


15.3 Merredin Community Resource Centre Lot 200 Barrack Street – Review of Existing Lease Agreements

Councillors Patroni and Butler declared an Impartiality Interest in this Item 15.3

<h2>Administration</h2>		 SHIRE OF MERREDIN <small>INNOVATING THE WHEATBELT</small>
Responsible Officer:	Mark Dacombe, T/CEO	
Author:	Mark Dacombe, TCEO	
Legislation:	Local Government Act 1995	
File Reference:	L/47L/63	
Disclosure of Interest:	Nil	
Attachments:	Attachment 15.3A – Report to May OCM	

Purpose of Report



Executive Decision



Legislative Requirement

Background

At the November 2019 Ordinary Council Meeting the Council considered a request by the Merredin Community Resource Centre (MCRC) to review the rental terms of the existing Lease agreements in place between the MCRC and the Shire of Merredin.

The Council resolved:

82459 *That the agenda item for 12.3 be adjourned to further discussion at the Ordinary December 2019 Council Meeting.*

The matter was not further considered at the December 2019 meeting as officers were undertaking further work and research on the matter. A further delay was occasioned by changes in the Acting CEO position and subsequently the COVID-19 emergency.

The matter was further considered at the Ordinary Meeting of the Council held on 19 May 2020. At that meeting the Council resolved:

82559 *That the Council:*

- 1. Note that Leases 47 and 63 expired on 29 February 2020 and that these have rolled over into a new lease period with new terms and conditions for rental;*
- 2. Note that the Merredin Community Resources Centre has asked that the new rent terms be reviewed and reduced;*

- 3. Note that the operating and economic environments have changed significantly since the original lease agreements were executed;*
- 4. Agree to a rent holiday from 1 March 2020 until 30 September 2020 during which the Merredin Community Resource Centre will pay a nominal rental of \$520 pa for each of Lease 47 and 63*
- 5. Request the Chief Executive Officer to develop the on-going relationship with the Merredin Community Resource Centre including addressing the rental arrangements to apply 1 October 2020 to 28 February 2025.*

There are three leases at issue:

- i) Lease 47 – Merredin CRC – formerly the Old Council Chambers Building – expired 29 February 2020 with a further five-year term commencing on 1 March 2020.
Rental provisions for this lease are:
No rental applicable for the first term but a minimum of \$60,000 being expended on refurbishment of the building over the term or a sum that ensures refurbishment to the satisfaction of Council and that a rental on a sliding scale apply to the further term of five years to ensure 100% of a commercial rent is paid in the final year.
- ii) Lease 63 – Merredin CRC – Women’s Rest Centre expired 29 February 2020 with provision for a further five-year term commencing on 1 March 2020.
Rental provisions for this lease are:
No rental is applicable for the first term, with a rental on a sliding scale applying to the further term of five years to ensure 100% of a commercial rent is paid in the final year.
- iii) Lease 47 – Merredin CRC – portion of the Old Council Chambers Building previously leased to the Wheatbelt Development Commission – expired 29 February 2020, with provision for a further five-year term commencing on 1 March 2020. Rental provisions for this lease are:
\$43.33 per month payable monthly in advance, with the first payment due on the commencement date. With a rental on a sliding scale applying to the further term of five years to ensure 100% of a commercial rent is paid in the final year.

Comment

Since the May meeting the TCEO and DCEO have met with CRC management to explore how the relationship between the CRC and the Council can be further developed and strengthened to benefit the Merredin Community. Those meetings have not identified any areas where significant changes are appropriate. Ongoing liaison will continue to be important to constantly be on the lookout for areas of potential collaboration.

At some point a Memorandum of Understanding formalising the intent of the parties to collaborate may be worth considering.

In May 2020 Shire Officers reported as follows:

“It is noted that on 8 May 2020 the Minister for Primary Industries and Regional Development announced that in the light of the COVID-19 emergency the state government would renew all CRC contracts until 30 June 2022 and that officials would be working on developing the contract model to apply 1 July 2022 until 30 June 2027.

To “allow the dust to settle “, and for the issues to be re-evaluated it is proposed to allow a rent holiday for the period 1 March 2020 to 30 September 2020. During this period it is proposed that the MCRC pay the minimum rental for not for profit groups”.

