects;
- Additional space required for storage of donated materials and equipment;
- Space for diversification of activities such as music, art, leather work, model making, library, computing, upholstery etc.

The association also hosts activities for a number of young men from Rossella Park School, Carinity College and other disability support agencies. These activities are currently limited due to space and safety constraints.

When the shed is not being used for Mens Shed purposes, the space is made available to other groups such as ladies sewing group. With expanded facilities this could be extended to other community groups.

If the association was successful in leasing 22 Moura Crescent, they propose to construct two (2) additional 200m² buildings and car parking.

Options, Risk and Opportunity Analysis:

22 Moura Crescent, Barney Point is freehold land owned by Council.

A sewer main traverses part of the land and a driveway that may not be compliant.

In considering this request, Council Officers have considered two (2) options:-

1. Council does not dispose of the land until a strategic review is undertaken of Council's land parcels (owned/controlled).
2. Enter into a lease agreement with Gladstone Men's Shed Association Inc.

Option 1 – Council does not dispose of the land until a strategic review is undertaken of Council's land parcels (owned/controlled)

Land is a limited resource and as time passes it will become increasingly difficult for Council to meet the community's expectations regarding the provision of land to facilitate community and recreational activities. Ideally allocations of tenure should not occur prior to an assessment being undertaken of all vacant Council land (owned/controlled).

Council Officers are unable to provide a timeframe as to when this will occur.

There will be cases where the potential impact of delaying the allocation of tenure may be detrimental to the applicant or the community. This needs to be assessed on a case by case basis.

Therefore, consideration needs to be given as to what potential impact delaying the allocation of tenure would be in this instance.

When considering the aim of the association (below), Council Officer's have not recommended this as the preferred option:-

- To contribute to the community as the members see fit;
- To improve men's physical and emotional well-being;
- To provide a safe, welcoming and creative environment for men to meet and pursue common interests; and
- To offer opportunities for men to share, learn, improve or expand their personal skills.

Option 2 – Enter into lease agreement with Gladstone Men's Shed Association Inc

Council records indicate that the association was previously offered a lease over Lots 14, 15 and 16 on RP 609798 back in 2012.

These lots and Lot 17 RP 609798 have since been amalgamated into 2 lots (Lots 1-2 SP 268261, 18 & 22 Moura Crescent respectively) by the association (Decision Notice dated 18 November 2013).

The association then entered into a Lease with Council over 18 Moura Crescent, Barney Point commencing 1 November 2014.

The association verbally advised Council Officers that it was always the intention of the association and Council, for the association to occupy both land parcels 18 & 22 Moura Crescent. However, the association relinquished their interest in 22 Moura Crescent due to Gladstone RSL requiring land to build a RSL Clubhouse. At the time of writing this report, Council Officers had not found any documentation on record to support this information provided by the association. There is record that Council did propose to lease 22 Moura Crescent to Gladstone RSL.

In 2016 Gladstone RSL advised Council that they had secured tenure at Ferris Street, Gladstone Central (Anzac Park) and no longer required tenure at 22 Moura Crescent.

At that time, the association made a decision not to pursue discussions with Council to lease the land at 22 Moura Crescent, but have since identified the future need of this land to enable them to expand their services to the Gladstone community.

This option meets the exception under section 236 of the Local Government Regulation 2012 (236(1)(b)(ii)) should Council resolve to lease the land to the association.

It is recommended that if Council chooses this option that it is on the condition that the association amalgamates 18 & 22 Moura Crescent, and the expire date of the Lease remains consistent with the current expiry date of 31 October 2044.

To expand services that offers the choice and freedom for men to socialise, participate and contribute to the local community while keeping active and growing or maintaining their skills, Council Officers have recommended this as the preferred option.

Communication and Consultation:

Gladstone Amateur Boxing Club lease land from Council at 24 Moura Crescent, Barney Point (adjoining property). They have no objection to 22 Moura Crescent being leased.

Council's Asset Planning team have been consulted to understand Council's future land needs in the area. The planning team has advised that this site has not been identified for future planned assets.

Council's Planning Section have provided advice to the association regarding the amalgamation of 18 & 22 Moura Crescent, should Council agree to leasing 22 Moura Crescent to allow further expansion.

Legal Strategy and Policy Implications:

22 Moura Crescent, Barney Point is freehold land and is considered a valuable non-current asset.

Under section 227 of the *Local Government Regulation 2012* ("LGR"), Council cannot enter into a valuable non-current asset contract unless it first invites written tenders or offers the non-current asset for sale by auction. Exceptions to S227 include the ability to dispose of the property other than by tender or auction if Council in general meeting resolves to transfer the property to a community organisation.

The association meets the definition of a community organisation.

Council's Leasing of Land for Sport and Recreation Purposes Policy states the maximum lease term is 10 years. Council can resolve to enter into a lease for a longer lease term.

Financial and Resource Implications:

Option 1 – no change to status quo. This option will require staff resources to undertake the assessment of Council land (owned/controlled).

Option 2 – Peppercorn rent, with outgoings being the responsibility of the Lessee.

Summary:

Nil

Anticipated Resolution Completion Date:

30 September 2021

Attachments:

Nil

Tabled Items:

Nil.

Report Prepared by: Property Acquisition & Disposal Specialist (Acting)

G/3.4. PROPOSED INCREASE TO FINANCIAL DELEGATION FOR THE CHIEF EXECUTIVE OFFICER

Responsible Officer: General Manager Finance Governance and Risk

Council Meeting Date: 3 November 2020

File Ref: CM28.2

Purpose:

The purpose of this report is to allow Council to consider an increase in the Chief Executive Officer's financial delegation.

Officer's Recommendation:

That Council delegates financial responsibility for the administration and application of Council's adopted budget to the Chief Executive Officer to formally approve up to \$999,999,999 for operating and capital expenditure within the adopted budget or by resolution.

Background:

Council's current 2019-16 Procurement Policy provides that in carrying out procurement activities, Council will "*act ethically and in full compliance with applicable laws, delegations and other related Council policies*".

By resolution (vide Res No. G/18/3472) at the General Meeting on 17 July 2018, Council resolved:

"That Council:

- 1. Repeal P-2017-15 Procurement Policy;*
- 2. Repeal P-2017-26 Local Preference Policy;*
- 3. Adopt P-2018-12 Procurement Policy attached as Addendum 1;*
- 4. Delegate financial responsibility for the administration and application of Council's adopted budget to the Chief Executive Officer to formally approve up to \$500,000 for operating and capital expenditure within budget;*
- 5. Delegate financial responsibility to the Chief Executive Officer to formally approve any budget for mitigating risks associated with a natural disaster and/or extraordinary emergent event that has been declared in the local government area;*
- 6. Delegate financial responsibility to the Chief Executive Officer to authorise variations for project contingency within the adopted project budget;*
- 7. Authorise the Chief Executive Officer to hold a corporate credit card with a transaction limit of \$5,000 and a monthly card limit of \$20,000; and*
- 8. Allocate the below limits for Corporate Credit Cards to Councillors subject to expenses approved for reimbursement in accordance with the Councillor Expenses Reimbursement and Provision of Facilities Policy:*

Position	Transaction Limit	Monthly Card Limit
Mayor	\$1,000	\$2,500
Councillors	\$500	\$1,500

A review has been undertaken of the financial delegations of Chief Executive Officers of 33 local governments. The results of the review are collated in Attachment 1 and indicate that when

compared to those reviewed, Council's current delegation to the Chief Executive Officer, with the exception of Blackall-Tambo Regional Council, is well below the mode of \$999,999,999.

Procurement activities within local government are regulated by the provisions of the *Local Government Act 2009* and *Local Government Regulation 2012*. In addition, Council has robust policies, practices and procedures to ensure that Council is meeting its legislative obligations and achieving the sound contracting principles of:

- (a) value for money;
- (b) open and effective competition;
- (c) the development of competitive local business and industry;
- (d) environmental protection; and
- (e) ethical behaviour and fair dealing.

By increasing the Chief Executive Officer's financial delegation, Council has the opportunity to realise efficiencies in the procurement process supporting the business to deliver on Council's Operational Plan and the agreed Capital Delivery Program.

Options, Risk and Opportunity Analysis:

Option 1 – Officer's Recommendation – The Chief Executive Officer's financial delegation is increased to \$999,999,999 for operating and capital expenditure within the adopted budget or by resolution.

The rationale for the application of this approach, that has been applied by the majority of local governments, is that the Council through the annual adoption of its Operational Plan and Budget has set the strategic direction for the business, which is then outworked by officers within adopted Council policy and delegation framework.

During the 2019/20 financial year 30 tender award reports were presented to Council for decision as the tender award was outside of the Chief Executive Officer's delegation.