The State Government situation remains unchanged with funding confirmed only until 30 June 2022. Should State Government funding be reduced or removed at that stage the CRC does have funds in reserve that would allow it to continue to operate while it adjusted to a new funding environment.

Further investigations into the lease situation reveals that the Council does have a policy that applies to the situation. This has not been identified in earlier consideration of the matter. Policy 8.20 *Rental charges for agreements to occupy Council non-residential property clause 3 provides:*

“Community organisation shall be defined as - an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational or other like nature and from which any member does not receive any pecuniary profit”.

Clause 6 of the property provides “The CEO will determine the classification(s) of the occupying organisations, in accordance with the below listed guidelines – “. Clause 6c) provides Community organisations – (Senior Centre and HACC, People’s Baptist Church, Merredin Playgroup, Muntadgin Progress Assoc. Telecentre, MADCAPS,); Not for profit, Volunteer staffed, Incorporated bodies.

The Telecentre was the founding structure of the current CRC. While the CRC does now employ staff it is still substantially reliant on volunteers to deliver services. It clearly remains a not for profit organisation with the added burden of an uncertain funding future.

The policy makes the following provision regarding rental at clause 9:

“The rental levied on “community organisations” and “sporting clubs” to be for an amount which at least provides full cost recovery of the additional costs that the Council incurs in maintaining and operating the building and its immediate surrounds to the standard required by the organisation.”

It is noted that the CRC sublets a portion of the building the income of which could reasonably be expected to be applied all in part to the maintenance of the property.

Given that Policy 8.20 does apply to the CRC it is proposed that subject to the agreement of the CRC the Council enter into a deed of variation to the existing lease agreement rental clauses limiting the lease rental payments for each of the three (3) separate lease to the nominal sum of \$520.00 per annum (total of

\$1,560.00 annually) and that the CRC be responsible under the lease for the maintenance of the property including the external grounds.

Policy Implications

Policy 8.20 *Rental charges for agreements to occupy Council non-residential property* applies to this lease. It is noted that this policy was adopted on 16 May 2006. It should be formally reviewed in the coming year.

Statutory Implications

Local Government Act 1995

Strategic Implications

➤ Strategic Community Plan

Zone: Economy and Growth

Zone Statement: Merredin seeks new opportunities for growth and strives to develop rich and multifaceted economy

Key Priority: 2.3 Supporting initiatives from local businesses for growth

➤ Corporate Business Plan

Key Action: ~~Continue to work with business networks to identify opportunities for programs that supports local business (Business Local, Progress Associations, Wheatbelt Business Network)~~
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Directorate: ~~Office of the CEO~~
Development Services

Timeline: ~~Ongoing~~

Sustainability Implications

➤ Strategic Resource Plan

Nil

➤ Workforce Plan

Directorate: Nil

Activity: Nil

Current Staff: Nil

Focus Area: Nil

Strategy Code: Nil

Strategy: Nil

Implications: Nil

Risk Implications

The recommended lease terms reflect a low risk approach that should have a positive reputational outcome for the Council.

Financial Implications

The Council will be foregoing potential (but unbudgeted) increased rental income. Indicative figures provided in November 2019 were as follows:

Year	Old Council Chambers	Women's Rest Centre
Year One	\$5,775.00	\$1,645.00
Year Two	\$11,550.00	\$3,290.00
Year Three	\$17,325.00	\$4,935.00
Year Four	\$23,100.00	\$6,580.00
Year Five	\$28,875.00	\$8,225.00

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation / Resolution

Moved: Cr Boehme

Seconded: Cr McKenzie

82610 That Council:

1. Agree to vary the following leases to remove the provision for the progressive imposition of full commercial market rents:
Lease 47 – Merredin CRC – formerly the Old Council Chambers Building
Lease 63 – Merredin CRC – Women's Rest Centre
Lease 47 – Merredin CRC – portion of the Old Council Chambers Building
2. Propose to the Merredin CRC that the commercial rent provision be replaced with a clause limiting the lease rental payments for each of the three (3) separate lease to the nominal sum of \$520.00 per annum (total of \$1,560.00 annually) with the Merredin CRC being responsible under the lease for the maintenance of the property including the external grounds. Effective from the 1 October 2020
3. Instruct the Chief Executive Officer that, subject to the agreement of the Merredin CRC, a Deed of Variation to the leases be prepared and submitted to the Council for consideration and approval

CARRIED 9/o