The process of drafting a tender award report and the presentation of the report to Council generally adds 3-4 weeks to the procurement process dependent on at what stage of the meeting cycle the tender assessment is complete. On some occasions, the award of a tender is time critical, particularly during periods of peak workload and inclement weather.

Any delay in procurement activities has the potential to directly impact the business's ability to meet its Key Performance Indicator of 100% delivery of the agreed Capital Works Program.

It is recommended that Council increase the Chief Executive Officer's delegation to formally approve up to \$999,999,999 for operating and capital expenditure within Council's adopted budget or by resolution.

Under the Officer's Recommendation, if a tender award was in excess of the adopted budget, the Chief Executive Officer would not have the authority to approve the tender award and a report would first have to be presented to Council seeking approval and additional budget.

Example: Council's adopted capital budget (including Long Term Financial Forecast) included an allocation of \$3 million dollars within its program of works for the construction of a new library at Calliope. Tenders were assessed and the successful tenderer's price was \$4.5 million. The Chief Executive Officer would not have the authority to award the tender without either an amendment to the capital budget, or alternatively a resolution of Council.

Similarly, the Chief Executive Officer would not have the authority to approve expenditure on a capital project that was not within the adopted Capital Delivery Program without either an

amendment to the capital delivery program and budget, or alternatively the expenditure was approved by resolution of Council.

Example: Council's adopted capital program and budget did not include expenditure for a new library at Calliope. The Chief Executive Officer would not have the authority to approve expenditure on a new library without either an amendment to the capital budget, or alternatively a resolution of Council.

For clarity, with respect to the capital delivery program and multi-year projects, the program is that which has been funded within its current Long Term Financial Forecast adopted with budget.

Council may consider that a reduction of direct Council involvement in tender award decision-making presents a risk that the desired outcomes for the community, particularly with respect to supporting the local economy, may not be achieved. In this regard, the Chief Executive Officer is bound by both the Act and the Regulations and any policies established by Council. Council may consider amending the current Procurement Policy to address any concerns in this regard, providing clear parameters for tender evaluation. Further, current reporting on procurement activities can be enhanced so that Council can closely monitor performance.

If Council was of a mind that the proposed delegation presented an unacceptable risk, consideration may be given to reducing the recommended delegation limit in the Officer's Recommendation.

Option 2 – That no change be made to the Chief Executive Officer's financial delegation

Under Option 2, the Chief Executive Officer's financial delegation would remain at \$500,000 and Council would continue to be the decision maker for operational and capital expenditure over \$500,000.

While this option would result in no change to current procurement practices, it is notable that following recent amendments to the Regulation, tender award reports can no longer be considered by Council in closed sessions at a General Meeting. Further, what were once confidential reports must now be published to the public as part of the meeting agenda. There is an exception for confidential information, that is, information that is considered commercial in confidence.

As a result of the legislative changes, in order to ensure the protection of confidential information and probity, the way procurement reports, particularly tender award reports, are presented to Council must change. Future reports will need to be high level to ensure continued probity and that there is no public release of:

- commercially sensitive or proprietary information;
- the financial standing of individual tenderers (e.g. as ascertained in credit checks);
- assessment and opinions of the evaluation team as to why one tender is better than another, or why one tenderer is a better choice than another;
- information obtained through reference checks which might adversely impact the reputation of a tenderer;
- information which could adversely impact on Council's negotiations for final contract; and
- personal information of Council staff or contractors.

Similar care needs to be taken as to what is discussed when participating in a decision relating to a tender award report.

Communication and Consultation:

This report has been prepared in consultation with:

- The Chief Executive Officer;
- General Managers;
- Senior Legal Advisor;
- Manager Contracts and Procurement; and
- Manager Works Planning and Scheduling.

Legal Strategy and Policy Implications:

In 2018, Council elected to remove the financial delegations from the Procurement Policy and capture financial delegations in a Financial Delegation Register. The Financial Delegation Register is maintained by the Governance Team.

Financial and Resource Implications:

There is no direct financial implications as a result of an increase in the Chief Executive Officer's financial delegation.

If Council were to adopt the Officer's Recommendation, it would allow the business to realise efficiencies within the procurement process, ultimately leading to a reduction in the workload of the procurement team.

The efficiencies within the procurement process would aid the business to meet it's Key Performance Indicator of 100% achievement of the agreed Capital Delivery Program as well as delivery on Council's 20/21 Operational Plan.

Summary:

Nil

Anticipated Resolution Completion Date:

The Officer's Recommendation could be implemented by 30 November 2020.

Attachments:

1. Review of the CEO's Financial Delegation in Local Governments

Tabled Items:

Nil.

Report Prepared by: Manager Governance

G/3.5. 298-20 ODOUR CONTROL A01 SEWERAGE PUMP STATION

Responsible Officer: General Manager Operations

Council Meeting Date: 3 November 2020

File Ref: PE1.1

Purpose:

This report seeks resolution from Council to enter into a contract with Bioaction Pty Ltd for A01 Sewerage Pump Station Odour Control.

Officer's Recommendation:

That Council:

1. Endorse the Tender Evaluation Panel's recommendation and accept the offer from Bioaction Pty Ltd for tender 298-20 A01 Sewerage Pump Station Odour Control; and
2. Authorise the Chief Executive Officer to enter into a contract with Bioaction Pty Ltd for tender 298-20 A01 Sewerage Pump Station Odour Control.

Background:

A review of the existing A01 Sewage Pump Station ('SPS') Odour Control Unit ('OCU') along with the gas phase H₂S and liquid phase sulphide sampling, has been undertaken and confirms that Council requires a new Odour Control Unit ('OCU').

The OCU extracts foul air from the wet well headspace, including the existing emergency overflow tank, and treats it using a biofiltration system and an active carbon filter before discharging to the atmosphere via a vent stack.

The project includes:

- Design;
- Fabrication;
- Supply;
- Assembly;
- Shop testing;
- Delivery to site (including unloading);
- Installation; and
- Commissioning.

Options, Risk and Opportunity Analysis:

On 4 July 2020, Council released an Invitation to Tender ('ITT') to the open market via LG Tenderbox and advertising in the Gladstone Observer, in accordance with the tender process requirements set out in section 228 of the *Local Government Regulation 2012*.

Non-mandatory briefings were held on 14 July and 21 July 2020, and the tender closed on 31 July 2020, with six (6) submissions received.

The offers were evaluated by a panel of subject matter experts, based on the criteria disclosed in the ITT which included:

SELECTION CRITERIA		WEIGHT
Submitted Program	Proposed program meets GRC requirements.	10%
	The submitted program displays a suitable level of detail and includes all activities to be completed	
Project Understanding & Methodology	Methodology demonstrate adequate planning and include specific details to support an understanding of the Scope of Works	25%
	Personnel/manpower requirements are described in detail with sufficient allocation to meet the requirements of the SoW and proposed program.	
	Project Procurement Plan and supporting information proposed is sufficiently detailed and demonstrates an adequate understanding of requirements.	
	Provision of a detailed list of project specific plant and equipment intended for use. Listed items are sufficient for completion of the works.	
Previous Experience	Successful completion of a number of projects within the last five (5) years, which are of a similar scale and nature.	25%
	Key personnel are proposed with satisfactory allocation of time to the project.	
	Key personnel hold appropriate qualifications and demonstrate a satisfactory level of relevant project experience.	
Price	Whole of Contract Pricing	30%
Local Business	Geographical Location	5%
Local Content	Local Content	5%
TOTAL		100%

The offers were scored against the evaluation criteria as follows:

	Score (before Local Preference)	Score (after Local Preference)
Bioaction Pty Ltd	54	57
Bioaction Pty Ltd (second offer)	53	55
Oda Treatment Technologies Pty Ltd	45	48
Fluid Control Solutions Pty Ltd T/A Infranew (Second Offer)	36	43
Fluid Control Solutions Pty Ltd T/A Infranew	33	40
Emission Treatment Solutions Pty Ltd	28	30

The first submission from Bioaction Pty Ltd ('Bioaction') scored the highest overall, with a detailed conforming tender. Bioaction provided a detailed methodology for the project, supported by their previous experience with similar scale and nature projects. The tender evaluation panel recommends the submission from Bioaction as it presents the best overall value offer to Council.

Communication and Consultation:

Regular meetings between the project team, stakeholders and contractor will take place throughout the delivery of the project.

Legal Strategy and Policy Implications:

Council sought offers via LG Tenderbox and advertising in the Gladstone Observer in accordance with the *Local Government Regulation 2012*, *Local Government Act 2009* and Council's Procurement Policy P-2018-12.

Council's endorsement of this tender award is in accordance with the Register of Delegations - Exercise of Statutory Powers and Financial Delegation Register.

In accordance with the probity plan established for Council's tendering process, offers have been evaluated based on the evaluation criteria as set out in the ITT. This is consistent with:

- Office of the Chief Advisor- Procurement's guideline - *Probity and Integrity in Procurement* - including ensuring the tender documentation includes the criteria and evaluation methodology and criteria weightings and that evaluation of all offers occurs objectively under the documented criteria.
- CCC's Corruption Prevention Advisory Procurement and Contract Management recommendations to treat all offers and offerors consistently and using the same offer process and evaluation criteria as disclosed in the ITT.
- Ensuring evaluation under agreed selection criteria and tender processes and ensuring good faith and dealing consistent with the implied obligation as directed by courts in the cases *Hughes Aircraft Systems International v Airservices Australia* [1997] and *Cubic Transportation Systems v NSW* [2002].

Should Council seek to award a contract that is contrary to the application of the evaluation methodology and criteria which was in the ITT, it is recommended the Contract Team go back to the tenderers with that variation so they can have the opportunity to make any changes to their offers having regard to the amended criteria and the offers be evaluated in accordance with that amended criteria. If not, there is a risk of claim against Council for unfair practice, plus reputational risk to Council.

Financial and Resource Implications:

The offer made by Bioaction for \$621,125.00 ex GST is within existing allocated funds for this project.

Summary:

Bioaction's submission was evaluated as presenting the best value to Council.

Anticipated Resolution Completion Date:

The contract will be awarded in November 2020.

Attachments:

Nil.

Tabled Items:

Nil.

Report Prepared by: Manager Contracts and Procurement.

G/3.6. 108-20 LIGHT COMMERCIAL VEHICLE REPLACEMENTS

Responsible Officer: General Manager Operations

Council Meeting Date: 3 November 2020

File Ref: PE1.1

Purpose:

This report seeks resolution from Council to enter into a contract with Reef City Motors Pty Ltd for the supply and delivery of one-hundred and six (106) light commercial vehicles, as part of the 2019/2020 Fleet Replacement Program.

Officer's Recommendation:

That Council:

1. Endorse the Tender Evaluation Panel's recommendation and accept the offer from Reef City Motors Pty Ltd for tender 108-20 Light Commercial Vehicle Replacements; and
2. Authorise the Chief Executive Officer to enter into a contract with Reef City Motors Pty Ltd for tender 108-20 Light Commercial Vehicle Replacements.

Background:

Council's 2019/20 Fleet Replacement Program consists of 106 light commercial vehicles which have reached or exceeded planned end of life and includes:

- 8 x Single Cab Utes;
- 63 x Dual Cab Utes; and
- 35 x Extra Cab Utes.

Consultation throughout the replacement process with the vehicle end users, ensures that any specific requirements relating to the application of the vehicle (e.g. tipper tray or ladder rack) are met in the replacement vehicle specifications.

Council's current light commercial vehicle fleet consists of 56 different light vehicle commercial make and model combinations, as well as over 26 different accessory fitments which has resulted from one-off purchases of vehicles over time. This fleet diversity presents challenges such as:

- Significant variety of spare parts and tooling requirements;
- Vehicle familiarisation of workshop staff and operators;
- Discontinuity of vehicles available to support business units, during assigned vehicle maintenance;
- Weak OEM support, due to fleet diversity; and
- Additional expenses to carry common spare parts.

Standardisation of fleet and accessories will:

- support the acquisition of common spare parts to be held in warehouses;
- driver familiarity; and
- promote workshop staff familiarisation with the vehicles and reduce the reliance on OEM's for servicing.

bringing greater value for money and more effective use of Council resources.

Options, Risk and Opportunity Analysis:

On 4 July 2020, Council released an Invitation to Tender ('ITT') on Vendor Panel to four (4) local dealerships under the commercial motor vehicles Local Buy arrangement BUS233-1112 Supply of Motor Vehicles. Council made use of section 234 of the *Local Government Regulation 2012* which allows a local government to enter into a contract for goods or services without first inviting written quotes and tenders if the contract is entered into under an LGA arrangement.

A mandatory briefing was held on 15 July 2020 and closed on 7 September 2020. Four (4) offers were received from three (3) dealerships within the Gladstone region.

The offers were evaluated by a panel of subject matter experts, based on the criteria disclosed in the ITT which included:

SELECTION CRITERIA		WEIGHT
Submitted Program	Proposed program meets GRC requirements.	20%
	The submitted program displays a suitable level of detail	
Project Understanding & Methodology	Methodology and program demonstrate satisfactory planning	25%
Previous Experience	Company Experience delivering bulk fleet purchases in a short time-frame; Subcontractor experience in completing fit-outs for fleet purchases; and Example fit-outs completed align with GRC requirements	15%
Price	Whole of life costs	30%
Local Business	Geographical Location	5%
Local Content	Local Content	5%
TOTAL		100%

The offers were scored against the evaluation criteria as follows:

	Score (before Local Preference)	Score (after Local Preference)
Reef City Motors Pty Ltd - Ford Submission	72	81
Reef City Motors Pty Ltd - Isuzu Submission	67	76
Robertson & Co (Gladstone) Pty Ltd	66	76
Gladstone Nissan	38	47

The Ford submission from Reef City Motors Pty Ltd ('Reef City') scored the highest overall, with a detailed conforming tender. Reef City provided the most favorable delivery schedule and specifications in accordance with the requirements requested in the ITT. The commercial evaluation considered value derived from standardising the fleet versus awarding smaller packages to multiple dealers and confirmed that the Ford submission from Reef City provided the best value for money to Council.

The tender evaluation panel recommends the Ford submission from Reef City as it represents the best overall value offer to Council, satisfying the Sound Contracting Principles as set out in the *Local Government Act 2009*.

Communication and Consultation:

Regular meetings between the project team, stakeholders and dealer's representative will take place throughout the delivery program, ensuring minimal disruption to the delivery of Council's services.

Legal Strategy and Policy Implications:

Council sought quotations via Vendor Panel using the Local Buy Panel in accordance with the *Local Government Regulation 2012*, *Local Government Act 2009* and Council's Procurement Policy P-2018-12.

Council's endorsement of this tender award is in accordance with the Register of Delegations - Exercise of Statutory Powers and Financial Delegation Register.

In accordance with the probity plan established for Council's tendering process, offers have been evaluated based on the evaluation criteria as set out in the ITT. This is consistent with:

- Office of the Chief Advisor- Procurement's guideline - *Probity and Integrity in Procurement* - including ensuring the tender documentation includes the criteria and evaluation methodology and criteria weightings and that evaluation of all offers occurs objectively under the documented criteria
- CCC's Corruption Prevention Advisory Procurement and Contract Management recommendations to treat all offers and offerors consistently and using the same offer process and evaluation criteria as disclosed in the ITT
- Ensuring evaluation under agreed selection criteria and tender processes and ensuring good faith and dealing consistent with the implied obligation as directed by courts in the cases *Hughes Aircraft Systems International v Airservices Australia [1997]* and *Cubic Transportation Systems v NSW [2002]*

Should Council seek to award a contract that is contrary to the application of the evaluation methodology and criteria which was in the ITT, it is recommended the Contracts team go back to the tenderers with that variation so they can have the opportunity to make any changes to their offers having regard to the amended criteria and the offers be evaluated in accordance with that amended criteria. If not, there is a risk of claim against Council for unfair practice, plus reputational risk to Council.

Financial and Resource Implications:

The offer made by Reef City for \$ 5,365,623.96 ex GST is within existing allocated funds for this project.

Summary:

Reef City's Ford submission was evaluated as presenting the best value to Council.

Anticipated Resolution Completion Date:

The contract will be awarded in November 2020, with all vehicles delivered by 31 May 2021.

Attachments:

Nil.

Tabled Items:

Nil.

Report Prepared by: Manager Contracts and Procurement.

G/3.7. 311-20 TONDOON GARDENS ELECTRICAL UPGRADE

Responsible Officer: General Manager Operations

Council Meeting Date: 3 November 2020

File Ref: PE1.1

Purpose:

This report seeks resolution from Council to enter into a contract with Cutuli Electrical Pty Ltd for the electrical and lighting upgrade at Tondoon Botanic Gardens.

Officer's Recommendation:

That Council:

1. Endorse the Tender Evaluation Panel's recommendation and accept the offer from Cutuli Electrical Pty Ltd for tender 311-20 Electrical and Lighting Upgrade Tondoon Botanic Gardens; and
2. Authorise the Chief Executive Officer to enter into a contract with Cutuli Electrical Pty Ltd for tender 311-20 Electrical and Lighting Upgrade Tondoon Botanic Gardens.

Background:

The Tondoon Botanic Gardens plays host to several small and moderate sized events which require the provision of power and lighting. As part of the growth and evolution of the site Council seeks to provide a level of electrical infrastructure suitable to cater for larger and more frequent events. This project will also rectify relevant non-compliant or poor condition electrical infrastructure as part of the works.

The design and construct project, will include the following infrastructure:

- Main switchboard and distribution board;
- Pathway and garden lighting;
- Electrical reticulation infrastructure such as supply of power to pumps, BBQs, kiosks, amenities and public event infrastructure; and
- The work also includes decommissioning and removal of the existing infrastructure where appropriate.

The works provided will be safe to operate, reliable, robust and economical. Equipment supplied will be designed to meet the required asset service and/or design life, automated, easy to operate and maintain, and be operationally flexible.

Options, Risk and Opportunity Analysis:

On 25 July 2020, Council released an Invitation to Tender ('ITT') to the open market via LG Tenderbox and advertising in the Gladstone Observer, in accordance with the tender process requirements set out in section 228 of the *Local Government Regulation 2012*.

A non-mandatory briefing was held on 4 August 2020 and the tender closed on 10 September 2020, with five (5) submissions received.

The offers were evaluated by a panel of subject matter experts, based on the criteria disclosed in the ITT which included:

SELECTION CRITERIA		WEIGHT
Submitted Program	Proposed program meets GRC requirements	10%
	The submitted program displays a suitable level of detail and includes all activities to be completed	
Project Understanding & Methodology	Methodology and program demonstrate satisfactory planning and include specific details to support an understanding of the Scope of Works	30%
	Personnel/manpower requirements are described in detail with sufficient allocation to meet the requirements of the SoW and proposed program.	
	Project Procurement Plan and supporting information proposed is sufficiently detailed and demonstrates an adequate understanding of requirements.	
	Provision of a detailed list of project specific plant and equipment intended for use. Listed items are sufficient for completion of the works.	
Previous Experience	Completion of a number of projects within the last five years, which are of a similar scale and nature	30%
	Key personnel are proposed with satisfactory allocation of time to the project.	
	Key personnel hold appropriate qualifications and demonstrate a satisfactory level of relevant project experience	
Price	Whole of contract pricing	20%
Local Business	Geographical Location	5%
Local Content	Local Content	5%
TOTAL		100%

The offers were scored against the evaluation criteria as follows:

	Score (before Local Preference)	Score (after Local Preference)
Cutuli Electrical Pty Ltd	45	55
Rilec Electrical Pty Ltd NON-CONFORMING	38	44
Rilec Electrical Pty Ltd CONFORMING	36	42
Monadelphous Electrical & Instrumentation Pty Ltd	32	40
Nilsen (QLD) Pty Ltd	20	27

The submission from Cutuli Electrical Pty Ltd ('Cutuli') scored the highest overall, with a detailed conforming tender. Cutuli provided a detailed program, well-considered resourcing requirements and nominated key personnel with relevant experience. The tender evaluation panel recommends the submission from Cutuli as it presents the best overall value offer to Council.

Communication and Consultation:

Regular meetings between the project team, stakeholders and contractor will take place throughout the delivery of the project.

Legal Strategy and Policy Implications:

Council sought offers via LG Tenderbox and advertising in the Gladstone Observer in accordance with the *Local Government Regulation 2012*, *Local Government Act 2009* and Council's Procurement Policy P-2018-12.

Council's endorsement of this tender award is in accordance with the Register of Delegations - Exercise of Statutory Powers and Financial Delegation Register.

In accordance with the probity plan established for Council's tendering process, offers have been evaluated based on the evaluation criteria as set out in the ITT. This is consistent with:

- Office of the Chief Advisor- Procurement's guideline - *Probity and Integrity in Procurement* - including ensuring the tender documentation includes the criteria and evaluation methodology and criteria weightings and that evaluation of all offers occurs objectively under the documented criteria
- CCC's Corruption Prevention Advisory Procurement and Contract Management recommendations to treat all offers and offerors consistently and using the same offer process and evaluation criteria as disclosed in the ITT
- Ensuring evaluation under agreed selection criteria and tender processes and ensuring good faith and dealing consistent with the implied obligation as directed by courts in the cases Hughes Aircraft Systems International v Airservices Australia [1997] and Cubic Transportation Systems v NSW [2002]

Should Council seek to award a contract that is contrary to the application of the evaluation methodology and criteria which was in the ITT, it is recommended that the contract team go back to the tenderers with that variation so they can have the opportunity to make any changes to their offers having regard to the amended criteria and the offers be evaluated in accordance with that amended criteria. If not, there is a risk of claim against Council for unfair practice, plus reputational risk to Council.

Financial and Resource Implications:

The offer made by Cutuli for \$1,813,650.08 ex GST is within existing allocated funds for this project.

Summary:

Cutuli's submission was evaluated as presenting the best value to Council.

Anticipated Resolution Completion Date:

The contract will be awarded in November 2020.

Attachments:

Nil.

Tabled Items:

Nil.

Report Prepared by: Manager Contracts and Procurement.

G/4. DEPUTATIONS

G/4.1. DEPUTATION - GLADSTONE AMATEUR BASKETBALL ASSOCIATION INC

Responsible Officer: Chief Executive Officer

Council Meeting Date: 3 November 2020

File Ref: CM7.6

Purpose:

The following deputation will be held on 3 November 2020:

Gladstone Amateur Basketball Association Inc to present a proposal for the development of a four-court indoor centre at Memorial Park.

Officer's Recommendation:

That the deputation from Gladstone Amateur Basketball Association Inc be received and referred to the Chief Executive Officer for consideration.

Background:

Deputation details are as follows:

Time of Presentation	9.00am
Duration of Presentation plus question time	15 mins
Speakers to present	Kellie Green Mirrin Rashleigh Thomas King
Is the matter currently or has previously been subject to legal proceedings?	No
Matter for information only	No - Deputation is requesting approval and financial support for the proposal.

Council will receive a deputation from Gladstone Amateur Basketball Association Inc detailing a proposal for the development of a four-court indoor centre at Memorial Park.

Gladstone Amateur Basketball Association Inc currently leases land situated at Lot 377 on SP253044 otherwise described as Memorial Park. Memorial Park is a State Reserve for Recreation and Memorial Purposes of which Council is trustee. Gladstone Amateur Basketball Association Inc leases part of Memorial Park from Council under a trustee lease. The trustee lease commenced on 1 July 2008 and is due to expire on 30 June 2028 and is for the purposes of basketball.

The Lease provides that the Lessee shall not make or cause to be made any alterations or improvements to the lease area without the prior written consent of the Trustee (Council) and the Minister of the Department of Natural Resources Mines and Energy.

In their application for deputation, Gladstone Amateur Basketball Association Inc have advised that their expectation as a result of the deputation is *“to work collaboratively with all levels of government to ensure this Regional Sporting Centre is built for our Memorial Park users and the wider Gladstone Community”*.

Attachments:

1. GABA Regional Indoor Sports Centre Proposal Power Point

Tabled Items:

Nil.

Reported Prepared by: Manager Governance

G/4.2. DEPUTATION - ZENDEV PTY LTD**Responsible Officer: Chief Executive Officer****Council Meeting Date: 3 November 2020****File Ref: CM7.6****Purpose:**

The following deputation will be held on 3 November 2020:

Zendev Pty Ltd to present a proposal to partner with Council to design and eventually develop the Boyne Tannum Aquatic Recreation Centre (BTARC).

Officer's Recommendation:

That the deputation from ZenDev Pty Ltd be received and referred to the Chief Executive Officer for consideration.

Background:

Deputation details are as follows:

Time of Presentation	9.30 am
Duration of Presentation plus question time	30 mins
Speakers to present	Jacob Scott Michael Emanuele
Is the matter currently or has previously been subject to legal proceedings?	No
Matter for information only	No - Would like Council to consider ZenDev's Proposal and ultimately enter into a Memorandum of Understanding.

In their application for deputation, ZenDev Pty Ltd have advised that their expectation as a result of the deputation is *"to openly discuss potential pathways for the development of the proposed Boyne Tannum Aquatic Centre on the subject site and to identify actionable items for each party moving forward"*.

Attachments:

1. GRC BTARC Deputation Presentation; and
2. BTARC - GRC Letter of Intent

Tabled Items:

Nil.

Reported Prepared by: Manager Governance

G/5. COUNCILLORS REPORT

Nil

G/6. URGENT BUSINESS

Nil

G/7.NOTICE OF MOTION

Nil

G/8. CONFIDENTIAL ITEMS

Nil

ATTACHMENTS